To Protect and Serve?

A Conceptual Investigation into the Extremes of Police Power

by

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Abstract

This thesis articulates a conceptual understanding of police power in North America, identifying how this power manifests itself on the street, in hopes of illuminating the power dynamic that enables instances of misconduct to occur. The works of Michel Foucault, Frantz Fanon, and Louis Althusser are deployed as the theoretical frameworks through which police power is analyzed. The Foucauldian perspective presents police power as a function of juridico-scientific disciplinary forces in society. This analysis is supplemented with an examination of police power as a post-colonial phenomenon, drawing on Fanon's work as a framework through which discriminatory police practices are examined. Finally, police power is examined within the context of capitalist production, and the repressive and ideological state apparatuses, as theorized by Althusser, to identify the class dimension that influences policing in North America.
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Introduction
March 3, 1991 – An ordinary civilian in the Los Angeles area happens to find himself in the right place, at the right time ... with a video camera in hand. This bystander captures on film what would soon send shockwaves throughout the United States and Canada: a group of Los Angeles police officers repeatedly kicking and clubbing African American motorist Rodney King (Ogletree, 1995, p. 4) who, as the tape reveals, could in no way pose any threat to the officers involved. The incident made headline news on television screens throughout North America. This incident gained even more media attention when some Los Angeles neighborhoods later erupted in looting and rioting after the four officers indicted for the violent acts against Rodney King were found innocent the following year (Ogletree et. al, 1995, p. xix). Order was restored soon thereafter, and the attention surrounding the Rodney King incident and the discussions about police violence abated, but police violence did not.

What happened to Rodney King was not unique (Ogletree et. al, 1995, p. 7). The extraordinary element in this case, that which brought this incident so much attention, is not the beating itself, but the fact that the event was captured on film (Ogletree et. al, 1995, p. 7) for middle-class Canadians and Americans to see the darker side of policing. Numerous instances of police violence have taken place since the King incident, but escaped the kind of attention received in the Los Angeles example. Within a matter of months after the infamous riots, four Detroit police officers beat a civilian named Malice Green to death. Yet even in the wake of the Rodney King incident, this instance of police violence escaped widespread attention (Ogletree et. al, 1995, p. 7). Each instance marks only one of countless cases involving police misconduct, often targeted at visible
minorities, for police misconduct goes largely unnoticed, and is often unreported altogether. The driving purpose of this thesis is to articulate a conceptual understanding of police power to identify how this power manifests itself on the street, where cameras are not ordinarily present to monitor police officers.

As officers carry automatic legitimacy in the courtroom, civilians may be subject to something similar to absolute control in one-on-one situations with police officers, for an officer can later give testimony in a manner that suggests his or her actions were legal. After all, the officers in the Rodney King example, whose startling actions were recorded on film, claimed that the suspect was resisting arrest, and as such, were absolved of criminal charges. While illegal exercises of violence may pose the greatest threat to civilians, police can still damage civilians’ lives or inflict harm in many other ways too. If an officer claims that a civilian failed to stop at a red light, that civilian cannot possibly hope to challenge the officer’s account, whether maliciously fabricated or reached in error. Or, police officers, certain of an individual’s criminality, can fabricate and plant evidence to secure convictions. The use of “dropsy” testimony by police, in which officers claim that a suspect dropped or threw away incriminating items in the officer’s presence, illustrates such capacities (Champion, 2001, p. 49).

With this kind of power, police can prove harmful to civilians, who may possess very little means by which to challenge an officer’s authority. Civilians are legally obligated to obey legitimate police commands, but legitimacy can be defined and fabricated by virtue of officers’ right to use discretion. Thus, when the flashing blue and red lights are spotted in one’s rear view mirror, the individual is legally required to pull over and place himself or herself under the authority of what amounts to a complete
stranger, differentiated solely by a badge and a firearm. In most instances, it is unlikely that the officer will injure the civilian involved, but whether or not the officer violates a civilian’s civil rights is largely out of the civilian’s control. For example, a young aboriginal man named Neil Stonechild was arrested in Saskatoon. According to one witness, Stonechild screamed from the back of the police car: “Help me. They're going to kill me.”¹ It is a horrifying thought, an individual knowing he or she is going to be killed—as Stonechild subsequently was. This is of course little different from the horror experienced by other victims of violence, except in one respect. When an individual’s well-being is threatened by another civilian, the police can be summoned for protection. If, however, the police themselves are the ones threatening an individual’s life, to whom can one turn? In day to day situations, then, where civilians are alone with police, away from the scope of video cameras (though police misconduct recorded on film can still escape prosecution), civilians are largely defenseless should an officer choose to harm them in some way.

