FOUCAULT,
POLICE AND POLICING IN THE CANADIAN DEMOCRACY

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Introduction

On June 15, 1215, John, by the Grace of God, King of England signed, with reluctance, Magna Carta, ‘the great charter’. By this document he made significant concessions of royal power and spelled out a number of ‘rights’ his subjects\(^1\) might expect. Magna Carta was a far-reaching document but for the purposes of this paper I am isolating four sections:

39. No freeman shall be taken, or imprisoned, or disseized (Middle English: To dispossess unlawfully of real property; oust), or outlawed, or exiled, or in any way harmed--nor will we go upon or send upon him--save by the lawful judgment of his peers or by the law of the land.

40. To none will we sell, to none deny or delay, right or justice.

42. Henceforth any person, saving fealty to us, may go out of our realm and return to it, safely and securely, by land and by water, except perhaps for a brief period in time of war, for the common good of the realm....

45. We will not make men justices, constables, sheriffs, or bailiffs unless they are such as know the law of the realm, and are minded to observe it rightly (Magna Carta).

In other words, the King was promising, in 1215, that there would be no imprisonment without trial or without the rule of law and, no denial of and no delay in administering justice. There would be no denial of departure nor return to the realm and appointed constables would both know the law and be inclined to obey it. There would be no arbitrary seizure of real property.

This was an abdication of power. In Foucaultian terms it was a shift of the location of sovereignty from the personage of the King, endorsed by God, to a

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\(^1\) There has been considerable debate as to the importance of Magna Carta. It has variously diminished and arisen in legal strength through the centuries and has found aspects of its declarations incorporated in subsequent law. Within Magna Carta and its dispensation of ‘rights’ there are numerous distinctions made between ‘free men’ and others, further distinctions between Christians and Jews and, of course, distinctions between men of any sort and women. While I accept the notion that Magna Carta was not inclusive of all his ‘subjects’ I also accept it as a clear statement of intent by governance to grant liberties and protections to at least some of those subject to that governance.
constituted legality. So, we might question, what progress has been made in the ensuing 794 years? Where has that sovereignty come to rest?

sov-er-eignty

*n. pl. sov-er-i-gn-ties*

1. Supremacy of authority or rule as exercised by a sovereign or sovereign state.
2. Royal rank, authority, or power.

In this interdisciplinary project, drawing upon political science, philosophy, sociology and primary source materials from print newspaper and internet sites, I present a study of the police, and policing in relation to a contemporary liberal democracy as this is embodied in present day Canada.

Foucault takes issue with the liberal notion of progress itself, arguing that progress is an idea that is derived from historically specific circumstances, rather than an apt description of the true nature of history (Philipose P.33).

I will begin by highlighting the mythic story of progress. Following Foucault, I question throughout this paper the notion that we, as a society, are involved in some form of linear march through time, progressing from ‘the bad’ of a past that featured autocratic rule to the present where, although better than the past in terms of ‘rights’, certainly is not as ‘good’ as the future. This questioning of progress challenges all grand narratives, whether that of a Marxist proletarian revolution or religious promises of a better world beyond the confines of earth. To generally understand a discourse of ‘progress’, I will suggest, is to understand progress as exclusionary of at least some people and some things – the idea of progress can only be understood within a particular field of discipline/knowledge.

For example, ‘economic’ progress within capitalism suggests increased accumulation of wealth; this might be seen, for example, as the successful extraction of capital from the oil sands of Alberta, or from an autoworker in Ontario. Progress in accumulating this wealth excludes considerations of loss to the environment, other species and humans through pollution and global

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2 With very few exceptions, the incidents and events cited in this paper were reported upon, concluded or in the process of review while this paper was being prepared.
warming. Thus, a mythology of ‘progress’ excludes consideration of those, or that, which suffers from the ‘progress’ of whoever, or whatever, is progressing.

Through the exercise of disciplinary power (discussed below), our society has come to embrace a mythology of progress, which places the normalized, or normal, citizen as the beneficiary of that progress. By turn the normalized citizen embraces the notion of progress both as one of its beneficiaries and, as well, as a contributor to that progress.

Magna Carta represents a shifting of power in England\(^3\) from the sovereignty of the monarch, endorsed by God, to biopower, a Foucaultian term which “is characterized by increasing organization of population and welfare for the sake of increased force and productivity” (Dreyfus and Rabinow P.7-8). Magna Carta is then, less a marker of the advancement of rights than it is a point in the shifting in the discourse of power and that shift does not suggest a dilution of power, merely a movement in the location of sovereignty.

We must not forget that the revitalization of Roman Law in the twelfth century was a major event...[it] had a technical and constitutive role to play in the establishment of the authoritarian, administrative, and...absolute power of the monarchy....when this legal edifice escapes...from the control of the monarch...it is always the limits of...sovereign power that are put in question....the King remains the central personage in the whole legal edifice....whether the jurists were the King’s henchmen or his adversaries, it is of royal power that we are speaking in every case when we speak of...grandiose edifices of legal thought and knowledge (Foucault, Power/Knowledge P.94).

The Discourse of Power

Discourse, or discursive regimes, refers to the ways in which language both reflects and constitutes social reality. In this sense, discourse is not an objective tool to make social relations transparent but, rather, a set of social practices that create and constitute social relations. Particular kinds of people with particular kinds of subjectivities speak particular kinds of languages and these languages embody the power

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\(^3\) Canada as a nation state traces its legal and political structures to English and British practice with notable exceptions to law as practiced in Quebec where the antecedent is France.
relations of their historically specific contexts (Philipose P.33).

Discourse is a search for truth. According to Foucault,

there are manifold relations of power which permeate, characterize and constitute the social body, and these relations of power cannot themselves be established, consolidated nor implemented without the production...of a discourse...[t]here can be no possible exercise of power without a certain economy of discourses of truth which operates through and on the basis of this association. We are subjected to the production of truth through power and we cannot exercise power except through the production of truth....we must speak the truth; we are constrained or condemned to confess or to discover the truth. Power never ceases its interrogation, its inquisition, its registration of truth: it institutionalizes, professionalizes and rewards its pursuit (Foucault, Power/Knowledge p.93).

There is nothing natural or neutral about truth. Truth is manufactured through knowledge, which is developed by a methodology, “...knowledge is not neutral...methodology is not objective...knowledge is always for someone and for some purpose (Philipose P.55). And if knowledge is always for someone and some purpose, we are led to power.

Power exists only when it is put into action ... is this to say that one must seek the character proper to power relations in the violence which must have been its primitive form, its permanent secret and its last resource, that which in the final analysis appears as its real nature when it is forced to throw aside its mask and to show itself as it really is? In effect, what defines a relationship of power is that it is a mode of action which does not act directly and immediately on others. Instead it acts upon their actions: an action upon an action, upon existing actions or upon those which may arise in the present or in the future. A relationship of violence acts upon a body or upon things; it forces, it bends it breaks on the wheel, it destroys, or it closes the door on all possibilities (Dreyfus & Rabinow pp.219-220).
Juridical power refers to...the preponderance of the means to coerce, force, compel, or demand compliance, including the use of punishment for those who disobey (Philipose P.33).

Disciplinary power refers to the complex manifold of techniques in any given society that work to create individuals as proper subjects of the state or government, or in other words, that work to create governable populations....[and will include such things as] nationalism, notions of good citizenship, cultural or civic identity, aspirations for the good life, gender identities and other indicators of social acceptance (Ibid., pp.33-34).

Juridical power thus works hand in hand with disciplinary power (the process of normalization) to produce a well regulated and stable, self-disciplined population...normal and naturally not in trouble, unlike those pesky groups that get into trouble because they are young, poor, don't speak English (depending upon circumstance, French) or are otherwise known threats to the well being of the state. In those societies that are most effectively disciplined, juridical power is rarely wielded overtly, suggesting that the disciplinary power of modern societies, made whole through education, training, employment and economics, for example, are more effective than juridical power, if the state has sufficient money. Most of us (at least most of us who are employed, enjoy surplus capital, education and the appearance of normalization) do not experience policing in the way illustrated by the examples and case studies provided in this paper. Most of us are disciplined through the public exposures of these exercises of juridical power and are disciplined through our own monitoring and regulation into compliance.

‘Biopower’ is Foucaultian terminology for the “relationship between the regulation of populations and the disciplining of...individuals” (Ibid.). In modern societies, the exercise of governance authorizes control over individuals through mechanisms of discipline such as education and caring, through mechanisms of protections such as welfare, education and health care and through coercion to regulate and control populations. A modern society will delineate certain rights and regulate those who may benefit from them through such juridical power as migration and other controls over who may obtain what benefit and in what form it shall be delivered. This is the process that separates coercion from care and determines who will receive which.
“Bio-power, our modern form of power, is characterized by increasing organization of population and welfare for the sake of increased force and productivity. In this analysis the discursive and the institutional are once again brought back into a complex relationship. But in their later form less emphasis is given to the state and to capitalist growth, which Foucault takes for granted as an essential part of the story, and more attention is given to pinpointing exactly how this form of power is made to work on the local level” (Dreyfus and Rabinow P.7-8).

The new political rationality of bio-power was therefore connected with the nascent empirical human sciences...(Dreyfus and Rabinow P.137)....The job of the police was the articulation and administration of techniques of bio-power so as to increase the state’s control over its inhabitants. While the seventeenth-and eighteenth-century French police were part of the juridical administration, they dealt with individuals not as juridical subjects but as working, trading, living human beings. Through a reading of administrative manuals of the age, Foucault shows that the chief role of the police, which took more and more precedence over time, was the control of certain individuals and of the general population as they related to the state’s welfare. Now the police were concerned with men in their everyday activities, as the essential components of the state’s strength and vitality. It was the police and its administrative adjuncts who were charged with men’s welfare—and with their control (Dreyfus & Rabinow, pp.139-140).

Rather than asking ‘how does government determine what people will do?’, Foucault asks, how does government function in relation to particular populations in order to wield power and gain legitimacy and how do people become properly subject to government?

Foucault’s theory of power suggests power is dispersed (some argue to such an extent that no one can be held accountable). In the context of unaccountability the examples cited in this paper illustrate a, perhaps, structure of unaccountability imbedded in the sovereignty of the democratic state. This
implies that the very sovereignty relinquished by the crown has not been ended, it has merely shifted, or moved, to be buried in a discourse of patriotism, rights, law and discipline. Conventional theories suggest that power is a set of capabilities that are unequally held and that these capabilities grant some people the ability to coerce and constrain the behaviour of others. That is: We generally think of government as holding the power to compel people to obey through mechanisms such as legitimate use of force through police, military, prisons, constitutional primacy and, amongst others, economic policies.

It is through the aspects of juridical and disciplinary power that this paper will consider the state of policing in Canada. Tested in this paper is the notion that juridical power is legitimized by the population as necessary for the control of the enemies of the state, that is: the ‘un’ or non-normal who threaten the normalized citizen. In the context of the examples raised in this paper we will recognize disciplinary power at work in the society of police, and the discourses of approval for juridical power that, in effect, make the discourse of juridical power an element of disciplinary power within the closeted societies of police. Also tested by this paper is the notion of a point at which disciplinary power may break down when the weight of evidence suggests that juridical power is acting without constraint, rational or ‘discipline’ and makes targets of the normal, or normalized, citizen as a result of sovereignty’s shift or relocation.

**Why An Interdisciplinary Approach?**

Following from the work of Michael Foucault, whose work is difficult to classify as from one discipline, I envisage an inter-disciplinary approach to questions pertaining to police, policing and a “police state” in particular, a “police state in a liberal democracy”. While the focus of this project is literally upon the police, and examples of how policing takes place, it is my intent that conceptualizing ‘police’ and ‘policing’ extends beyond the particulars of law enforcement to embrace the ‘disciplining’ of members of society in all other contexts. Policing is the counter balance to caring, both are components of governance upon which contemporary states, including Canada, regulate and manage the populations they are responsible for.

An interdisciplinary approach benefits the study of any societal organization that practices any form of governance over itself and impacts others, including religion, corporate administration, banking, finance, sport or other. This is not to suggest that mechanisms of power within a ‘community’, applied to that community, are not a policing function. It is to suggest that the technology of power differentiates between individuals so that some are excluded and that exclusion, applied to ‘others’, has an absence of voluntary participation by those deemed to be on the outside. The more broadly sweeping thesis of this consideration is that the police represent a particularly abrupt demarcation in
governance versus governed but cannot be singularly identified as the only form of organization to practice uni-directional surveillance, and control, as a 'discipline'. Illustrating this will be a reference to an inquiry into the practice of forensic medicine; a point where the 'discipline' of medicine interlocks with the 'discipline' of law and its enforcement.

Thus, I differentiate from the governance practices of an organization that exercises that discipline upon itself and its members through regulation, regulatory edict, cultural and social practice and the demarcations created to isolate that community from the greater whole of the society within which it exists. In this sense I mean associations of persons who for one reason or another voluntarily submit to a particular regime or 'discipline'. This is a differentiation, for example, between the voluntary nature of a person entering the profession of law versus a non-practitioner of law becoming subject to the disciplinary process governing lawyers when, for example, a non-member might claim malpractice against a particular lawyer. Again, while this paper focuses upon 'the police' it is not meant to suggest that practices of isolation are not to be found in other communities or, more properly, 'disciplines'.

The consideration of 'police' within the state requires an interdisciplinary activity to consider more than a single attribute of state power such as the legality of a particular action or of particular legislation. An interdisciplinary approach is beneficial to the understanding of police by the broader citizenry and avoids the singular, disciplined inquiries of a student of the law, or a student of economics or any other 'discipline'. In short, there would be benefit derived through the study of a 'disciplined' organization by 'inter-disciplinary' means and that benefit would be the avoidance of the very structural discipline that governs the community being studied as well as the structural norms and rules of the 'discipline' doing the studying. No one 'discipline' of research, such as law, will be able to question, challenge, or assess the myriad of implications of the actions or inactions of the police and the supporting services of our legal system such as prisons, parole boards and the courts nor, for that matter, the social, economic and other costs associated with police and policing through victim's losses, tax burdens and the expulsion of citizens from the mainstream of national life.

A multi-disciplinary approach to the study of police, and policing, would allow for the raising and answering of questions such as; how, and why, is a para-military arm of government employed and deployed in a country that appears to depreciate the military? Indeed who, if anyone, benefits from military structures in the police? What (until most recently and singularly) compels that the senior ranking police commander must have risen from the ranks of police? What are

4 Herein lies an irony. Should one consider a malpractice allegation against a lawyer, the first thing that person should do is hire a lawyer.

5 Consider, for example, the military demarcation between officers and the enlisted.
the economic and social costs of having an enforcement arm of government that operates in shrouds of secrecy? What is the impact upon the greater society – a society that purports to embrace a diversity that, to all appearances, opposes the very regimentation of para-military structure? What are the sociological and political considerations of police secretly, or openly, acting to influence art, medical practice, correctional practice or other aspects of a citizen’s life that do not, on the face of it, involve or concern the police? What is the impact of literature, language and the arts on a public perception of police, and vice versa? What are the implications when ‘the police’ can be seen (or not be seen) as functioning within a multitude of privileges in the legal, economic and other sectors of the society?

More importantly still, an interdisciplinary approach allows for the development of perspectives and questions that have yet to be raised and considered and it will do so by escaping the confines of particular disciplines of thought that govern traditional research by questioning, for example, if there is any science involved in forensic science.

This project originally lent itself to a review, theoretical and practical, of the writing of Michel Foucault, in particular, his conceptualization of discipline and the panopticon (Foucault, Discipline and Punish, particularly PP195 - 228). In so far as this has been done, the focus of the paper has been drawn to the blockage of the line of sight to the police as compared to surveillance by police. Oversight of the population and questions of public surveillance will be addressed in the ironic condition of an inability to provide surveillance of the police.

In short, and in the context of ‘the panopticon’, surveillance is a uni-directional phenomenon whereby the observer must not be seen. It must be known to the observed that she can be observed, at any time. It must also be known that the observed will never know when she is being watched, or heard, or measured, or assessed (Ibid.). Conversely, the observed knows that she can never be seen. The panopticon was literally a design for a physical prison6. It would be wrong, however, to think of ‘the panopticon’ as purely an exercise in prison mechanics. It is a societal mechanism of surveillance and control that, through technology, data gathering and routine surveillance monitors, manipulates and controls a population. It is, perhaps, the prison writ large, seeking to become all embracing, all confining and all controlling:

6 In the United States the various prison administrations are increasingly developing ‘super-security’ facilities that literally turn the entire prison experience into a solitary confinement sentence while inmates are subject to constant surveillance by cameras and listening devices. This is an interesting development for, in law, if solitary confinement becomes the norm of imprisonment, it is no longer being invoked as a form of institutional punishment and avenues of appeal against such treatment are weakened (Vogel P.7).
It is an apparatus that must be coextensive with the entire social body and not only by the extreme limits that it embraces, but by the minuteness of the details it is concerned with. Police power must bear ‘over everything....” Ibid P.213).

This paper also integrates a consideration of work of Hanna Arendt, The Origins of Totalitarianism and George Orwell’s 1984. Arendt differentiates between the totalitarian and the merely ‘police’ or ‘authoritarian’ state. In the context of this paper, her work is considered in the discussions of the removal of citizens’ rights and forms of deportation, exile and the stateless.

The clearer the proof of their inability to treat stateless people as legal persons and the greater the extension of arbitrary rule by police decree, the more difficult it is for states to resist the temptation to deprive all citizens of legal status and rule them with an omnipotent police (Arendt P.268).

The primary Orwellian considerations of this paper concern the use of language and the stated purpose or values of various governmental departments. This paper is not a review of these two works.

Who Are The Police?

*n. pl. police*

1. The governmental department charged with the regulation and control of the affairs of a community, now chiefly the department established to maintain order, enforce the law, and prevent and detect crime.  

(found at:  http://www.thefreedictionary.com/police  
found on: January 4, 2009.)

One of the first issues encountered in a consideration of police and matters of policing arises in the attempt to formulate a definition of police and what they do. In a restricted sense, police are those who are called “police”. They may, or may not, wear a uniform and, still in a restricted sense, be paid by and work for government, however this is not always the case. In Canada, the police may be employed at the federal, provincial and municipal levels of government. Private corporations and semi-autonomous bodies may also employ police7. Jurisdictional responsibility for the police rests with the provincial governments but in eight of ten provinces and all three territories, the Royal Canadian

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7 CN Rail Police, the Toronto Transit Commission Police, and the University of Toronto Police for example.
Mounted Police (RCMP), who are federally administered and monitored, does much of the policing, particularly in low-density population areas. This in itself raises issues of democratic control in so far as the jurisdictional responsibility for the police rests at the level of the provincial government but has, for most of the country, been harnessed by the federal government causing great difficulties in holding anyone accountable for the actions of police. Provincial Solicitors General, the Ministerial level responsible for the police, have no administrative authority over the RCMP and the Federal government, generally, is unresponsive to complaints against them.

In Canada, as in other jurisdictions, many functions that are seen as functions of the police are actually conducted by agencies that are not readily recognized as being ‘police’. In Ontario, legislation and regulation may dictate that a person has the powers of a ‘peace officer’ “while performing the person’s duties” (for example: Ontario, Ministry of Correctional Services Act8). The Federal government similarly dispenses such authority but determining who, how many, and in what role these peace officers exist may be difficult to determine. For example, game wardens, environmental protection workers, correctional services employees, border security, immigration officials, tax officials and others may, by statute, be empowered with search, seizure, investigative, arrest and other powers normally thought of as functions reserved for the police, but are not ‘police’. I have been unable to locate any tabulation that enumerates all those with such powers. The difficulty of determining just who are ‘peace officers’ may be illustrated by ‘The Canadian Peace Officers Memorial Association’ web site (http://www.cpoma.com/page2.html) which in its listing of Peace Officer Organizations invites people to submit their organization’s name if not already listed.

There are further difficulties of definition. In a search of Ontario law, the term “peace officer” was found in 36 individual statutes including The Child and Family Services Act where workers under that act do not have the power of a peace officer but are legally entitled to use force to seize “and remove” a child (Ontario Child and Family Services Act9). Thus the use of force may be legally authorized through a variety of law that does not convey ‘policing’ powers as such to any person. Conversely, in Ontario, police officers are specifically excluded from the legal restrictions placed upon privately hired ‘security’ guards in so far as police may be hired, at private expense, to provide security services. Most commonly they are hired by a business enterprise requiring some form of crowd control and these police retain all their police powers while performing that ‘for hire’ role.

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8 A correctional officer in Ontario has the powers of a peace officer only while in the performance of his duties, that is, while on paid duty.
9 The term ‘peace officer’ in this statute refers specifically to the police when called upon by this law and does not apply to employees of the Ministry.
Profit making organizations such as security services, investigation services and, until recently, in Ontario, correctional facilities, have been contracted out to privately owned corporations to perform roles normally associated with those of the police or peace officers on a fee for service and for profit basis. For the purposes of this paper I will add one further element to the seeming confusion over who are police with this being the individual citizens who voluntarily assume some policing role either as a form of spy or surveillance arm of government, or as self-directed vigilantes in the form of officially unwelcome groups such as the “Guardian Angels”. Although such persons may, or may not, act upon the invitation of police or indeed contrary to the wishes of the police, they perform a policing role in the mire of law enforcement.

An inter-disciplinary study of police and policing requires a flexible mandate respecting definitions. A rigorous definition of police and policing applied at the commencement of the study may arbitrarily exclude arms of government enforcement not known at the time the study began. An inventory of who within the state has been legislated powers of arrest, detention, force, confinement and seizure would be of the first order.

Canadian Charter of Rights and Freedoms (1982)
(Commonly referred to in Canada as ‘The Charter’)

It may be generally understood that there is a hierarchy of law, in the simplest of terms, the Constitution, written or unwritten, will govern statutory law, which, in turn, will govern regulation and somewhere in that mix comes case law, the process of refining definition and meaning within the written and common law. This paper is not intended as a discourse on law. I would expect a first year law student to be able to list a manner of response, with legal remedies, to Charter violations that could spiral through various courts for years. That student could defend fully the effectiveness of such litigation then ‘back flip’ to argue the contrary just as fully. That is the practice of the ‘discipline’ of law, and how the law is, or is not, interpreted but it has very little to do with how the law is applied or managed or perceived.

For an understanding of the application of law, its management and its implications, we must turn to the “un-disciplining” of an interdisciplinary study of how the ‘whole’ of policing, surveillance and enforcement functions. It is a process best understood in relation to law as something akin to what Foucault describes as governmentality or the policing and regulating on behalf of the state.

The sections of the Canadian Charter most relevant to this study are bolded and blocked throughout the text in relation to case studies and examples.
"6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada." (Canadian Charter).

Case Study: Abousfian Abdelrazik

Abousfian Abdelrazik is a Canadian Citizen who, at the time of writing, is in the Republic of Sudan. The Canadian government refuses to re-issue him a passport and, as a consequence, he cannot transit a return to Canada, despite the fact that he has been, and is, given residence in the Canadian embassy. His name appears on a United States 'no fly' list and he was accused of being an Islamic extremist. He was arrested and held in a Sudanese prison where he claims to have been tortured and interrogated by officials of the Sudanese government. The United States Federal Bureau of Investigation (FBI) and the Canadian Security and Intelligence Service (CSIS) have also interrogated him.

The Sudanese released Mr. Abdelrazik from prison in the belief he was innocent. He has never been charged or convicted of any offense in any country and, allegedly, it is officials of the Canadian Department of Transport who initiated the refusal to renew his passport. Apparently officials of that department were concerned that United States officials would be 'offended' if Canada allowed his return on a commercial flight and providing him with non-commercial transport would be cost prohibitive (Koring, particularly July 24, 2008).

In court proceedings attempting to force the Canadian government's hand, the court has been told that a Member of Parliament was shown photos of scars resulting from Mr. Abdelrazik's alleged torture. In response, lawyers representing the Crown and interviewing Mr. Abdelrazik by long distance telephone calls to Sudan have attempted to discredit him by alleging that the marks on his body are the result of 'tribal' acts of self-mutilation obtained in healing rights. We must bear in mind the issue pertaining to his return to Canada has nothing to do with his claim to having been tortured. His claim to return to Canada has everything to do with his 'right' as a Canadian citizen under the Charter (See also, Magna Carta, 39, 40 and 42 above). A Canadian lawyer is representing Mr. Abdelrazik on a no fee basis because, under security legislation, Mr. Abderlrazik's assets have been frozen. He therefore cannot afford a lawyer. His lawyer has released documents that, he claims, clearly demonstrate that officials of the Canadian government were ordered not to attend and/or represent him during an interrogation by the FBI (Koring, October 18, 2008). His case file contains a letter from the "RCMP assistant commissioner for national security criminal investigations confirm[ing] that Abousfian Abdelrazik was not

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10 Here is our first example of a need for flexible definitions of police. Who these 'officials' of the Transport Department are, and under what authority they initiate a practice resulting in effective exile, is unclear but their actions may well be considered policing.
involved in any criminal activity” (Koring, January 6, 2009 which contains a photocopy of the letter).

The editors of “The Globe and Mail” have commented upon the case of Mr. Abdelrazik and other Canadians who have found themselves abroad with precious little assistance, if not open hostility, from their government when arrested, tortured and/or threatened with death (Unattributed editorial March 7, July 25, 2008).

It may reasonably be assumed that the right of a Canadian to re-enter Canada can legally be restricted by the government of the country that the Canadian is in. It may refuse to allow him to leave, for example, while he is serving a criminal sentence in that country. Canada, however, is signatory to a number of international treaties which allow for the exchange of prisoners in a patriation process. Canada has signed such a treaty with the United States and, it appears, the government of Canada has a selective process in allowing imprisoned Canadians to return. David Radler, convicted by way of a plea bargain in the white-collar case of Conrad Black11, has returned to Canada to serve his sentence and has subsequently been released on parole (Fong). Conversely, two British Columbians, Steve Czinege and Winnie Lam, serving sentences for drug related offences, have been refused repatriation from the U.S.A. They are suing then Minister of Public Safety, Stockwell Day alleging he “has no lawful jurisdiction to deny, refuse or postpone their entry into Canada” (Unattributed article, October 21, 2008).

Rights, it may appear, can be multi-tiered in their application and thus are not ‘rights’ at all. They are privileges. Hanna Arendt discusses the formerly totalitarian practice of stripping people of citizenship and the deportation of citizens as a practice that began to be seriously considered for use in democracies only after the Second World War (Arendt, p.356).

“7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.” (Canadian Charter).

Case Study: Robert Dziekanski

Robert Dziekanski arrived at Vancouver International Airport on a flight from his native Poland. He was, apparently, disoriented. There were no Polish-speaking officials in the airport. Locked in an isolated section of the airport and ignored for hours he became agitated and RCMP officers were summoned. In a video recording of the incident he appeared to be non-threatening to the police. They

11 Conrad Black voluntarily surrendered his Canadian citizenship during the process leading to his appointment to the British House of Lords. He remains in prison in the U.S.A. at this time.
stunned him multiple times with a taser and he died. After investigating their own actions in the case, the RCMP decided that no charges should be laid against its own members, then went further. They determined that the victim did “not die because he was tasered five times....he died, we've been told, because he drank too much and had a fear of flying...” (Mason, December 15, 2008). The RCMP report (unread) apparently took nine months to compile and included sending RCMP officers to Poland to scrutinize the deceased person’s earlier life (Ibid.). The Polish Ambassador, who is requesting a public inquiry into the circumstances, bemoans the fact that the RCMP allege the victim had an alcohol problem, but their investigation made no mention of the backgrounds of the police who tasered him, “one of whom is facing allegations of impaired driving in a traffic accident this fall that killed a 21-year-old man...” (Bailey, Ian, December 16).

Case Study: Ian Bush.