While much has been written about police in the context of remedies for abuse, as in suggestions for ways to increase police oversight, this thesis will examine what police power is at the conceptual level, in hopes of illuminating the power dynamic that enables such instances of misconduct to occur. The works of Michel Foucault, Frantz Fanon, and Louis Althusser will serve as the theoretical frameworks through which police power will be analyzed. Foucault’s work will be deployed to examine police power at the theoretical level, as a function of juridico-scientific forces in society. Fanon’s work will supplement the Foucauldian analysis presented by examining police power in North America as a

specifically post-colonial phenomenon, thereby illustrating the role of racial tensions and racialization in the exercise of police power. Finally, Althusser's work will supplement Foucault's perspective by analyzing the class dimension influencing the exercise of police power and how, alongside the police's repressive capacities, the ideological state apparatus facilitates law enforcement. The works of all three thinkers will help illustrate what police power is conceptually; how certain interests shape its objectives and operation; and how police officers can enforce laws with relatively few challenges to their authority. This analysis will provide insight into the nature of police power at its theoretical extreme, which, as illustrated by the Stonechild incident, is a terrifying prospect.
Foucault’s Perspective
[My analysis] should be concerned with power at its extremities, in its ultimate destinations, with those points where it becomes capillary ... one should try to locate power at the extreme points of its exercise, where it is always less legal in character ... what is needed is a study of power in its external visage, at the point where it is in direct and immediate relationship with that which we can provisionally call its object, its target, its field of application, there—that is to say—where it installs itself and produces its real effects. (Foucault, 1976/1980, p. 97)

— Michel Foucault

It has become a classic and often repeated scene in movies now: the protagonist, facing an unjust arrest, argues that the police officer’s actions are against the law, and the police officer simply replies: “Well, I AM THE LAW!” This is of course movie fiction, but is there something to this notion of the police officer being the law? After all, a police officer is officially only one component of the legal system. Yet, with merely a badge and a firearm, an officer’s authority can carry a strong presence that in many cases commands the obedience of numerically advantaged and even armed parties. This all begs the question: conceptually, what is police power and how can one understand it? One influential thinker is particularly relevant for this endeavour—Michel Foucault. Foucault’s work on power relations in the Western world is revolutionary. Foucault (1982), by his own account, sought to expose the history of methods used to turn human beings into subjects (p. 208). Foucault pursues this end by examining the micropractices of prisons and mental asylums, for example, and analyzing how these practices were
diffused into the general population. These practices have ultimately led to a disciplinary society in which, Foucault argues, power is based on subjection by means of full visibility. As Foucault (1975/1977) writes, "it is the fact of being constantly seen, of being able always to be seen, that maintains the disciplined individual in his subjection" (p. 187).

John O’Neill (1986) writes that Foucault’s analysis of the prison and schoolhouse is an extension of Weber’s study of the modern bureaucratic state. According to O’Neill (1986), Foucault and Weber converge on one central question, namely, “what are the techniques by which man has subjected himself to the rational discipline of the applied human sciences (law, medicine, economics, education, and administration)?” (p. 42). The police are part of the “institutions that bring together rationality, individualism and freedom in the large-scale disciplinary enterprises of capitalism, bureaucracy and the modern therapeutic state” (O’Neill, 1986, p. 43). However, whereas Foucault focuses more heavily on how this institutional power grew to develop the disciplinary society he describes, this study will focus on what this power is, dealing specifically with the power of individual police officers in the field. While Foucault does not directly study police power at length, his works Discipline and Punish and Madness and Civilization, in particular, provide considerable insight into the conceptual nature of police power.

Disciplinary power in modern western states found one of its primary mechanisms for enforcement through the police (Foucault, 1975/1977, p. 213). In order to exercise this disciplinary power, according to Foucault (1975/1977), the police “had to be given the instrument of permanent, exhaustive, omnipresent surveillance, capable of making all visible, as long as it could itself remain invisible” (p. 214). Police officers are
invested with an exhaustive power of surveillance, and thus in effect, as this chapter will argue, their function is similar to that of the doctors in the asylum and the guards in the guard tower described in *Discipline and Punish*. Due in part to modern, organized police presence, society at large is transformed into a panoptic social schema—police power keeps everyone disciplined in his or her own subjection to the legal constructs by means of a panoptic network that coordinates every police officer’s surveillance duties to span an entire city, county, state/province, and ultimately, an entire country.

The exercise of power by institutional forces over police officers, and the subsequent exercise of police power over civilians, and the effects of these occurrences qualify as the sort of capillary expressions of power that Foucault (1976/1980) seeks to analyze. Indeed, one can see the nature of police power in Foucault’s (1975/1977) works as a function of the disciplinary society (p. 213). One may extrapolate four components of disciplinary power from Foucault’s work that help explain the theoretical nature of police power:

1. Enforcement of Compulsory Civilian Visibility
2. The Power of Examination
3. The Power to Individualize Citizens
4. The Officer’s Classification as Scientific Expert

While one may not be inclined to liken a police officer to a psychiatrist or a medical doctor, applying Foucault’s work to the reality of police power reveals that these agents are not dissimilar in terms of the power they exercise in relation to civilians. Police officers are very much like the scientific experts described in Foucault’s work, in terms of function and capacity. The Police officer, like the doctor in the asylum, functions to
maintain social norms, while identifying and defining deviance in the process. Police officers are treated as certified experts whose judgments carry the weight of truth, and thus have the capacity to certify their evaluations as factual. As such, through the panoptic network created by police surveillance and the power of normalizing judgment, police power enforces the disciplinary functions in society.

In this chapter, Foucault’s works will be deployed to characterize the type of power exercised by a police officer in the field, which is partly dependent on the officer’s sanctioned judgment in the courtroom. An application of Foucault’s analysis reveals that, just as the protagonist in the classic police film discovers, the police officer indeed captures something very real in stating ... “I AM THE LAW!” Ultimately, it will be argued that Foucault’s perspective does not yield a fully adequate conceptual account of police power due to the French philosopher’s presupposition that compulsory visibility applies equally to all, both civilians and police, or, as he describes in his discussions of the panopticon, both the prisoners and the guards themselves.

Compulsory Visibility

The police officer serves as an agent of the disciplinary society by ensuring compulsory visibility of the general population. According to Foucault (1975/1977):

Disciplinary power ... is exercised through its invisibility ... it imposes on those whom its subjects a principle of compulsory visibility. In discipline, it is the subjects who have to be seen. Their visibility assures the hold of the power that is
exercised over them. It is the fact of being constantly seen, of being able always to be seen, that maintains the disciplined individual in his subjection. (p. 187)

Police are continually in search of civilians to discipline, for that is their role in the socio-juridical gaze. The police officer's power over civilians is based largely on his or her ability to stop anyone at anytime, for all civilians must adhere to minimum standards of compulsory visibility, thereby allowing police officers to select and examine those deemed suspicious.

The nature and extent of the police's participation in the socio-juridical gaze underwent significant changes in the latter half of the twentieth century in North America, in a manner that further enforced compulsory visibility. Pat O'Malley (1996) observes that crime control has been growing more concerned with the temporal and spatial elements of crime, with increasing focus on opportunities for crime, rather than on socio-economic or causal reasons for its occurrence (p. 189). Thus, police officers attempt to stop and interrogate any "suspicious" individual before any crime has taken place, with the terms of suspicion dictated by the police officer. Correspondingly, police organization has become a scientifically managed arrangement, much like the prison and hospital described by Foucault. This transformation resulted from a wave of police reform during the 1960's in North America. Police work shifted to a proactive approach, redesigned to prevent crime as opposed to merely responding to legal violations after the fact, by means of "scientifically managed patrol patterns and coordinated action" (Wilson, 2000, p. 95). Police departments, regarding both organization and location within the patrol area, were restructured to provide the shortest response times for automobile units.
Police patrol the streets in stealth, enabling officers to apprehend unsuspecting civilians who commit legal infractions. As officers stop civilians, visibility of police presence increases, which creates a mechanism of deterrence against crime. The objective has been to increase police visibility in order to discipline individuals into their own subjection to the legal system, for the presence of a police officer eliminates the opportunity for civilians to break the law. That is, the mere presence of a police officer eliminates the element of choice for a would-be lawbreaker. A police officer’s presence is meant to inhibit legal violations, and even in the absence of police presence, the awareness that a police officer could appear without notice can coerce civilians to abide by the laws of a given territory. The maximization of sudden and unpredictable police appearances deters criminals from committing crimes. Scientific management of patrol patterns has effectively maximized the number of police appearances throughout the streets of a monitored area in a repetitive, yet unpredictable manner (Wilson, 2000, p. 95).