In 2005, 22-year-old Ian Bush, who had no criminal record and no previous charges, was arrested for having an open can of beer outside a hockey arena in British Columbia. He was taken to the local RCMP detachment and several minutes later he was dead from a police gunshot wound to the back of his head. There were no witnesses. Testimony from a forensic investigator with the City of Edmonton Police testified that the RCMP officer’s description of events was not consistent with the evidence given. The RCMP investigated the actions of its member and no charges were laid against him.

“8. Everyone has the right to be secure against unreasonable search or seizure.” (Canadian Charter).

Case Study: The Ontario Civil Remedies Act.

The Ontario Civil Remedies Act is being used to seize assets that, on the balance of probabilities12, were obtained through some suspected criminal activity. There need be no victim to the alleged crime and the assets may be seized from a person who is not charged with, or convicted of, any offence. Further discussion of this law follows below.

“9. Everyone has the right not to be arbitrarily detained or imprisoned.” (Canadian Charter).

Case Study: Hassan Almrei

12 “The Balance of probabilities” is an Orwellian like legal speak. It implies a standard less onerous than “beyond a shadow of a doubt”. Think of it as meaning, “probably true” or “we have a hunch” or “taking our best guess” and is commonly used in the decision making process of administrative tribunals.
Hassan Almrei, a Syrian, has been held in custody in Canada for seven years. Accused of terror related activities, he has never been charged with, nor convicted of, any offence. He has recently been released by judicial order but will be monitored and guarded 24 hours per day. Lawyers are currently attempting to lift security ‘gag’ orders that prevent them from determining what the government is accusing Mr. Almrei of actually doing (Freeze, in particular, January 3, 2009).

“10. Everyone has the right on arrest or detention
a) to be informed promptly of the reasons therefore;
b) to retain and instruct counsel without delay and to be informed of that right; and
c) to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.” (Canadian Charter).

Case Study: Hassan Almrei (again).

A Federal Court judge has ruled “It’s simply too soon to decide whether parts of Canada’s new national security legislation might be unconstitutional...”Lawyers are challenging “gag” orders that prevent lawyers of defendants from knowing the evidence being used to hold suspected terrorists. Hassan Almrei, a Syrian [is currently, and has been,] detained [in Canada] without charge for seven years”” (Perkel, November 4, 2008).

“11. Any person charged with an offence has the right
a) to be informed without unreasonable delay of the specific offence;
b) to be tried within a reasonable time;
c) not to be compelled to be a witness in proceedings against that person in respect of the offence;
d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
e) not to be denied reasonable bail without just cause;” (Subsections “f” through “h” omitted) (Canadian Charter).

Case Studies: Hassan Almrei (again) and Robert Dziekanski (again).

The trickiness of this section appears to lie in actually having been charged with and/or convicted of something. From another perspective, it would appear that the invocation of delay could work to great advantage in issues pertaining to the investigation of police by police as illustrated below.
“12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.” (Canadian Charter).

Case Study: An unnamed teenaged girl.

A 16-year-old girl in Selkirk, Manitoba (her age prohibits publication of her name) was locked alone in a cell for young offenders. She alleges that four police officers entered her cell, removed articles of her clothing and held her down. She claims she was tasered 3 times “on her legs and groin area”, has scar tissue, suffers involuntary movement and is receiving psychiatric care as a result of the experience. Her mother calls it torture when describing, “she’s in a cell. She’s no danger to anybody...whatever she did, she didn’t deserve to be tortured like that...” (Friesen July 28, 2008). The RCMP has investigated itself and concluded they did no wrong. The girl was not charged for the events that led to her arrest. The mother believes the treatment of the girl was “exacerbated because she’s aboriginal” (Ibid.).

Enter Orwell: Treatment is not punishment, apparently, and there is nothing cruel or unusual in being blasted with high voltage electricity, even if you die. It is not cruel or unusual to be locked alone in a cell, to then have police enter the cell, be stripped of clothing, held down and then tasered in the groin with electricity (mindful of the law, the case of this young girl is not proven in court, the RCMP have determined they did no wrong and the matter will now proceed to a public complaint against the police (Ibid.)).

General Reports on Incarceration and Incarceration Rates

Any consideration of what may, or may not, be either a police or policing state will lie in some part in the rates of incarceration in that state, which will require some analysis of who is incarcerated and why. However, just as there is a question as to what may constitute ‘the police’, what constitutes incarceration is not easily determined. For example, statistics may not reflect those held for ‘medical’ or ‘psychiatric’ reasons and, similarly, those who would be held under immigration and other legislation might not form a measurable prison population. My study of such matters will begin with assessing the role of the nation state through its potential as an exclusionary force demarking those ‘others’ who do not benefit from the protections of domestic law which also leads to an investigation of what does, or does not, constitute a nation state.

Gaza, for example, might constitute a stateless territory and/or a refugee zone and/or a form of open-air prison. Gaza is not considered a state, those living within it are stateless...they have been ‘de-citizened’.
Toward the end of the apartheid regime The Republic of South Africa attempted to deflect world anti-apartheid opinion by declaring black ‘homelands’, or reserve areas, to be independent nation states. Ostensibly the move was designed to cast the homelands outside the boundaries of the Republic thus seeking to avoid claims of discriminatory practice within the Republic itself. This too was a ‘de-citizenizing’ or ‘de-nationalizing’ of persons in order to exclude them from the protections of law.

There is an eerie similarity to the efforts of the former G. W. Bush regime in the U.S.A. to export the detention of its prisoners (apprehended in other states) to Guantanamo and other locations beyond the national borders of the USA and, in theory, beyond the protections of U.S. law. Hanna Arendt describes the process of removing citizenship and subsequent deportation in her discourse on Hitlarian Germany and the Stalinist Soviet Union (Arendt pp. 352 – 366).

Aboriginal territories and reserves in Canada may attract comparisons with the above and invite a discourse upon a range of issues surrounding reserves for First Nations globally and, within the context of this paper, their relationship to law enforcement and questions such as: How did “we” come to own “their” land and why do “we” keep arresting “them” in such large numbers? How, for example, are conditions of poverty, substandard housing, substandard medical care and marginalization responsible for, or attributable to, rates of criminal imprisonment and conflict with the police13? We might also consider, on this point, the nature of the RCMP as a colonializing and therefore occupying police, governed at distance from Ottawa and imposed upon rural and distant populations as well as Aboriginal populations within the boundaries of the Canadian state. An analysis would also consider the history of forced re-location of marginalized populations, including Aboriginal peoples in Canada. In Foucaultian terms, these are questions of governance and in determining who gets the caring, and who gets the coercive side of biopower.

A general discussion of the police and/or a policing state may conclude that high levels of incarceration are a reflection of either state. Such a conclusion will be one of degree.

Per capita rates of incarceration are far higher in the United States than elsewhere in the ‘western’ world: “The U.S. has less than 5% of the world’s population but over 23% of the world’s incarcerated people (Wright P.221).” For every 100,000 of population, the USA has 738 people in prison. By way of comparison, Canada has 107 in prison for every 100,000 of population (Hartley)

13 I am aware of numerous initiatives in this area including changes to the administration of the justice system to accommodate sentencing circles and do not mean to imply that such work is not underway. It is my purpose to demonstrate that considerations of this sort should be included in an interdisciplinary approach to policing.
making the overall rate of incarceration in the United States approximately 7 times the rate for Canada or Europe (Ibid.). In February of 2008, a published report estimated that 1 in every 100 adults in the U.S.A. was “behind bars” (Liptak). The U.S. Department of Justice estimated the adult inmate population in 2006 to be 2,300,000 (Fellner), which, for comparative purposes, is approximately the population of the city of Toronto.

While incarceration rates are relatively lower in Canada than the United States, marginalized populations are disproportionately represented in the prisons of both nations. In general, incarceration reports indicate a similar and strong bias in the rates of incarceration in all nations I have reviewed. Those imprisoned are overwhelmingly male, overwhelmingly of racial and ethnic minorities (Chaddock) and appear, overwhelmingly, to be poor. This draws into issue questions pertaining to how a government identifies particular people as being dangerous and how those participating in the ‘democratic’ electoral process identify ‘the other’ and ‘the enemy’. It also draws into issue considerations of selective policing of laws.

**Citizenship and the Charters (Great and Otherwise)**

Case Study: Omar Khadr.

Omar Khadr “was 15 when he was captured in Afghanistan...he has spent six years in U.S. custody at Guantanamo.” The case against him has been challenged upon a number of grounds including; his age and definitions of child soldiers in international law, the withholding of evidence by the U.S. Military, violations of international law and United States Constitutional law challenging the very legitimacy of the existence of the Guantanamo prison. Khadr is the only remaining citizen of a western country still being held at the prison, which United States President Obama has ordered closed. Khadr is a Canadian citizen and the Canadian government, at the time of writing, continues to accept the legitimacy of the prison and has refused every overture that it help obtain his release (Variously El Akkad, particularly October 25, 2008).

The case of Khadr is not one of the Canadian government refusing to allow his return to Canada, merely one of the Canadian government doing absolutely nothing to assist in his repatriation. The distinction is legal but the impact is the same. Abousfian Abdelrazik’s case is another matter. Not only has he been denied assistance in returning, he is refused the right of return and is effectively exiled. The rights sound simple enough. If you are a Canadian, you are free to leave the country and return to it. That is your right according to the Charter of Rights and Freedoms and according to the Magna Carta, that great document that began the decoupling of the sovereign from his power and shifting it to disciplined, professionalized autonomies.
Exit Abousfian Abdelrazik to Sudan. Enter Brenda Martin to Canada.

In 2008 Brenda Martin, a Canadian citizen, had finished two years of pre-trial custody in Mexico. She was convicted of fraud and sentenced to five years imprisonment (Unattributed Article, April 23, 2008). Within days of sentencing she was flown back to Canada to serve her sentence (Rennie). Some measure of distinction exists in the handling of these cases. I would argue that issues of gender, race, religion, and the selective application of law are at play in determining (amongst others) if, a person convicted of a ‘white-collar’ crime is given preferential treatment by those who ‘police’ entry to Canada as is suggested in the case of David Radler or in the case of Brenda Martin.

Surveillance

In contemporary times there has been an enormous expansion of policing to monitor and regulate new networks of human activity made possible through computers and the internet. Intelligence gathering, spying, reporting, documenting and general snooping on people is a growing business, governance and voluntary activity in Canada (See Welcome to the Machine, 2004). One aspect of the issue of surveillance and intelligence gathering that is becoming increasingly troubling involves questions pertaining to who stores, sorts, shares and builds various stockpiles of information on individuals and organizations. Another aspect of the issue involves matters pertaining to how the data will be used and toward what end. These are issues that pertain to matters of privacy, its related social practice and legislation. It is important to remember that these issues exist in the context of the policing of the population.

Government surveillance may come in many forms and from many sources, not necessarily confined to those strictly defined as police. These other sources of information include, for example, the record keeping and record gathering of governmental and quasi-governmental organizations such as: child welfare and protection services, income protection agencies of government who dispense money and other benefits to the poor and agencies for the unemployed and unemployable. They will include motor vehicle registration offices (in Ontario operated by contracted private business), health services, educational institutions and others. They will also include taxing agencies such as the Canada Revenue Agency and all of the various other assessment arms of government involved in the taxation and measurement of real property and income, levies for health care services, road tolls, park entrance fees, public educational supplement fees for books or uniforms, royalties on minerals, quota limits and levies on dairy producers, commercial or sport fishers, and, of course, universities that gather information on graduate students.
To illustrate the issues involved, for example, we will consider medical records, shopping records, drug companies and insurance companies while considering the means of compiling, collating, storing and distributing the data. If one were to make regular purchases of alcohol by credit card or claim ‘shopping points’ for those purchases, alcoholic consumption rates are being stored in a database. By gathering reward points at the drug store, this information now formulates part of a privately held and commercially available database as well. Those records are available for purchase, or subpoena, and could come to play in court actions to demonstrate some likelihood of your culpability in some action through intoxication or ‘contributory negligence’. Currently regarded as extremely private, one’s medical records could add to the wealth of information provided through one’s drug and alcohol purchasing history, to say nothing of tobacco purchases which, we may surmise, would be of interest to an insurance company to the point that they may consider a person ‘uninsurable’ or may lead to findings of contributory negligence before the courts or on other matters, such as where you might be placed on a waiting list for some form of available treatment. Shared information may be of import to provincial health authorities in determining worthiness for treatment, or future employers and hosts of others, to say nothing of the police who might be interested in knowing if a person declares marijuana profits on his annual income tax filing. In the context of the panopticon, citizens loose the ability to comprehend what observations of their behaviour are being made and for what purposes these observations are, or may be, put.

The Science and Technology of The End of Privacy

In Welcome to the Machine: Surveillance and the Culture of Control, Jensen and Draffan review the changing nature of what it means to be human in the developing age of constant surveillance. Modern methods of security and surveillance range from radio frequency identification tags placed in clothing purchases, to the monitoring of the internet and the compilation of large, flexible and shareable data bases on individuals. This begs the questions: what happens to humanity when humans become so observed and monitored? And, who can access such data and for what purpose?

ITEM: Two Canadian universities, Toronto and Dalhousie, are conducting research on issues pertaining to internet security and have discovered amongst other things, that what were thought to be private conversations on the internet have been edited and/or deleted in transmission and information pertaining to the recipient and the sender has found its way into a repository of information on political dissent in the People’s Republic of China (Fine, Philip November 12, 2008). Researchers are also developing tools that go far beyond the isolation of words and phrases to parsing changes in communication patterns, apparently in aide of anticipating criminal activity (Fine, October 28, 2008). There is no
commentary upon what ‘web scouring’ might be occurring in Canada by any policing agency, public or private.