Further demonstrating the increase in scientific management of police forces, police recruits after this new wave of police reforms began to receive rigorous paramilitary training. Police equipment also came to reflect the new scientifically-oriented approach to police work as officers were also trained in the use of “split-screen, multiphasic” mirrors, which provide nearly 180° of view range in an officer’s patrol car rear-view mirror (Wilson, 2000, p. 96). This type of mirror maximizes a police officer’s field of vision. Another example, and certainly the most well known instance of police technology, is the “radar gun” used to precisely measure the speed of motor vehicles, giving police officers an added capacity to cite motorists for even the slightest violation.
of a posted speed limit. Computers built into patrol cars further illustrate the technological advances in police power, for a police officer can now enter information into and retrieve information from a centralized criminal database about any individual at any time.

These pieces of scientific equipment increase efficiency and render police presence more intrusive, which leads to an awareness that escaping visibility to the police is unlikely. This scientific police framework is clearly similar to the panoptic apparatus discussed in *Discipline and Punish*, where power in the panopticon is found in the "concerted distribution of bodies" (Foucault, 1975/1977, p. 202). Panoptic schematics maximize visibility for the authorities while they remain invisible to those whom they watch. The structure Foucault describes is divided into individual cells on the peripheral walls of the enclosure, with a centralized tower to monitor each and every single cell. This results in a structure where there are "spatial unities that make it possible to see constantly and recognize immediately" (Foucault, 1975/1977, p. 200). The panoptic model, according to Foucault, brings greater intensity and efficiency to the mechanisms of power. Such is the case with the policing methods described above, where the coordination of police patrol patterns leads to synergy in surveillance—that is, the coordinated patrol efforts together lead to a higher scope of surveillance than the sum of each individual officer's patrolling efforts (Wilson, 2000, p. 96). Computer software can even assist police predict where criminal activity is likely occur from week to week. For example:

Burnaby's CPAL (Crime Prevention Analysis Lab Inc.) develops commercial software for police agencies ... CPAL's software, called CrimePoint, identifies
serial-crime patterns and helps pinpoint the perpetrators … CrimePoint not only maps the locations of crimes but also cross-references them with the modus operandi of known criminals and with where they live, work, go to school or like to drink, with whom they associate and so on.²

One can thus see how the panoptic model reverberates in the new proactive approach to policing, where police departments adopted “scientifically managed patrol patterns and coordinated action” (Wilson, 2000, p. 95). Foucault (1975/1977) suggests that the panoptic model can be implemented in prisons, hospitals, workshops, and schools (p. 205).

The panoptic visions described in Discipline and Punish, Foucault (1975/1977) suggests, are spread from the closed fortress-like structures and “deinstitutionalized” to circulate freely in society (p. 211). Foucault (1975/1977) writes that:

Between these different, enclosed institutions of discipline (workshops, armies, schools) … [police] extended an intermediary network, acting where … [enclosed institutions] could not intervene, disciplining the non-disciplinary spaces; but it filled in the gaps, linked them together, guaranteed with its armed force an interstitial discipline and a meta-discipline. (p. 215)

Thus, police officers maintain discipline throughout society outside of the workplace, schools, and other institutional environments—on the streets. The principles discussed in the panoptic prison apply to policing on the streets where police officers are distributed scientifically to maximize their proximity to the greatest number of civilians. Their ability to observe may decrease proportionately with the increase in area under

observation, but the panoptic principles remain in place, for unidirectional visibility impairs a civilian's ability to know whether or not police officers are in his or her immediate vicinity (Forcese, Horne, & Lewis-Horne, 2002, p. 67). Through this distribution, police may effectively prevent crime to a large extent. Police, however, not only prevent crime using this method, they confine the time and space within which criminal activity occurs (Wilson, 2000, p. 95). Various undercover operations such as police officers luring drug dealers to sell contraband in their presence, or the use of "bait cars" to lure would-be car thieves to steal motor vehicles in the presence of undercover police officers, are examples of controlling the time and space of crime (Blecker, 1989, p. 176).