The government of Canada maintains intelligence gathering agencies, such as the ‘Financial Transactions and Reports Analysis Centre of Canada’ (FINTRAC http://www.fintrac.gc.ca), which, according to its web site “…receives, analyzes, assesses and discloses financial intelligence on suspected money laundering, terrorist financing and threats to the security of Canada”. According to the agency’s latest annual report (unread), it uncovered unidentified spies who were exporting unidentified things that were banned from export to unidentified places (Freeze, Colin, December 5, 2008). This is all well and good, but the findings have not resulted in any criminal prosecution so, it appears, information is being gathered and stored for some reason other than actually prosecuting crime or preserving national security. On the other hand, Paul Palango believes FINTRAC to be a massively incompetent RCMP spin off that, according to CSIS, does not even have a model to provide “clear and common strategic understanding[s] of how terrorist financing operates” (Palango P.361). Competent or otherwise, FINTRAC gathers, compiles and stores financial data about Canada and Canadians.

The highly secretive operations of government policing agencies, surveillance and intelligence gathering is countervailed by, apparently, sloppy record keeping that puts individuals at risk for privacy violations and identity theft. The Federal Privacy Commissioner reports that careless storage and disposal of personal information by government opens risks for people who apply for passports. It is also alleged that far too many people have access to personal information in paper and computer files and that information is not secured. Also noted is the publication by government of adjudication decisions on the Internet. These decisions provide personal information such as earnings, names, addresses, physical and mental health problems and other personal information and are posted within the decisions (Makin, December 5, 2008) and are, thus, publicly available. This raises interesting questions including: why there is neglect of security on issues pertaining to information gathered by the government on citizens? Why, it should be asked, does secrecy appear to be as uni-directional as surveillance? Why is policing of civilian privacy so lax while policing of government secrecy so strict?

ITEM: It is currently being reported on CBC radio (February, 2009), that the Canadian government is selling the databases of names and telephone numbers from the ‘do not call list’. Under supporting legislation a person who places their phone number on this list is not to be telephoned by marketers and others under threat of penalty. However, the very people Canadians were hoping to avoid by voluntarily adding their names to the lists are purchasing the lists from the Canadian Radio and Telecommunications Commission (CRTC). People on the
list are now being inundated by telephone solicitations from outside Canada where
the CRTC has no jurisdiction to enforce the ‘do not phone this number’
legislation.

According to its website the Communications Security Establishment of Canada
(CSEC) (http://www.cse-cst.gc.ca) provides “the government of Canada with two
key services: foreign signals intelligence in support of defence and foreign
policy, and the protection of electronic information and communication”.  
Undoubtedly some might be concerned that such an agency might turn its
monitoring headphones toward communications within Canada but such
concerns would be unfounded according to the CSEC web site because to do so
would be a violation of its core values, we are told. Whether or not spying on
Canadians has been farmed out to other ‘allied’ governments such as the
Defense Intelligence Organization of Australia or The Defense Intelligence
Agency of the USA is not discussed on the web site.\(^{14}\)

Of some intrigue in questions of surveillance is the Canadian legal right of a
single party in a conversation to record that conversation without informing other
participants. There is currently at issue a question of legal, if not moral, interest
at the parliamentary level of government. A Conservative Member of Parliament
maintains that he inadvertently received an invitation to dial into a normally
secret caucus meeting of the Federal New Democratic Party. He did so and
recorded the conversation - the NDP have asked the RCMP to investigate. At
legal issue will be the question: Does an inadvertent invitation to a person who
merely listens make that person a participant in the conversation that he is
recording (Curry December 2, 2008)?

ITEM: In the Federal Court of Canada, CSIS has agreed that it will stop secretly
recording conversations between suspected terrorists and their lawyers (Freeze,
December 19). At issue is the concept of solicitor - client privilege.

Snooping on behalf of government is not all high tech. In this day and age,
recruiting the right snooper and currying an image of favour with the ‘snooped

\(^{14}\) An Internet Search on matters relating to government electronic spying will lead, inevitably, to
Project Echelon, a consortium of U.S., Australia, Britain, New Zealand and Canada, which has
conducted electronic eavesdropping upon other nations. Of apparently mythic proportions,
Project Echelon was allegedly once used to intercept telephone communications between France
and Saudi Arabia concerning proposed aircraft purchases. The intelligence was used to favour
suppliers in the United States over French manufacturers. See for example: On Echelon:
http://www.fas.org/irp/program/process/echelon.htm, found on December 27, 2008. On Echelon
and Commercial use: http://www.fas.org/irp/program/process/991101-echelon-mj.htm, found on
December 27, 2008. On Echelon, history:
http://civilliberty.about.com/od/waronterror/ig/Goverment-Surveillance/Project-Echelon.htm,
found on December 27, 2008. Echelon is, apparently, now obsolete.
upon’ is of continuing importance and some levels of government surveillance remain decidedly low tech. Reports from First Nations, in particular the Mohawk First Nation, claim that CSIS has actively been recruiting First Nation members as intelligence gatherers within their community. According to those interviewed, they were told that such meetings have been held with First Nations across Canada “raising the possibility that dozens of Aboriginal groups are being assessed as threats to Canada’s national security” (Friesen, November 29, 2008). This appears to contrast to an exercise in apparent openness and ‘bridge-building’ by the RCMP. Members of the RCMP anti-terrorism unit are reported as having engaged a group of young Muslims in a game of soccer that “both sides” hope to be a start in breaking down communication barriers (Freeze, December 3, 2008).

The use of voluntary ‘citizen’ spying has a long history in Canada and includes everything from spying upon Tupperware parties, religious and ethnic minorities to gays and lesbians to unions and political parties such as the Communists and the NDP (Kinsman, pp. 7,14, 55-68,123,147,236, 238). Recent trends include the police recruitment of volunteers in Canadian communities.

ITEM: The City of Orillia, Ontario is attempting to have volunteers work specific shifts driving around town and, using cell phones, reporting any suspicious behaviour to the police. ‘Suspicious’ is a nebulous term not defined in the recruiting advertisements. If the history of what the police consider suspicious is our guide, these volunteers could be reporting upon others appearing to be readying for a break and enter, raising money for the blind or the Cancer Society (Kinsman P.62) assembling a nuclear device or engaging in an anti-war demonstration. Volunteers are being advised not to intervene, merely report. This is a new project for Orillia and while other communities have found ready numbers of volunteers, at last count only 6 of the 60 required Orillians have signed on for the project as of early January (Matys, January 8, 2009).

The voluntary nature of this proposal to give the police ‘extra eyes’ appears to wed the private policing roles of membership in religious, cultural and other organizations to the role of state policing. By private policing, I refer to the Foucaultian concept of disciplinary power - the myriad of social control, development and training structures and communities that direct, ‘mold’, train and discipline the individual toward conformance, inclusion and submission to the dominant societal values and behaviours. Private policing apparatus may include everything from youth sports to the family, clubs, charities and organized recreation. Taking seriously the state task of governing, or regulating, the population as requiring both caring and policing, an interdisciplinary approach to police and policing examines ‘extrastate surveillance’ as a mechanism of policing.
Extrastate forms of surveillance point to the pervasive nature of policing and the extent to which they permeate private life. Policing is not merely a coercive force, it operates at multiple levels. In this sense, private policing is emblematic of Michel Foucault’s work on discipline (Maurutto, Paula, in Kinsman P.49).

ITEM: In late 2008, Queen’s University fell into the surveillance and confrontation debate by hiring people to upbraid students who use offensive speech “including homophobic slurs...remarks bashing women or racially tinged insults, along with an array of other language” (Weeks, November 19, 2008). Fears of an Orwellian thought police were raised against a backdrop of racially motivated vandalism, dress code requirements (aimed, allegedly at blacks), print media ridicule of minorities and other marginalizing behaviour at Canadian Universities (Smith, Malinda). The Queen’s University initiative was quickly abandoned after attracting free speech criticism (Church).

Foucault’s approach to state governmentality lends itself to an interdisciplinary interrogation of police and policing that exposes the points of conflict between ‘free speech’ and the promulgation of ‘hate’ through marginalizing behaviour in the context of

[a]n urgent need to disturb social complacency, expose cultural blindspots, challenge motivated ignorance and interrogate intellectual silences that enable the evasion of noticing, naming and combating racism and discrimination within contemporary Canada (Ibid. P.viii).

ITEM: The Montreal Police Brotherhood has asked the city of Montreal to pass a law that would allow them to charge civilians who verbally insult police. Civilians could be fined for referring to police as “pig” or “doughnut eater” (Blatchford).

Foucault’s power/knowledge complex of biopower is one that produces insider and outsider identities for populations requiring regulatory technologies. Utilizing Foucault, a study of the above issues of policing would assess a difference between the Queen’s University approach to language use, which invoked no penalties, addressed phraseology, targeted abuse of the marginalized and then met such resistance that it was ended as opposed to the formal request of police to ascribe penalties to language that offends the police. Such difference may imply a differentiated value for a perceived freedom of speech that offends the marginal versus such speech that offends the police, the state, or the majority.
How Do “They” (And How Did “They”) know if I am Jewish, Islamic, Gay or otherwise “Them”?

In his 2001 review of the relationship between IBM and Nazi Germany, Edwin Black discusses the mechanisms by which IBM supplied Germany with the card sorting technology to manage its identification of Jews in Europe through data processing, which allowed rapid identification of Jews, some of whom did not even know they had Jewish ancestors and thus did not know they were Jewish. This processing equipment provided for the highly efficient identification and relocation of populations as well as the necessary inventories for labour and death camps15 (Black).

ITEM: The governing Conservative Party of Canada is, apparently, maintaining such an efficient research campaign on individual voters that it can, and does, identify potential voters as Jewish. Michael Valpy reported that a person who keeps his being Jewish to himself received Jewish holiday greeting cards from the Prime Minister. Apparently, the Conservative Party utilizes the information gathering potential of its members and supporters to minutely profile potential voters so that they can be ‘target marketed’ for electoral purposes. The purposes of such information gathering may be for very different reasons than those addressed by Black but the issues pertaining to privacy and surveillance remain. The issues may be reduced to this: who wants the information, why do they want it, and how do they protect it from others (Valpy, September 10 and 13, 2008 and Black on identifying Jews pp. 52 -74).

Caring for a population of people takes seriously the continuous gathering of information about individuals so they can be sorted into groups – this is the force of disciplinary power. Given the historical use of this information against the Jewish peoples of Europe, finding out that one is being disciplined, that is regulated, or rather ‘cared for’, through the accumulation of information on one’s group memberships, as for example, being Jewish, should give all Canadians pause for reflection.

Looking At (and sometimes into) The Police

There are significant roadblocks presented to a person who alleges misconduct or ineptitude on the part of the police. The following will document some of the more obvious cases, and findings, of public investigations into police operations.

15 The German government decorated the president of IBM. The author points out that nothing of IBM’s involvement in the holocaust was ever recorded at the post war Nuremberg Trials, something that the author suggests may have been related to IBM having supplied all interpreters for the trials on a pro-bono basis (Black P.421).
ITEM: Paul Cosgrove is an Ontario judge who may soon be a former judge as he faces dismissal for his actions in court. The Crown Attorney’s office for Ontario alleges that he made “scurrilous allegations” against the Crown and engaged in “grossly unprofessional conduct” in accusing police and the crown of violating a defendant’s constitutional rights. He dismissed the case against an accused in 1999. The judge has now been found guilty of those charges by a judicial review panel in a 4 to 1 decision made against him. The lawyer for the judge stated that the judge was under considerable stress having recently dealt with a case where a “senior police officer essentially confessed to counseling junior officers to conceal evidence and obstruct justice in another murder case.” It would appear, from press reports, that the judge was so infuriated by what he had experienced in previous trials he undertook, rationally or otherwise, to respond (Makin, September 3 and December 5, 2008).

An interdisciplinary review may be able to compare the institutional recourse available to police and others in the enforcement apparatus to challenge the actions of judges in opposition to the resources available to individual citizens for the same objective. In the panopticon, vision, the acquisition of knowledge and the exercise of power are a one-way phenomena.

The process of observing and reviewing police activity remains difficult. In Ontario, the Ontario Provincial Police (OPP) is accused of ‘botching’ an investigation into the murder of Dominic Racco, an alleged mobster. The case against those accused of the murder was dismissed amongst allegations that the police had failed to disclose information...“virtually every item of potential evidence...of benefit to the defense went undisclosed” (Makin December 11, 2008). In an unreleased report, the OPP apparently exonerated themselves from any wrong doing and a group of defense lawyers is now before the Supreme Court of Canada seeking release of the report arising from the 1997 trial. Several provinces have intervened on behalf of the Crown, which is arguing before the court “far from being a constitutional right, access to information is a privilege bestowed on the citizenry” (Makin, December 11 and 12, 2008). Here we may question, how has a right become reconfigured, within what Foucault calls governmentality, as a privilege administered as a state regulatory technique of caring for and policing a population?

An interdisciplinary study may be able to distinguish amongst conceptualizations of rights, assumed rights and privilege. Apparently this privilege of access to knowledge is being defined for the benefit of the state qua state and not the population thereof even as the population feels, and is, more and more controlled.

Police Oversight Agencies Of The Governments Of Canada
Many governments that maintain police in Canada have formed agencies that purport to oversee police operations and have established processes and procedures for acting upon a complaint against the police. While it may require more thorough review, and some examples of a pro-active stance on behalf of citizens may exist, this review of the agencies suggests that they are either hamstrung by regulations that favour the police or, in fact, operate in a pro-police context to the detriment of the civilian and, in some cases, appear to act effectively as a shield to protect police from observation. Indeed a review of the web sites of these ‘oversight’ agencies does not inspire confidence in their abilities or, in some cases, their intent.

ITEM: The Manitoba Law Enforcement Review Agency (MLERA) has, on its web site, posted its proceedings dating from the early 1990’s. In the link to “penalty hearings”, (http://www.gov.mb.ca/justice/lera/hearings/penalty.html), that is, those matters that have actually gotten to a hearing to determine a penalty against an accused police officer, only one case is listed. It dates from February 11, 2003 and was heard against an officer who had already left the force. The name of the officer is omitted from the transcript in an obvious effort to protect confidentiality and stands in marked contrast to the Federal government’s lax practice as noted by the Privacy Commissioner above. In this case a reprimand was issued and placed on the former officer’s employment record. Much of the proceedings concerned the law firm that represented the police establishing, on the record, it would have defended the former officer if she had appeared for the hearing.