This kind of panoptic arrangement is designed to prevent certain types of actions—it is a form of deterrence. One can see a parallel between civilians in public areas and prisoners in Foucault's panopticon, where both come to behave as required since they must assume that they may be under observation at any time. Foucault (1975/1977) suggests that the effect of such preemptive and preventative control on society in general is the same as that on prisoners: "to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power" (p. 173). Inmates in the panoptic prison, by virtue of their inability to know whether or not they are being watched, grow to discipline themselves. Similarly, civilians grow to discipline themselves as they are aware of police surveillance, but cannot know whether or not an officer is watching. This results from the low profile police maintain during patrol and surveillance that enables them to "catch" unsuspecting civilians in the act of committing various legal infractions, coupled with the high visibility of police officers.
once they have apprehended or stopped a suspect by means of sirens, flashing lights, and
the aggregation of numerous officers for arrests and interrogations, revealing the
dominant presence of police officers. A telling example stems from routine traffic
enforcement, which induces civilians to restrain their speed due to the knowledge that
police can “catch” them. The civilian rarely notices the police officer until actually
captured. This may lead the cited motorist to realize his or her inability to detect police
presence, and also induces in other motorists a keen awareness that it could happen to
them as well. As a result, civilians develop an awareness of the unidirectional exercise of
police surveillance, like that of the guard in the panoptic central tower, and discipline
themselves as inmates do in the panopticon. The effects of riots or massive power
outages further illustrate this point: instances where civilians engage in looting and other
criminal activity serves as a prime example. Such events result from civilians realizing
that the circumstances, where the quantitative measure of legal infractions momentarily
exceeds police capacity to effectively monitor individual civilians, inhibit the possibility
for police officers to arrest them—there is a realization that the police are no longer
effectively present.

The Power of Examination

Foucault’s analytical framework further elucidates what he calls the power of
examination as the most prominent feature of police power in the field. Foucault
(1975/1977) writes that:
The examination transformed the economy of visibility into the exercise of power ... the examination is at the center of the procedures that constitute the individual as effect and object of power, as effect and object of knowledge (p. 192).

As Foucault emphasizes, the examination stands as a function of the disciplinary mechanisms for it situates the individual, on whom the examination is performed, within his or her own idiosyncrasy. That is, the examination turns an individual into a case subject; the examiner subjects the sample to various procedures to determine the subject’s relation to some particular control group (Foucault, 1975/1977, p. 192). A network of computer files and case folders document the actions of the civilian involved (Foucault, 1975/1977, p. 189), and thus “the examination, surrounded by all its documentary techniques, makes each individual a ‘case’” (p. 191). In parallel, one may argue, the police examination changes the civilian from an independent being to an object of the officer’s legitimate concern. The examination is for this reason at the core of a police officer’s power—the stepping-stone from which he or she can engage civilians, and this process of examination is the police’s most routine exercise of power.

This point is well illustrated by the fact that most instances of police interaction with civilians lead to some form of police interrogation. For example, according to the American Police Services Study, over 90% of encounters between police and civilians in the United States led to an interview of witnesses, people requesting assistance, or civilians being held under suspicion of criminal activity (Whitaker, 1982, p. 18). Furthermore, the increasing use of “problem-oriented policing” by police departments in North America reinforces the centrality of the examination for police power. The problem-oriented police (POP) approach is a four-step process that was conceptually
developed in the United States in the early 1980’s, and spread throughout the United States and Canada during the 1990’s.

Scanning → Analysis → Response → Assessment

This four-step process begins with scanning, where an officer examines a given situation and establishes whether or not the circumstances warrant intervention (Eck & Spelman, 1989, p. 103). This is followed by the second step, analysis, where the officer gathers all available information. The third step, response, requires the officer to implement a resolution for the identified problem. Resolutions will of course usually come in the form of arrests, use of force, warnings, pursuits, citations, or dismissal in other instances. In the final stage, assessment, an officer must evaluate whether or not the resolution was adequate, and if so, how effectively the resolution solved the problem at hand (Eck & Spelman, 1989, p. 104).

The analysis and response stages are most noteworthy for the purposes of this study. As Foucault (1975/1977) argues, the examination is central to the disciplinary society, for in the experiment “are combined the ceremony of power and the form of the experiment, the deployment of force and the establishment of truth” (p. 184). The examination, then, is essentially the foundation of a police officer’s power, serving as the reason for stopping and interacting with civilians. The power of examination is a legally mandated activity, for all civilians must adhere to minimum standards of compulsory visibility, thereby granting police officers the right to inspect and search any individual deemed suspicious, which is dependent on officers’ discretion (Champion, 2001, p. 19). For this reason, the problem-oriented approach to policing epitomizes the essence of examinations as described by Foucault. The officer has the power to gather the
information he or she believes is relevant to the situation. Investigation, as such, is part of the very fabric of even a regular “beat cop’s” daily routine. This process validates the officer’s judgment of the civilian involved, for whether or not the investigation yields any criminal evidence, the civilian is deemed suspicious by the virtue of the fact that an investigation was warranted. Beyond that, the officer is also granted the power to affect a resolution, which is, in essence, establishing truth by virtue of the officer’s authority to render a judgment. This point will be revisited later in this chapter in relation to the police’s power of truth.