ITEM: The Military Police Complaints Commission (MPCC) has instigated an investigation into allegations that members of the Canadian military gave up prisoners to officials of the current regime in Afghanistan and thus knowingly submitted them to torture (unattributed article October 24, 2008). If true, the allegations would open doors to complaints that senior military and civilian Canadians have participated in war crimes contrary to The Geneva Convention Relative to the Treatment of Prisoners of War and The Geneva Convention Relative to the Protection of Civilian Persons in Time of War, specifically article 3 of the Conventions requiring that persons be protected from torture. If true, the allegations would also open the prospect that Canada is in violation of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in particular,

Article 4
1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave
It should come as no surprise that the Canadian government, with troops in the field, a minority in Parliament and 'senior' officials at risk of implication has moved to halt the inquiry. After having promised full co-operation with the MPCC, the government is now seeking a court order to end the inquiry as exceeding the mandate of the MPCC (Koring, November 14, 2008). In the interim the chair of the MPCC has asked the government to end its objections while at the same time offering to protect junior ranks members of the military who may have been ordered to act as alleged (Koring, December 5, 2008). It is worthy of note that in 1993 the Canadian military was subject to allegations of the abuse of prisoners in Somalia. An inquiry into those allegations was ended before its completion by denying it funding and the Canadian Airborne Regiment was disbanded.

ITEM: The Ombudsman for Ontario, Martin Andres reports on police oversight.

The Ontario Special Investigations Unit (SIU) is mandated to investigate any case of death or serious injury resulting from police actions and to decide if a criminal case exists against the police. If it decides that there is no criminal liability on the part of the police, its role is complete.

The SIU was founded in 1990 after a decade of controversy, complaints of violence and the police shooting of civilians, often with racial overtones (Andres para. 25). Since 1990 the SIU has attracted repeated criticism and had 6 formal reviews of its operations conducted over 12 years (Andres para. 26). This included the 2004 report of the Hon. Patrick J. LeSage. None of his recommendations have been implemented according to the Ombudsman (Andres para. 26).

In this discussion of the Ombudsman and the SIU it is important to remind the reader that the Ombudsman is not investigating the police. He is investigating an agency that investigates the police. Martin Andres, himself a former Director of the SIU, now holds the position of Ombudsman for Ontario. In this capacity he responds to complaints by the public into the actions or inactions of agencies of the government and reports his findings to the Legislature. In 2008 he reported upon his review of the SIU, finding it to be defensive, biased, inept, unresponsive, politically charged and a self-congratulatory waste of money, staffed largely by former police.

The SIU's record of 'policing the police' is not impressive: "In 2006, the SIU investigated 226 incidents and laid two criminal charges” (Andres Para. 55).
Ombudsman relates an historic unresponsiveness by the SIU that is noted by others. The Commission on Systemic Racism in the Ontario Criminal Justice System determined “the creation of the SIU had done nothing to improve police accountability in the use of force” (Quoted by Andres Para. 29).

The Ombudsman’s report is filled with criticism in describing what the SIU may, or may not, believe to be its mandate. As to what might constitute a serious injury inflicted by police, the SIU has been changing its operational definitions, “At one point, the SIU considered broken noses to be serious injuries. This is no longer the case” (Andres Para. 68), “…fractured ribs are sometimes investigated, and at other times they aren’t…. [we were also told] of a case where the loss of a dozen teeth was not considered to be serious....” (Andres Para. 69). Further “In one case of a gunshot through the shoulder…the SIU did not investigate, since it was merely a ‘flesh wound’” (Andres Para. 70).

So negligent was the SIU found to be by the Ombudsman, that even when the police complied fully with notification rules, possibly anxious to have an opportunity to demonstrate the propriety of their actions, SIU officers rebuffed them. And, according to police, there was “…a case where a person was ‘beaten black and blue’…. [this] raised significant questions regarding police conduct, the incident wasn’t considered to be within the SIU’s mandate” (Ibid para. 70) thus:

The police considered the injuries serious and reported themselves to the SIU. It was the SIU that refused to respond. In addition to the foregoing, police reported to the SIU that they had a civilian in custody who was hospitalized after a confrontation with them. The SIU, instead of sending an investigator, responded over the phone, that the police should call them back if the prisoner died (Andres Para. 155).

In an example of the apparently perplexing delays in SIU investigations that were cited in the Ombudsman’s report, a person in Orillia was hospitalized when an OPP cruiser struck the bicycle he was riding while the police were en-route to an incident. Commenting upon the more than four months it took to complete the investigation, SIU spokesperson John Yoannou stated “[I]t’s not a matter of doing it in a timely manner, but in as thorough a manner as possible.” Alluding to the thoroughness of the investigation, the article states: “Investigators spoke with a subject officer, one officer who was identified as a witness and two civilian witnesses. They also viewed security video that showed images of Gill Street as part of the investigation” (Whalen). For the purpose of clarity, that was four months to conduct four interviews and squeeze in a review of one videotape.
ITEM: RCMP Commissioner William Elliott “acknowledges violations of the RCMP’s core values and, in a speech delivered in Vancouver, he “cautions that it takes time to review incidents” in defense of allegations that the police are stalling in the case of the deceased Mr. Dziekanski (Bailey, November 13, 2008).

In response to the Ombudsman’s report, the newly appointed Director of the SIU, Ian D. Scott, a former Crown prosecutor, stated in a press release that the SIU will “act on the Ombudsman’s recommendations where feasible’ (emphasis added) (Ontario SIU Press Release). In an effusive report of an interview with the new Director, journalist Karen Howlett informs that he “has been on the job less than two weeks but he is already implementing sweeping changes” which, in the article, include investigators being told “they could no longer openly display their association with their former colleagues by wearing police watches, ties and ‘thin blue line’ rings.”(Howlett, October 28, 2008). It is also noteworthy that in the body of the Ombudsman’s report, the SIU agreed that its use of self-congratulatory language was inappropriate for the agency; however, within two weeks of the report’s release the SIU has reverted to the language it had previously agreed was inappropriate. In its press release, the SIU stated, “the Ombudsman’s recommendations will help make the SIU an even more vital public institution…” (Emphasis added) (Op.Cit.).

ITEM: The Commission For Public Complaints Against The RCMP appears to have formed an Orwellian speak mechanism on its website. It states:

While addressing cases involving the conduct of individual RCMP members, the Commission also aggressively seeks to identify systemic problems that frequently are catalysts for complaints about individual members' conduct....
To foster greater public debate on these important issues, the Commission will continue to publish on its website all reports containing its adverse findings and its recommendations to address these findings (http://www.cpc-cpp.gc.ca/prr/inv/index-eng.aspx).

Translation 1: Adverse findings are critical of the RCMP.

Translation 2: The Commission will not publish on its website favourable findings, even if they address systematic problems within the RCMP. This means that if you want to read the Commission’s rationale for finding no fault in the circumstances of the lethal gunshot wound to the back of the head of Ian Bush, while in custody, with no witnesses, one must look elsewhere.

A Foucaultian approach to the questions at hand asks how language is deployed and whose interests are served by that deployment. Policing is a technology of
the governmentality, of the state administering to a population of people and so the marketed message is to signal that the state cares for and governs its citizens to protect, thus authorizing state associated police and policing, at much cost. A determination of the relative and real costs of filtering the message (providing the ‘spin’) may prove useful in determining what real and relative costs in dollars, person years and other resources are dedicated to the refinement of ‘the message’ as opposed to the exercise of the mandate of the police and policing agencies. The message is the discursive regime through which policing is legitimized as a regulatory mechanism on behalf of the state. Assessing the use of language reveals language as a tool in deflecting the nature of surveillance and inquiry.

ITEM: In a seemingly rare display of curiosity on behalf of a police oversight agency, the British Columbia Police Complaints Commissioner compiled a statistical review of ‘substantiated complaints’ against municipal police officers in that province. He determined that from October 1, 2006 to October 1, 2008 there were 106 proven allegations against police officers. Averaging close to one per week, the allegations ranged from the criminal to the potentially criminal (Office of the Police Complaint Commissioner, also Unattributed CBC report).

Elsewhere, the RCMP believes that “at any given time 40-50 members [of the RCMP] are suspended and a majority of these cases are related to criminal activity (Bronskill, November 16, 2008).”

Case Study: Maher Arar.

The second report of Justice O’Conner delved into the circumstances pertaining to Maher Arar, one of the Canadian citizens who, through the intervention of the RCMP, found himself detained and tortured in Syria as a falsely accused ‘terrorist’. In this report, Justice O’Conner made numerous recommendations for change in RCMP operations. There appears to have been no action taken upon any of the recommendations including his first recommendation that; “[e]xisting accountability mechanisms for the RCMP’s national security activities should be improved by putting in place an independent, arm’s-length review and complaints mechanism with enhanced powers” (O’Conner P.503).

As this paper was being concluded, University of Toronto Professor Wesley Wark wrote, “a cone of silence has descended over RCMP reform”. However, the RCMP has now announced the creation of:

the National Security Criminal Investigation directorate (NSCI)” which offers a “tight [centralized] grip on all national security investigations across the country to ensure compliance with the law, that the
matter being investigated is properly within the Mounties’ mandate and that information is properly collected, analyzed and shared (especially across borders) – and to exercise maximum quality control” (Wark, February 7, 2009).

With these proposed changes emanating from the higher levels of the RCMP command structure in Ottawa, not everyone agrees that the RCMP has either the will, or the ability, to successfully transform itself. In a letter to the Globe and Mail, Randal Marlin of Ottawa commented:

Wesley Wark can write all he likes about a “culture of reform” at the RCMP. But unless and until the “new broom” sweeps out those who were prepared to ruin Maher Arar’s reputation by leaking misleading information on his return from torture in Syria, the old RCMP bacon-saving culture will remain firmly in place (Marlin).

Because the idea of policing is so central to governmentality and disciplinary power, (regardless of whether local, provincial, or national) any ‘failures’ of policing must be read within the discursive regime that authorizes the use of, or threatens the use of, force as a tool and arm of juridical, centralized power. Failure within this discursive regime is defined as a failure of a specific citizen. Any recommendations to change the actions of the policing force to provide different protections for citizens fails to make sense because protecting and regulating citizens is exactly what the police force is doing.

Questioning policing legitimacy through recommendations and other such reports on ‘failures’ of policing points to the difficulties in how Canada establishes a system of governance that tries to maximize individual freedoms of citizens while ensuring social order and state interests are served. The difficulty is the contradiction at the heart of governance and governmentality where caring and policing are both contradictory AND the opposite side of the same coin (Philipose P.23).

Judicial And Other Governmental Inquiries

In addition to the above noted permanent government ‘technologies’ that are charged with overseeing and investigating and making determinations on the conduct of police, numerous commissions of inquiry, both public and secretive have been established to investigate specific actions with specific results pertaining to police and police activity. Commissions of inquiry into policing attempt to seek distance from the myopic review of specific cases, a process that
may, in itself, be seen as a denial of systemic and cultural issues that may have resulted in ‘that single incident’. Single incident review is a confinement to the practice of the discipline of law which may have very little to do with other conceptualizations of justice.

The nature of this project leads, obviously, to the discussion of the secrecy of the police and its tightly knit communities. As noted, while the police might form a particularly obvious group to study on issues of ‘discipline’ and exclusion, it is a proposition of mine that the ‘discipline’ lends itself to similar defensive posturing in other agencies and groupings that causes them to act in protection of themselves to the detriment of the ‘others’, namely the citizens, who are subject to the authority inherent in the ‘discipline’. To illustrate, I will begin with an inquiry into the activities of the medical profession where it interacts with the police and criminal law.

ITEM: The Goudge Commission was created to investigate and report upon allegations of incompetence and malfeasance in the practice of Forensic Pathology in Ontario. It is alleged, and accepted by the Commissioner, that through incompetence and deliberate action, this department supported the arrest, detention and conviction of innocent people for the murder of young children. Cases involving the deaths of babies are being re-opened, including those of defendants who believe they were forced to plead guilty to manslaughter charges to avoid court trials for murder and testimony from the now infamous Dr. Smith of the Office of the Chief Coroner for Ontario (OCCO) (Makin October 24). Their own lawyers cautioned defendants in these cases that they should fear testimony from Dr. Smith whose opinions “carried great weight in court” (Ibid).

The fear of Doctor Smith’s testimony by defendants is, apparently, what led a great many to plead guilty to a lesser charge that still led to years of imprisonment. This is a process that has otherwise been described as the “justice system’s dirty little secret” (Makin, January 14, 2009). Defendants who are facing long periods of pre-trial custody, and even longer sentences on the charges they face, will ‘make a deal’, plead guilty to a lesser charge and be sentenced to a lighter term of imprisonment. The fact that the accused may not have actually committed any offence, makes the issue for the defendant: Can the supposed evidence and veracity of the Crown’s case be challenged or not? For example: Plead guilty to manslaughter and get a sentence of two years imprisonment on that charge with parole and ‘good behaviour’ effecting a release in six months with pre-trial time in custody further reducing time to be served versus, life imprisonment for murder, if convicted as charged.

It is noteworthy, and contrary to the thrust of this paper, that the first organizations to officially raise suspicions concerning the coroner were the police. However, keeping in mind that governmentality is both policing and caring, it is
not surprising that the medical profession is also charged with the dual task of caring and policing. It is equally noteworthy that Dr. Smith and his superiors at the OCCO continued to espouse the validity of their work, denying inefficiencies, denying demonstrated incompetence and "defend[ing] the indefensible in the name of saving the reputation of the OCCO" (Makin October 2, 2008). Dr. Smith and his superiors at the OCCO were, quite simply, those authorized to speak as authorities on matters of life, death and health. What they had to pronounce carried the weight of the discursive regime of medicine and science. No mere citizen, undisciplined in the discourse and practices of medicine could possibly know better than Dr. Smith and the OCCO.

ITEM: “Falsely accused of killing her seven year old daughter in 1997 and held in solitary confinement for two years....” Louise Reynolds is now resident in Orillia, Ontario. While living in Kingston, Ontario, and imprisoned for the alleged murder of her child (subsequently the child was found to have been killed by a dog) Ms. Reynolds gave up her other children for adoption while she was in prison. She lost all of her property, her reputation and was abandoned by family and friends. It is eleven years since her arrest; she is suing the province for, amongst other things, an apology (McKim October 3, 2008).

ITEM: Mr. William Mullins-Johnson was falsely convicted of the first-degree murder of his niece in 1994. The girl actually died of natural causes and Mr. Mullins-Johnson spent 12 years in prison. He has filed suit against pathologist Dr. Charles Smith and his former superiors Drs. James Young and Jim Cairns (Unattributed article, October 3, 2008).

The province of Ontario is offering compensation in response to numerous claims for damages while in the courts convictions are being overturned. The Province of Ontario is planning to establish an oversight body to receive public complaints and provide oversight of its forensic pathology service in the future (Makin, October 24, 2008). Experience in the oversight agencies of the police does not inspire the prospects of success in the discipline of medicine.

ITEM: Who says no two people have the same fingerprint?

As final review of this paper was being completed, the National Academy of Science (NAS), in the United States, issued a press release announcing the pre-publication release of the report Strengthening Forensic Science In The United States, (report unread). The press release condemns the practice of forensic science in the United States as lacking peer review, being "under-funded, under-staffed and hav[ing] no effective oversight" (NAS press release). The most telling quote from the press release was reported in The Globe and Mail.
With the exception of nuclear DNA analysis, no forensic method has been rigorously shown to have the capacity to consistently, and with a high degree of certainty, demonstrate a connection between evidence and a specific individual or source (Ibid. and Unattributed editorial, February 20, 2009).

The NAS press release clearly cast doubt upon all forensic science except nuclear DNA analysis; “for many other forensic disciplines -- such as fingerprint and toolmark analysis -- no studies have been conducted of large populations to determine how many sources might share the same or similar features (NAS press release)." It may well be asked: How has policing, as a legitimate technology of juridical centralized power, worked with discourses of science in applying what are questionable scientific practices? Questions of police and policing may involve considerations of the rise of the seemingly unassailable integrity of ‘science’ as commentator and adjudicating force in our society.

ITEM: The Hon. Frank Iacobucci was commissioned to conduct a largely secretive inquiry into the activities of Canadian officials that led to the arrest, detention and torture of Canadian citizens in other nations: The “Internal Inquiry Into The Actions Of Canadian Officials In Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muuyed Nureddin” (Iacobucci Report). His report was released in 2008. An “internal” inquiry, apparently, is one that is held largely in secret with minimal public exposure. The inquiry was held to delve into the circumstances that had these three Canadians arrested, variously in Syria and Egypt and, allegedly, subjected to torture. According to the report, Canadian officials were ‘indirectly’ responsible for the arrests of the men who have never been charged with any offense and, apparently, were not terrorists. Unlike the case of Mr. Arar, the government has not moved to offer compensation and suggests that the circumstances of these three are not similar to the case of Maher Arar (Variously, Brown, October 17, Freeze, October 22 and 24, 2008 Pither).

As a result of this report, the government of Canada came under criticism for “sell[ing] out its citizens of Arab descent” (Unattributed Editorial, October 22, 2008) and for the process by which it released the report which, allegedly, was done in a fashion to minimize exposure to it and stifle debate (Bailey, October 16).

Police Management and Self-Governance

In the province of Manitoba, a commission of inquiry was established to determine what occurred in a police investigation. The inquiry resulted from the

16 We are, it appears, left with this, Forensic Science may not be Science as is suggested in the “Globe and Mail” editorial.
death of a civilian, Crystal Taman, by an impaired driver, a police officer. It was alleged, and confirmed by the Salhany report, that the investigation was so biased in favour of the offending police officer as to be a disgrace. The Commission found apparent collusion with the Crown Attorney, the officer was given favourable treatment, evidence was mishandled and sentencing so light as to be offensive in the extreme. Upon publication of the report the Government of Manitoba disbanded the police force in question (Chomiak) and the investigating officers are facing a criminal investigation into their conduct (Friesen, October 7, 2008). The editors of The Globe and Mail offered this opinion:

The picture that is painted is one of an incestuous process that is incapable of uncovering the truth...it is graphically demonstrated that internal police investigations are ill-advised in criminal cases....there is little reason to believe that the thin blue line runs only through Manitoba (Unattributed Editorial, October 8, 2008).

ITEM: After “an all-party House of Commons committee concluded [Deputy Commissioner Barbara George] deliberately misled it concerning an RCMP pension scandal”...she has “quietly” slipped into retirement to take her [tax-free] pension” (Unattributed article, November 8, 2008).

An interdisciplinary approach to the study of police, and policing, would be able to pose questions that stray from the norm of a particular field of study. For example, why is misleading a court of law seen as heinous while misleading Parliament is, apparently, not.

ITEM: In the most recent ‘bulletin’ of the Toronto Police Accountability Coalition, there is a review of a statistical report prepared by the Metropolitan Toronto Police. Among its findings is that a Metropolitan Toronto Police officer will make an average of only 9 arrests in a calendar year and that even in the busiest police division in the city, the number of calls for service per year averages to less than one per officer per shift. It is noted in the ‘bulletin’ that this report is not listed on the police web site and is only available by direct purchase from the force, at police headquarters for $50.

Two issues arise and could be addressed by an interdisciplinary review. First, police resources are expensive and at first blush seem not to be utilized in the most efficient manner. The report suggests that larger and larger numbers of police are responding to particular incidents unnecessarily. Management decision-making and operational procedures, it would appear, would benefit from review with, at least, a cost benefit assessment.
The second issue is that making someone pay $50 for statistical information, and making them appear at police headquarters may, or may not, be justifiable, but whether intended or not, such practice will inhibit external investigation. An integrated studies approach may delve into questions relating to the role of citizen as, possibly, a consumer purchasing information from the police, possibly a client of police paying for services directly and indirectly or, possibly as an individual to be identified and documented when obtaining information on the police. Publishing of publicly accessible information that is then made difficult to find is a questionable practice that reveals another mechanism of policing and therefore regulating behaviours.

The Toronto Police are not the only police force that wants money before providing information on what it does. Professor Fred Vallance-Jones of the University of King’s College, Halifax, conducted an audit of police forces across Canada using a variety of Access to Information laws to obtain information on the use of Tasers.

Police in Regina, Saskatoon and Saint John refused to release any use-of force reports....Winnipeg police agreed to release the information...at a cost of $4,500 [while] Hamilton police asserted that Ontario law prevented them from making such reports public. Other city forces – in Halifax, Fredericton, Calgary and Victoria...did provide the information without charge (Unattributed Article, January 10, 2009).

When some jurisdictions refuse to release information on tasering while other jurisdictions will release reports on tasering has the effect of producing contradictory messages. In dealings with the police many people would simply give up because to pursue information that is being withheld is to resist the policing and regulatory technologies. Why risk one’s reputation as a good citizen? Uneven practices are much like uneven punishment, the unevenness functions as a threat. Reviewing policing management practices includes questioning the contradictions of increased budgets when evidence demonstrates the need for policing has declined.

The City of Toronto police budget for the fiscal year 2009 is just over one billion dollars with the police union having garnered a salary increase that at the end of 2010 will have a first class constable paid $81,249 (Appleby and Lewington December 19, 2008). The budget increase comes as the Toronto Police report sharp declines in criminal activity and calls for police assistance in 2008 (Appleby, December 17, 2008). How the police determine a budget suggests a need for some form of review.
Police “Force”

The body of society requires protection from threats within and without the state (Foucault, *Power/Knowledge* P.55). Policing and the police are a tool and arm of the juridical, centralized power of the state. They provide the use, or threat of use, of force within Canadian society. Less pervasive and subtle than disciplinary power, juridical power is a necessary counterpoint to disciplinary power, it provides the muscle that makes the caring state work. The state police are empowered to bear arms and, of necessity, to use them. Arising from this is the inevitable controversy over the circumstances of the use or abuse of force. When the use of force is justified and to what measure it is justified is often seen differently by civilians and police.

ITEM: The B.C. Crown Attorney’s office has decided that an RCMP investigation into itself has yielded insufficient evidence to lay charges against the officers involved in the taser death of Robert Dziekanski, a Polish Immigrant, at the Vancouver International Airport. The evidence collected by the RCMP suggests other factors were at play to induce the heart attack that outweigh the possibility that the death was a result of being tasered five times and having one of four officers present apply pressure to the man’s neck with his knee. Those other factors include an apparent “history of alcohol abuse” that, his mother says, ended decades ago, an “agitated state of delirium” induced by the man’s fear of flying and an “inability to breathe while being restrained”. The Polish embassy in Ottawa believes a public inquiry is warranted. The mother of the victim is quoted as saying “It sounds to me like they are looking for any excuses to find a good reason to blame Robert and justify their action” (Alphonso and Bailey, December 4, 12 and 13, 2008). An inquest is being held at the time of writing.

In a letter to the editor, commenting upon the above Crown decision, Mynalee Johnstone wrote: “This is absurd. We all saw the video.” (Johnstone).

ITEM: The chief coroner of Quebec has determined that the death of an MBA student while in the custody of police was “avoidable” but was not caused by his being tasered 5 times, although he was tasered 5 times. While the circumstances of the student’s death are “murky” the coroner did determine that the man “was not aggressive, he was not a danger, he was not a criminal...Questions are being raised about the Quebec Chief Coroner’s decision that a public inquiry is not necessary” and the timing of the release of the report. The release of the report came 13 months after the incident and was made “when all the world’s attention is focused on the U.S. presidential election.” The Italian Consulate is asking for a public inquiry, as the victim was an Italian citizen (Peritz).
ITEM: Winnipeg police are investigating themselves after a 17-year-old male died after being tasered. After the investigation is complete, the case will be forwarded to another police force for review (Friesen, July 25, 2008).

According to The Globe and Mail, in 2007, the RCMP used tasers over 1,400 times, including an incident where it was inflicted upon an 82 year old bed-ridden man who was wielding a penknife (Unattributed article, June 19, 2008). Concerns are being raised over the increasing use of tasers. In 2005 the RCMP reported 597 usages of the weapon and over 1,400 usages in 2007 (Ibid. November 29, 2008). The “Toronto Star” informs that 25 Canadians have died from their use since 2001 (MacCharles). According to Gary Mason, government has ignored reports dating from 2004 that have called for independent research into tasers, their use and the training provided to police because it was “not a priority or...because it would mean stepping on the toes of a group of people politicians generally don't like to upset: the police...[u]ntil it becomes politically necessary to do so” (Mason, June 19, 2008).

The Suppression of Evidence

ITEM: In 1972, Romeo Phillion confessed to a murder. He began to recant the confession within hours but was subsequently convicted. The police are accused of suppressing a report that earlier confirmed his alibi that he was hundreds of miles from the scene of the crime when it occurred. The report was not made public for years and evidence corroborating his story went missing. He spent 31 years behind bars, attempted suicide several times and believes “he was framed by police who wanted to rid themselves of a mouthy, tiresome career criminal” (Makin, November 28, 2008).

ITEM: Erin Walsh of Ontario “spent more than a decade behind bars [for a murder he did not commit] because evidence that could have exonerated him was suppressed.” The undisclosed evidence included ballistics testimony, eyewitness statements and the recorded conversations of Crown witnesses who conspired to “pin the killing on Mr. Walsh” (Makin, October 10, 2008).

Necessary questions arise of how police and policing come to assume an adversarial positioning between the police and prosecuting attorneys thereby implying a need to obtain a conviction over the pursuit of truth or justice. Is it, for example, necessarily a product of a ‘culture of police’ that requires the conviction of someone, for the purposes of image, promotion, budget or other? Is this a necessary product of policing on behalf of regulating the social body of the state, which requires protection? How important is it, and why, and to whom, is it so important to convict someone, anyone? Does this produce the necessary effect of making it seem that the state is doing the work of caring and protecting those who make up the social body of the state? At what point may
the body of the state loose a sense of its alliance with the caring state when juridical power appears to target the normalized or innocent?

**The Economics of Delay**

In New Brunswick, the successful demonstration of a wrongful conviction does not necessarily result in compensation. Erin Walsh was convicted of murder in 1975 and spent 33 years in prison. According to press reports, the Crown conceded that evidence that would have led to his being found not guilty was withheld from the jury. Mr. Walsh has cancer and is dying while the province of New Brunswick refuses to discuss compensation, forcing him to litigate. Mr. Walsh believes the provincial decision is based on the belief that he will die before a settlement can be obtained. His lawyer agrees that “[w]hen it comes to litigation...a dead exonerated person is worth substantially less than a live one” (Makin, December 22, 2008).

**Where The Police Are Not**

In my Foucaultian quest to study police and policing, it matters as well where the police are absent as opposed to where they are present. It is in this sense that I include two reports that arose during the preparation of this paper that strike as being unusual.

The first concerns the beginning of an effort by the federal government to identify the remains of children found in marked and unmarked graves at First Nations residential schools. The article made no mention of any police or other investigation into how these children, resident in Canadian boarding schools, could disappear, die, and then be placed in marked or unmarked graves (Curry October 27, 2008). Why was, and why is, no forensic investigation being conducted?

The second reported story concerns continuing civil litigation alleging sexual abuse of boys at the now closed private Grenville Christian College, allegedly occurring from the 1970’s to the 1990’s whereby the “police decline to lay charges”(Valpy, November 22). Reasons were not given for the police decision. Why are the alleged perpetrators not being investigated? Where and why the police are not involving themselves is worthy of study. How have the lives of Aboriginal children, orphans and others been rendered as unworthy of care and protection in Canada? An interdisciplinary approach to this lack of presence may reveal the discourses and disciplinary power of economics, race or religion, or other factors.