Individualizing Citizens

The police individualize citizens through the power of examination. The civilian going about his or her daily activities in a law-abiding manner is an ordinary human being engaging in his or her own way of life. When put into a situation of interaction with a police officer, however, the civilian becomes at that moment a suspect, witness, or a criminal. Individualization is the process by which a human being is transformed from the totality of his or her identity as an individual to a case identified solely by all of his or her peculiarities. This process of individualization is a central component of what Foucault calls spatialization. Foucault (1975/1977) argues that this process of individualization is a key element in discipline, for “discipline proceeds from the distribution of individuals in space” (p. 141). Foucault points to factories and classrooms as examples of these methods of distribution. Despite his emphasis on enclosed spaces,
the principles discussed in *Discipline and Punish* once again apply to the effects of police presence on the streets.

According to Foucault (1975/1977), discipline "individualizes bodies by a location that does not give them a fixed position, but distributes them and circulates them in a network of relations" (p. 146). Such is the case with the distribution of civilians in metropolitan areas in North America, where those prone to criminal activity are largely concentrated within specific neighborhoods, isolated from relatively crime-free neighborhoods. It would not be unreasonable to project that a majority of criminals, whose crimes may be attributed to the criminal's economic circumstances, reside in concentrated sectors within a given metropolitan area. One might further expect that crimes against property (primarily theft and burglary) would be targeted against affluent neighborhoods where its residents are wealthy, as the property stolen should prove more lucrative to the criminal than property from areas lacking in valuable goods. As such, criminals committing crimes against property, such as theft and burglary, within their own residential areas would appear counter-intuitive. Nonetheless, crimes against property, most notably theft and burglary, are far more frequent in lower-income neighborhoods. The following statistics from the Vancouver, British Columbia, and Phoenix, Arizona, metropolitan areas illustrate an interesting pattern, where prosperous cities within these metropolises suffer far fewer crimes against property than adjacent and more economically downtrodden cities within the same major metropolitan centre.
Property Crimes in Phoenix and Vancouver Metro Areas

<table>
<thead>
<tr>
<th>City</th>
<th>Property Crimes</th>
<th>Population</th>
<th>Average House-Hold Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Phoenix Metro)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scottsdale</td>
<td>8,732</td>
<td>214,685</td>
<td>$57,484 (USD)</td>
</tr>
<tr>
<td>Mesa</td>
<td>23,132</td>
<td>396,003</td>
<td>$21,502 (USD)</td>
</tr>
<tr>
<td>(Vancouver Metro)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West Van</td>
<td>1426</td>
<td>40,880</td>
<td>$48,000 (CAD)</td>
</tr>
<tr>
<td>Surrey</td>
<td>30,708</td>
<td>347,800</td>
<td>$20,000 (CAD)</td>
</tr>
</tbody>
</table>

The wealthy cities, Scottsdale and West Vancouver, suffer one crime against property per 25 residents and one per 29 residents, respectively. Conversely, the less wealthy cities, Mesa and Surrey, suffer higher crimes against property rates, one per 17 residents and one per 11 residents, respectively. These statistics may suggest something about spatialization. Individuals from a lower income region are likely to be quickly noticed by police officers in a wealthier area, and as such, they oftentimes remain within their own neighborhoods.4 In Foucauldian terms, such a situation is constituted by a

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Population and average income in British Columbia cities used the lowest figure in the income range, obtained from:

Property crimes in British Columbia based on 2001 statistics, retrieved from:

4 William Boei, Vancouver Sun, April 28, 2003. From:
police officer individualizing the civilian crossing into a wealthier region. The police officer treats the subject as suspicious, whereupon the civilian is stopped and interrogated. Through this process, the civilian is transformed from a human being as the totality of him or herself, into a case marked by all of his or her peculiarities within the context surrounding the current situation (racial profiling being the most notable example).

"In a disciplinary régime," Foucault (1975/1977) suggests, "individualization is 'descending': as power becomes more anonymous and more functional, those on whom it is exercised tend to be more strongly individualized" (p. 145). The civilian who is out of place, as is the case with a lower income civilian in a higher income neighborhood, is individualized the moment the police officer and the civilian notice the presence of the other. Such is the case with civilians who are in a particular area, in some cases at a particular time, where they are deemed by a police officer to have no purpose visiting. It is at that moment that the civilian becomes a suspect. Foucault (1975/1977) writes that "in a system of discipline, the child is more individualized than the adult ... the madman and the delinquent more than the normal and the non-delinquent" (p. 193). This extends to suspects as well, where the suspect is more individualized than the citizen deemed an ordinary and law-abiding citizen. It should be noted, however, that wealthy civilians in poorer neighborhoods are not as likely to be treated as suspects, thereby suggesting the presence of a certain class dimension to this individualizing force. This point, however, will be taken up in later chapters.

In essence, the police officer, if even but for a few fleeting moments, influences the identity of the civilian with whom he or she interacts. This fits with Foucault's
(1981) claim, "police’s true object is man" (p. 248). Aware of police omnipresence, these brief moments of interaction leave a permanent impression on a civilian’s identity in his or her public setting. Resistance to the exercise of power further individualizes the civilian, for as Judith Butler (2002) suggests regarding Foucault’s conception of power, resistance to coercive forces contributes to an individual’s self-identity. As such, even a civilian’s resistance to the exercise of power, and the realized ineffectiveness of this resistance, influences his or her identity in a manner that permanently considers the sweeping scope of the gaze as enforced by the police.

The Power of Truth

As the volume of crime increased in North America throughout the twentieth century, a need for greater police autonomy arose, whereby police officers have been expected to exercise more discretion in deciding against whom charges were most warranted, and when mere warnings were more appropriate. The parameters through which police exercise power have also expanded, for this increase in crime is partly due to the increase in punishable infractions. As Foucault (1975/1977) notes, “the whole indefinite domain of the non-conforming is punishable” (p. 179). More and more laws are passed with time, increasing the number of possible statutory violations. Chris Murphy confirms this point, as his analysis of various police departments demonstrates that the larger a police department becomes, the more bureaucratic it becomes. This bureaucratization leads to an increase in the range of possible formal citations issued by police officers (Forcese et al., 2002, p. 65). This gives police officers the choice of
formally citing civilians or redressing minor infractions through the use of informal measures for a host of various infractions (Forcense et al., 2002, p. 65). While police officers do not write citations for every legal infraction, the increasingly bureaucratic nature of policing justifies every infraction formally cited by police officers, for every infraction, no matter how minor, is made standard. Resulting from this extended realm of the punishable, as David Garland writes:

... the major system adaptation to high crime rates and high case loads has been the tendency of the criminal justice agencies to limit the level of demand placed upon them by resorting to a variety of devices which effectively ‘define deviance down’ ... by way of discretionary decisions taken by police and prosecutors well away from the gaze of the media and political actors. (p. 456)

This expansion of discretionary decision-making has essentially granted police a power of judgment, much like that of the doctor in the asylum as described by Foucault (1961/1965) in Madness and Civilization. The police officer evaluates events and determines whether or not an offense has taken place—this can be as simple as judging whether or not a motorist has made a complete stop at a posted stop sign or who has committed a random assault in a thick crowd of people. As such, police officers exercise a power that renders their testimony a piece of factual evidence: police officers exercise a power of testimonial truth. Due to police officers undergoing background checks and receiving expert training, along with the increasing use of new scientifically designed police instruments, active members of society entrust police officers to establish truth regarding events and the people involved, that is to say, the civilians/suspects. Police officers are believed to operate under higher moral standards than other individuals, and
consequently, Champion (2001) points out that many attorneys “believe that police perjury ... is particularly widespread” (p. 49). The end product in North American police work today, then, is a situation described by Jerome Skolnick (1994) as a situation where police administer “justice without trial” (p. 14). This power, the ability to exercise judgment and to a certain extent decide the fate of citizens encountered, stems from three sources: bureaucratic overload that necessitates a greater role for police decisions in legal judgments, the police’s own discourse, and the implementation of scientific legitimacy to police judgment. As former chair of the External Review Committee in Canada René J. Marin (1997) writes, “the only witnesses to the abuse [in one-on-one situations] will be the police officer and the victim, who frequently will enjoy less ‘credibility’ than the officer” (p. 37).

As already mentioned, the increasingly over-burdened bureaucracy is partly responsible for the police’s power to exercise normalizing judgment. In addition to bureaucratic overload, the police’s own discourse creates a sense of truth tied to the police’s own ethos of infallibility. As Christopher Braiden (1994), former police superintendent of the Edmonton Police Department, writes: [police] culture is at the root of the worst problems in policing ... [police] culture is at odds with the mandate of consent policing [having to demonstrate proof for police judgments]” (p. 313). Many examples point to the police’s belief in the inherent correctness of its actions: marches by the New York police department in protest of suggestions that they be held directly accountable to the residents of New York; protests by Montréal police officers in response to their own police chief’s admission of police responsibility for killing an innocent person; and the demonstrations by Toronto police officers in response to a new
protocol requiring officers to fill out a form every time they unholster their sidearm (Braiden, 1994, p. 311). All of these examples suggest a police mentality that resists increases in verification measures by the general public and the prospect of police officers’ judgment being deemed incorrect. Simply put, the cultural ethos surrounding police officers determines police judgments as correct.