Presence and absence of policing occurs in other ways. For example: Palango states that the RCMP regularly remove contractually assigned police from one
municipality to fill other roles in other locations and, in the process, double bill municipalities for the services of single officers (Palango P.282 - 283, 349 - 350). This process reduces police presence in a particular municipality despite contractual obligations and may influence a decision to involve or withhold police from a community.

ITEM: The RCMP will investigate itself to determine why no action appeared to have been taken when they were told of threats to a now murdered University of New Brunswick professor (Moore, November 7, 2008).

Police and Privilege

Income levels for police are strikingly higher than average incomes in Canada and benefit levels for such things as pensions may be seen as privileged relative to the general population. Current wage rates for the OPP: Recruit Constable: $32,436.00, 4th Class Constable (Probationary, first 12 months): $53,148.00 and 1st Class Constable (3 to 7 years) $75,926.00 (http://www.opp.ca/english.htm). By comparison, the average income of a Canadian, as reported by “Canadian Business On Line” was: $36,697.00 (DeCloet). (This is the composite of all data and it disguises strong disparity between the sexes, age groups, and the various regions in Canada.) The analysis is based upon Canada Revenue Agency reports for 2004 “updated to reflect median income increases to 2006” (McGugan). All police agencies surveyed for this paper have comparable wage rates for their members posted on their websites.

Derek DeCloet, a columnist with The Globe and Mail, reviewed the current concern that Canadian private pension plans are seriously under-funded as a result of the international crisis in banking and equity markets. Noting that roughly four-fifths of public sector workers have pensions, while only one-fifth of private sector workers do, the columnist states “If the trend continues, before long the only people who will have guaranteed pensions from their employers will be civil servants, teachers and others who work for government.” That would include the police. He cites a report of the Canadian Institute of Actuaries from 2007 (DeCloet). His article does not disclose a particular perk for members of the RCMP. Alone among police, to say nothing of civilians, RCMP pensions are not taxable (Income Tax Act 1985, c.1 (5th Supp.) Section 81. (1), Subdivision g.).

If, as previously discussed with incarceration rates, a primary line of conflict between the community governance and its police is determined by income and poverty, it would appear that the ‘average’ police constable earning, after three years on the job, more than twice the average Canadian income will have no conceptual understanding of the dynamics of the economics of an ‘average income’ Canadian, to say nothing of those who are deemed ‘poor’.
When regulating populations of people, as constituted through state governance, those entrusted with policing, as part of the mandate that is regulating for health, well-being and security, have a vested interest in policing that continues to produce criminality around issues of poverty and lack of entitlement. To do otherwise would be to loose the need for policing with a loss of well paid jobs and the descent, perhaps, of the former police, into levels of poverty that currently produce so much criminality. An interdisciplinary project on police and policing points to issues of privilege and vested interest within the police and other policing agencies of government.

Police and Profit

As discussed above, questions of police well being such as in the measurement and assessment of police incomes are often controversial. I propose here that issues pertaining to the income and expense of police organizations themselves should be subjected to the rigors of an integrated studies project in aide of determining who funds police, for what purpose and through what means. It may not always be accurate to suggest police are funded through general government revenue.

In very loose terms, an under-paid police (by whatever measurement) opens a prospect of the police earning supplementary income through the exercise of their powers to nefarious ends. This is generally described as police corruption. Conversely, one might wonder at over payment of police and what that entails for the civilian population that supports them. A third, of possibly other considerations, arises from how the police obtain their funding.

In this economic era, generally described as globalization, there has been an increasing trend to view all things as having market value, and a trend by governments to allow the trade of all things on open markets. Springing largely from the “Chicago School”, the informal title of the school of economics espoused by the late Milton Friedman, it formulates a world in which all things must be governed by a market and that all things are marketable and tradable and should be so with as little regulation and interference from government as possible. Despite the predictable economic collapse arising from deregulated financial markets (happening even as I write) and questions as to what may not be a legitimate “good” or “service” for trade, the concept sold well amongst those with the economic power to influence decision makers and has made inroads into police and policing functions in the ‘western’ economies, Canada being no exception.

Paul Palango argues that the RCMP has virtually abandoned its role as a federal police force in its quest to obtain contract police work in the smaller towns and
rural areas of Canada (Palango 268 - 293). In international affairs, Naomi Klein believes that the marketing of police and ‘enforcement services’ has changed the nature of peace keeping whereby third world countries consider the use of their troops on United Nations peacekeeping duties to be a source of national revenue. Canada has abandoned participation in peacekeeping roles and private mercenary armies now bid for intervention contracts (Klein, particularly 14 –15, 459 and 503).

Jeremy Scahill traces the development of Blackwater\textsuperscript{17} into the largest contract, privately owned, police and mercenary force in the world. Blackwater, through a series of questionably obtained contracts and connections with Halliburton, former Vice President Chaney’s company, has made millions of dollars providing armed services support to the Americans in Iraq, Afghanistan and other locations, including Louisiana after Hurricane Katrina. Blackwater employees have long claimed exemptions from military rules of conduct, have been accused of violations of law, including murder, and have been accused of refusing compensation for their employees for wounds and death while employed (Scahill, on Halliburton xvi, 28 –29,87-88, 226 – 227, 250, on New Orleans xxiv – xxv).

ITEM: “The Terrorism Research Center”, a subsidiary of Prince Group, which also owns Blackwater World Wide has been hired by Canada to provide training to the Canadian Armed Forces on “operational cultural motivators...for counter-insurgency operations, including...the history of Islam, customs and cultural and ideological issues that influence insurgent decision making” (El Akkad, August 28, 2008). There was no announcement as to whether or not the customs, cultural and ideological issues that influence insurgent decision making include; the proposed natural gas pipeline that United States energy companies plan to run through Kandahar, Afghanistan, or the occupation of Islamic nations by western, Christian soldiers.

In his paper \textit{Ethics and Self Funding Police Budgets}, Alan Prejean speaks to self-funding police and the law of Louisiana. He says

\begin{quote}
\textit{[t]he drug war has become big business for law enforcement officials as well as drug dealers. The task forces attack drug dealers by playing the same game of buying and selling but follow different rules. The popularity of anti-drug programs, such as D.A.R.E., encourages the law enforcement community to voice its concerns of the lack of effective tools for fighting the war on drugs. From this effort emerged the Federal Drug Forfeiture Law. This law basically}
\end{quote}

\begin{footnote}
\textsuperscript{17} Blackwater International is changing its corporate name to “Xe” in order to re-brand its image.
\end{footnote}
allows the forfeiture of any assets associated with drug sale activity. (Prejean, web page).

In essence, the State of Louisiana law enforcement agencies confiscate the property of drug dealers and divvy up the proceeds amongst themselves, ostensibly to fund more anti-drug policing activities and seize more property. Allegations arose that, amongst other things, money and assets were seized from people who were not convicted, money from the sale of seized goods wound up in areas other than the ‘war’ on drugs and that conflicts of interest were abounding in deal making to allow the beneficiaries of the seizure (state attorney offices and police) to keep assets in return for sentencing favours for ‘real’ drug dealers.

The Ontario Civil Remedies Act allows seizure of assets if, “on the balance of probabilities”, the assets were acquired through some criminal activity. It does not rely upon the need for the asset owner to be convicted of any offense, nor even to be charged with any offence.

ITEM: In 2008, in Orillia, the OPP seized two houses operated by an absentee landlord as rooming houses. In local newspaper coverage of the seizure, Colin McKim describes the relief of neighbours that the police have taken control of the properties, citing numerous police visits, the prevalence of drugs and weapons found on the property as well as the recent stabbing of a person on the property (McKim, undated). Numerous issues are raised in that report, including the absence of any claim to criminal activity on the part of the landlord, the poverty of the tenants, many of whom receive subsidized income from the very government that has seized the property, and the dilemma of non-existent alternative housing.

Thus, although a person may never be charged, nor convicted of any offense, the property of that person may be seized by the Crown, if it can be demonstrated that the person has likely benefited from the proceeds of some crime. Such is the case Orillia whereby the landlord received rental payments that, on the balance of probabilities, may have been funded by some criminal act such as the sale of illicit drugs rather than the subsidized income of the occupants.

The Civil Remedies Act is currently subject to a constitutional challenge as being a provincial infringement of federal jurisdiction on matters pertaining to penalties under criminal law (Makin, November 8). The challenge is not, therefore based upon any notion of innocence or lack of knowledge on the part of the property owner as might have been thought of in Magna Carta’s promise not to “disseize”.

Federal law has its own seizure provisions for the proceeds of crime and these, too, are being challenged in court as causing an aberration in the structure of
sentences that may impose undue penalties upon some offenders. In the case of federal law, however, the person whose assets are being seized has actually been convicted of a crime (Ibid.).

A Foucaultian approach to these questions would go beyond questions of seizure and the grounds for seizure to investigate and ask how issues of income disparity, homelessness, and, I would suggest, understandings of property rights through the discourses of Mill and Marx, amongst others, are taken up within discourses of policing. It could also give consideration to the absence of property rights in the Canadian Charter and how this informs policing.

**The Canadian Police Market**

Policing is a marketable, and marketed, service in the best traditions of globalization and privatization. Consider, for example, that the RCMP actually contracts its services to the provinces, territories and smaller municipalities of Canada, and it does so for fees, as noted above. It is argued by Paul Palango that the RCMP concentrates more fully upon contract policing to the detriment of its other roles and does so, in part, as a revenue generating scheme that downloads police costs to municipal tax payers instead of using federal revenue. The tax distinction is important for it removes the obligations of expenditure from graduated income tax payers to the field of assessment-based property taxes and thus, in theory, subsidizes high-income earners in Canada. In Ontario, the OPP has similarly been assuming the role of municipal police by contracting its services and absorbing smaller police departments.

In Toronto, and other cities, private security companies have been edging their way into aspects of law enforcement that were previously the role of the government police. One example of the process may be seen as an extension of private, for-hire, security services as provided in shopping malls. Business communities, which occupy space on municipal streets, have also been engaging private security companies to ‘urge’ the homeless and others out of the district they occupy. This involves, apparently, security guards being employed by a group of merchants to remove vagrants from business property such as doorways and parking spaces. It is alleged in Vancouver that this has moved more aggressively to the removal of people from the street and sidewalks themselves, in effect, chasing them to other parts of town (Ward, November 28, 2008).

The fine points of law that make this permissible behaviour on the part of the security companies rests in their only being able to act on matters occurring on the property of the company that hires them and, in Ontario, this would largely be a matter dealt with under the Trespass to Property Act. Where this devolves into a medieval picture of barons and knights for hire, or perhaps, a wild west
version of ‘gun for hire’, is that to efficiently protect a group of property owners, the security companies are now being accused of bully boy tactics on the commons of street, sidewalk and public park to ‘clear’ an area. In Vancouver, this advent of private security has been funded by city council to the tune of $872,000 in 2007. Opposition counselor George Chow pointed out “…forty per cent of the homeless have mental illness or drug addiction and that is the problem we need to deal with and the most immediate solution is giving them shelter” (Ibid.).

There is a decided lack of universality in the administration and enforcement of law and, perhaps, a devolution of the enforcement of law that, by rule of the market, means that the group with the toughest hired police can sweep the marginalized to areas that cannot afford private ‘security’. The marginalized are produced through discourses that privilege property owners and other ‘normal folk’ in relation to disenfranchised poor, mentally ill, and other abnormal populations. Foucaultian notions of governance point to, on multiple levels, such as economic and social considerations, the schematic whereby the creation of a permanent underclass actually produces the need for policing, the police, increased budgets and employment for those engaged in the enforcement provisions of law that may, in fact, be designed to continuously engage the symptoms of societal failure and not the causes. Security for hire can mean the police engage in highly expensive, subsidized, support for enterprises such as the International Olympic Committee as part of a policing mandate. It also means that those who cannot directly afford protection, that is those who are most vulnerable like the poor, mentally ill and/or homeless, become those from which a normal population requires protection. Those most vulnerable become targets of, rather than benefactors of, policing.

Continuing on the thematic of all things being marketable, the RCMP is as conscious of ‘branding’ as any corporation and had gone so far as to hire the Disney Corporation to protect its ‘brand’ as it establishes its place in the market as a provider of a commodity (Gittings). The RCMP licenses its logo and imagery of red coats and Stetson hats on sweatshirts and other apparel and through the marketing of pictures, dolls and toys. Through its marketing arm, it supports ‘authorized’ retailers selling ‘official’ and ‘authorized’ goods under the aegis of the RCMP Foundation (http://www.rcmp-f.ca). Recently, the RCMP Foundation became the subject of a recall when Health Canada disclosed that its ‘made in China’ stuffed toys contained high levels of lead in the buttons and buckles on those toys (Wingrove, November 18, 2008). Of all the fluffy animal ‘Mounties’ and bric-a-brac for sale on the foundation ‘web store’ there are no miniature tasers or weapons of any sort. The RCMP appears to have a marketing strategy for itself that eschews weapons and presents the police as soft cuddly dolls. Weapons do not fit the image of the caring arm of governance.
It would be of interest to conduct comparative research on the marketing of image by the RCMP and other police focusing particularly upon why a police force should have a marketing arm at all. If brand protection and image making are at the root of police operations it is for the purpose of convincing people of the caring aspect of policing. A Foucaultian approach considers other aspects of police image making as including the catch phrases and platitudes on the vehicles of various police including “the people are the city”, “deeds speak” and “to serve and protect” as part of the discursive regime of policing.

According to Paul Palango, retired and pensioned former RCMP members reap large rewards as members of an ‘old boys’ network. They occupy positions in the world of ‘private’ security as consultants or employees of corporate Canada. Particularly rewarding, according to Palango, has been the RCMP’s internal but unpublicized conclusion that it is not competent to investigate or prosecute ‘white collar’ and financial crime. The investigation of such crime has been outsourced, largely to former RCMP, whose efforts are described as “pathetic” (Palango P.358). Palango maintains the outsourcing process was designed by former RCMP Commissioner Norman Inkster who, Palango states, took great advantage of the outsourced work available and made “millions” (Ibid.).

The RCMP units tasked with investigating white-collar crime are the Integrated Market Enforcement Teams (IMETs).

While the U.S. Justice Department has racked up more than 1,200 convictions against high level executives and scammers in the past five years, the IMETs have managed just two – against the same person (Ibid. P.355).

At root, Palango’s allegation is that through incompetence or deliberation, the RCMP model is designed to fail, affording profitable reward for private business utilizing former members of the RCMP.

**Police Communities and Police Cults**

Paul Palango quotes former RCMP inspector Bill Majcher, who describes the RCMP as a cult. In an interdisciplinary approach to the study of police, political and sociological consideration should be given to what may, or may not, be considered cult-like in police communities and how that impacts their ability to resist scrutiny, at all levels. According to Palango,

[p]olice live in a world of ‘them against us’ where it is easy to become isolated from the rest of society. They eat, drink and, all too often, sleep with each
other. Cops marry cops. Cop families beget more cops....police forces are havens for secret societies...” (Palango 248).

Absent from Palango’s allegation is the apparent requirement for a strong connection to religion in all definitions of ‘cult’ found to date.

In the age of the developing Internet, police communities exist on-line and it may prove enlightening to review the nature of the on-line policing communities as a comparative study of other ‘virtual’ communities. A cursory search of police on-line communities resulted in a number of findings. See for example: Police Magazine: Community for cops. A United States on line police magazine, found at: http://www.policemag.com/Articles/2007/05/The-Thin-Blue-Line.aspx or Cops Online The Original Law Enforcement Web Site http://www.copsonline.com “by real cops for real cops.”

The issues implied by referencing police as secretive and networked gives consideration to the various roles played by individual police within particular sub-groups of police as well as their points of connectivity through the multitude of their interlocking associations. I will suggest a socio-political and economic view of police functioning members, or employees of a police entity, who then interact within a different organizational structure of association as members of a police union (more typically called an association and to which the RCMP are specifically denied organizational rights). From this, studies of the informal relationship of police to other police could be considered through membership in other organizations, such as the Masonic order and, from there, to relationships formalized through bonding by family, wedding or partnership and consideration of how these may differ or correlate with other identifiable entities in Canada.

The Liberal Democrat and Political Police

Liberal democracy is a form of government. It is a representative democracy in which the ability of the elected representatives to exercise decision-making power is subject to the rule of law, and usually moderated by a constitution that emphasizes the protection of the rights and freedoms of individuals, and which places constraints on the leaders and on the extent to which the will of the majority can be exercised against the rights of minorities...(found at: http://encyclopedia.thefreedictionary.com/liberal+democracy found on: January 4, 2009.)
For the purposes of this paper the above definition will be assumed to imply an absence of state police interference, or apparent interference, in the political and electoral process. This does not mean that a police state and a liberal-democracy are mutually exclusive nor does it mean that within a ‘democracy’ or a ‘police state’ are all persons equally impacted by the particulars of a democratic or police process. To illustrate my meaning, we may well consider the juxtaposition of the competing mythologies of police and democracy that intersect, mix and separate from each other in various degrees at various times. A Foucaultian approach to police and policing may determine that the police state and democracy are not mutually exclusive.

In Britain, previously mentioned, the democratically elected members of the House of Commons passed the “Counter Terrorism Bill”, which would have allowed police to hold suspects for 42 days before having to charge or release them.” The decidedly undemocratic, unelected, House of Lords defeated the bill and thus, it did not become law (Baker, October 14, 2008). The irony is self-evident. This event was an intervention by an ‘un-democratic’ institution to over-ride a ‘democratic’ institution to preserve civil liberties in a democratic state. If this example were left to stand by itself, and we compare incarceration rates in the United States with those in Britain, civil rights and freedom from state police is reduced the more dependant a government is upon the electoral process. A Foucaultian discourse analysis of ‘police’ and questions of police would enable an inquiry into this seeming paradox that the democratic is perhaps more inclined to the invocation of unaccountable police power in the form of search, seizure and detention than the non-democratic.

It is not apparent what interest the police would have in public opinion polls and the press response to particular issues, but the RCMP did conduct inventories of the response by the press to the “Arar” affair and of letters to editors calling for the resignation of then Commissioner Zaccardelli. Why the police would be collecting this information is a mystery, but harkens to the days when the RCMP were busy spying on unions and Tupperware parties (Kinsman pp.55 – 71, see Tupperware p.55, Canadian National Institute for the Blind and Cancer Society fund raising p.62).

We will recall, for a moment, that the police, as agents to ensure the safety and well being of the nation, as a tool and arm of juridical, centralized power are politicized in their very existence. Accusations have been made that the governments of Canada, and its provinces, have attempted to influence the police for its own (as opposed to the public) agenda for a very long time (Kinsman, in particular, padlock law p.171, and numerous references to the Co-operative Commonwealth Federation and The Communist Party of Canada). Lawrence Martin, writing in The Globe and Mail states that the Canadian
government attempted to establish an “Assistant Deputy Minister [of] Public Affairs who would vet RCMP responses to access to information and protection of privacy requests as well as internal communications” (Martin, May 15, 2009). This, according to Martin would allow for political vetting of police communications, “akin to what transpires in police states”. Martin states that the plan was ended when he, as a journalist, began making inquiries (Ibid.).

Various Canadian police have also been accused of attempting to interfere in policy-making decisions that, on the surface, appear to be unrelated to the role of the police. In a particularly heated issue involving a ‘safe injection’ site for drug users in Vancouver, open police opposition to the site has taken an interesting turn. Press reports indicate that the RCMP has been

inserting itself into the debate around...drug treatment programs....What the RCMP did here was secretly finance studies that were little more than inflammatory and scurrilous attacks on the credibility of the science behind [the injection site project called] Insite” (Mason October 11, 2008).

In essence, and as revealed in internal police communications that labeled the British Columbia Centre for Excellence in HIV/AIDS as the “Centre for Excrements”, the RCMP paid $15,000 for two discrediting reports that denigrated the science being used in support of safe injections sites. At the time of writing this paper, allegations of a ‘cover-up’ abound and the RCMP has stated that it will launch an investigation into its own actions (variously, Stueck, October 8 & 9, 2008 and Wingrove, October 16, 2008).

Meanwhile, the Vancouver City Police are accused of acting on a matter of ‘thought crime’ to prevent reminders of the past. An artist preparing to display a work of art depicting Vancouver Police during a riot in 1971 received a phone call from the Chief of Police of Vancouver. The artist declined an invitation to meet with him.

A spokesman for the department, Tim Fanning, confirmed that (Police Chief) Chu had made the call. “He did, and the concern was purely from a public-affairs standpoint”, Fanning said. “The VPD has a very positive history with the community it polices and so, something like this, which isn’t considered a shiny moment in our history, is obviously not one that we would like to see. We’re all for art”, he added. “And a lot of our members are very artistic themselves and appreciate it, but who wants to have
a piece of history that isn't something that they are proud of put up”” (Morrow)?

In Saskatchewan an off duty, but in uniform, member of the RCMP used a marked police vehicle to deliver election signs for a Conservative candidate in the most recent Federal election (2008). Carole Raymond, a Sgt. with the RCMP states the Constable was reprimanded with “operational guidance” and assured the public that “the RCMP is politically neutral and supports the democratic electoral process” (Purdy, October 8, 2008).

ITEM: Former RCMP Commissioner Giuliano Zaccardelli, while in office, was found to have deliberately, and with no proper motivation, inserted the name of former Liberal Minister of Finance, Ralph Goodale, into a press release announcing the launching of a criminal investigation into possible stock market manipulations. This was done in the midst of the 2006 Federal general election and is believed to have influenced the result of the election in favour of the Conservative Party. (Unattributed Editorial and El Akkad and Brodie, April 1, 2008).

It is worthy of consideration that if politicians begin to fear the police for reasons other than being investigated for illegal activity or wrongdoing, democracy, however it may be defined, is weakened.

ITEM: On the website, “Hiway 16”, Debi Smith has an undated critique of the circumstances surrounding the shooting death of Mr. Ian Bush while in RCMP custody. She states: “Nathan Cullen18, our MP for Skeena-Bulkley Valley publicly feared the loss of his career in politics if he was to stand up to or say anything against the RCMP” (Smith).

Policing and police are an essential part of modern liberal democracies. Alongside the law, policing and the police are a tool and arm of juridical, centralized power – the state. Policing by the police provides the use, or threat of the use, of force. Policing and police within this are part of the governance complex of the nation. Policing and police are a means through which disciplinary power pulses. Policing and police exert a heavy force field of power relations, including against politicians and private citizens, as the above examples reveal.

Trial By Ordeal

The police of Cornwall, Ontario have begun “placing signs outside homes where they have executed warrants”. The signs read “Drug Search Warrant”, according

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18 Nathan Cullen is a member of the New Democratic Party, noteworthy here in so far as, the NDP is a minority party, perpetually in opposition, and offering no prospect for an MP’s promotion to cabinet.
to the Canadian Press and have been placed in front of a house where three people had been arrested. The Canadian Civil Liberties Association says that it is dangerous for the police to brand people in a community before they have even appeared in court (Unattributed Article, January 16, 2009).

This would appear to be an attempt, by the police, to subject civilians to a process of ostricization, perhaps through shaming similar the historic use of the pillory or the enforced wearing of a marker, such as a yellow star, or a pink triangle. If it is such a process, ostricization is a practice akin to ex-communication that is itself a process of removing an individual from the community and, thus; de-citizenship. In the interests of state security, ridding the body politic of the unruly or non-normal is a way of maintaining the well being of the state.

Further questions could incorporate an historiographic review of mechanisms of punishment, including ridicule and marginalization through the legitimized practices of the past that included specific identification of offenders¹⁹ to the broader public. Considerations as to what constitutes ‘punishment’, and by whom ‘punishment’ may be delivered could also be considered²⁰.

**Other Considerations**

I have suggested numerous possible mechanisms for the study of police in support of an interdisciplinary approach. Many others exist and have not been addressed within this paper due to constraints of time and space but could include discourses of police in entertainment and self-promotional activities as well as the development of ‘law and security’ and ‘police sciences’ programmes at the post secondary level in Canada.

**Conclusions**

The distance in time between the years 1215 and 2009 is great and the shifting of sovereignty that began in 1215, for good or evil, has continued, but sovereignty itself has not been erased. For Foucault the notion of sovereignty continues to mask the problem of domination and subjugation as these form the newer base of ‘state sovereignty’ that is identified as a rights discourse (Foucault, Power/Knowledge P96) and includes the right to caring and policing. There is no shift toward the mythological progress of a democratic discourse or

¹⁹ ‘Branding’ has been used earlier in this paper in the contemporary marketing sense. Historiographically ‘branding’, literally the burning of an image into the skin, was used to identify criminals, for example, branding the letter ‘T’ onto a person’s forehead marked them as a thief.

²⁰ Punishment, and its determination, in a strict legal sense, is the purview of the courts. Strict legal meaning does little to enlighten on the operational practice of enforcement agencies of government.
entitlements to ‘the people’. “Foucault argues that the modernist state became an administrator of state interests rather than a state in the interest of citizens” (Philipose P.45). Rights discourse has materialized ‘the people’ as part of the normalizing network of state sovereignty that gives meaning to the acts of policing and the range of institutions and people who enact these. In the materials reviewed for this paper, state sovereignty as domination and subjugation sits defensively and unresponsively in the realm of governance and policing. The agents of the King are still the agents of domination and subjugation but ‘the king’ is reduced to lower case and has become all of us. Policing and the police constitute, and are constitutive, of one part of the enormous state complex of power/knowledge. Foucault writes the following:

My general project over the past few years has been, in essence, to reverse the mode of analysis followed by the entire discourse of right from the time of the Middle Ages. My aim, therefore, was to invert it, to give due weight that is, to the fact of domination, to expose both its latent nature and its brutality. I then wanted to show not only how right is, in a general way, the instrument of this domination – which scarcely needs saying – but also to show the extent to which, and the forms in which, right (not simply the laws but the whole complex of apparatuses, institutions and regulations responsible for their application) transmits and puts in motion relations that are not relations of sovereignty but of domination. Moreover, in speaking of domination I do not have in mind that solid and global kind of domination that one person exercises over others, or one group over another, but the manifold forms of domination that can be exercised within society. Not the domination of the King, in his central position, therefore, but that of his subjects in their mutual relations: not the uniform edifice of sovereignty, but the multiple forms of subjugation that have a place and function within the social organism (Foucault, Power/Knowledge P.95-96).

Juridical Power, the matrix of state coercion in Canada retains the resistance to review, the secretive shrouds of operation and unaccountability that are only in the most dramatic and singular of circumstances unveiled. And when revealed, only in the more unusual cases does it result in change to the structure of police and policing, the disbandment of a police force in Manitoba (cited above) being an example.
Disciplinary Power, the matrix of that which builds loyalty and offers rewards to the normal and the normalized population inherently reveres and respects the practice of juridical power as it protects the state from its enemies, however they are defined, as long as the ‘we’ are carefully delineated from ‘them’. ‘We’, after all, are the loyal supporters and beneficiaries of the royal protections and rewards, we are of the normal, the official language speaking, right religion, right skin tone, tax paying, disciplined and educated normal.

Momentary glimpses of juridical power acting in ways unfamiliar to the normalized and heightened in intensity through examples that show the arbitrary use of that power against the disciplined may challenge governance as government senses that those insights are actually attacking the very disciplinary power that invokes our quiet acquiescence to juridical power. The inversion of the line of sight in the Panopticon, even for brief moments, such as in a secure area of an airport, a rural RCMP detachment, a holding cell for a teenaged girl or some back room in a Canadian embassy housing an exile are disquieting to the normalcy of the regime. However, these insights are brought about as singular events, reduced to individual incidents, molded into the exceptional, the accidental, or the necessary, to provide caring security for the normalized population. They offer little in the promise of any further shift in sovereignty as domination and subjugation because ‘we-the-normal-people’ accept ‘the state of policing’, continuing to be normal and thereby take up our place in contemporary technologies of power/knowledge in the liberal democracy that is Canada.

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