Such an internal discourse of truth is a power that is self-reinforcing, for this cultural ethos presupposes an officer’s judgment as accurate. This discourse of truth leads police officers to rebuff suggestions that an officer’s judgment could be incorrect (Braiden, 1994, p. 317). As such, a police officer’s claim tends to be treated as fact, for it finds support from the police department and the scientific legitimacy it carries. Efforts to ebb such increasingly independent power are often resisted not by one, but by most officers due to a “pride in the cloth … ‘police family’ mindset” (Braiden, 1994, p. 330). A frightening case in point is the Rodney King beating where twenty-seven officers were present at the incident, including African American and Latino officers, and yet not a single officer intervened (Braiden, 1994, p. 354). The recent fatal beating of forty-one year old Nathanial Jones, an obese African-American male in poor health, in November of 2003, further illustrates this police discourse of truth. Close-up video footage clearly displays six police officers, including one African-American officer, repeatedly beating Jones while he was attempting to surrender outside of a Cincinnati, Ohio, fast-food restaurant. Despite the obvious presence of excessive force, the Chief of police and the Mayor defended the officers’ conduct.5 The president of the Cincinnati chapter of The Fraternal Order of Police, Roger Webster, also defended the officers’ actions and angrily

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5 This is a recent event, and as such, may be a developing story. Details can be found at:
confronted media spokespersons who challenged the officer’s conduct. Webster retorted that the media accusations were “ridiculous ... the officers were treated as criminals ... what did these officers do wrong?” Such examples, where misconduct is actually captured by videotape and police officials remain steadfast in defending their officers’ conduct, demonstrates a strong internal discourse of police accounts as unquestionable truth.

Aside from the police’s own discourse, the power of truth is found in the scientific legitimization surrounding police power today. As Nikolas Rose (1996) comments on Foucault’s perspective:

> Political forces seek to give effect to their strategies, not only through the utilization of laws ... authority is accorded to formally autonomous expert authorities and simultaneously the exercise of that autonomy is shaped through various forms of licensure, through professionalization and bureaucratization. (p. 46)

Applying this account of police officers today suggests that a police officer cannot be classified solely as an enforcer of laws. Police officers today are trained extensively and undergo rigorous testing to verify their identity and their moral qualifications. Just as science has legitimized the medical knowledge of the doctor, as Foucault (1961/1965) suggests in *Madness and Civilization*, scientific training legitimizes the police officer’s judgment. These scientific processes also discipline the police trainee and produce a police officer (Bing & McLaughlin, 1989, p. 29). One could suggest that these scientific


6 This is a recent event, and as such, may be a developing story. Details can be found at: http://edition.cnn.com/2003/US/Midwest/12/01/died.in.custody/index.html (retrieved on January 10, 2004).
training regimens are responsible for the discourse that reinforces the police's belief in its officers' infallibility of judgment and creates obedience within the police ranks. Beyond this, these processes create police officers whose training is seen to render them experts of justice, because the scientific process putatively verifies officers' moral qualifications (Bing & McLaughlin, 1989, p. 35). Coupled with the training police officers receive, which instructs them in lie detection and proactive crime prevention, an officer's testimony regarding a civilian's alleged criminal or civil violation is able to withstand intense scrutiny by lawyers in the courtroom (Inwald & Kenney, 1989, p. 36).

As police officers are themselves also subject to legal constraints, one may argue that officers are just as deterred by the possibility of legal repercussions. However, to consider police power carefully, one must draw a distinction between two forms of police power: de jure, which stands as the legally endowed powers to police officers, and de facto, marking the actual use of police power irrespective of its legal framework. The interaction between civilians and police officers involves the use of police power in both forms, which are in many ways strongly interrelated, for the de jure power held by police officers in the courtroom influences the de facto power they exercise in the field. If an officer's testimony is presumed true in the courtroom, then the officer can shape his or her account of particular incidents in a manner that leads a court to consider the officer's actions to be in accordance with the law. Consequently, police power in the court defines its power in the field, as one of the strongest legal powers granted a police officer is the use of police discretion, which can thus make a police officer's de facto power legal. John Kleinig (1996) writes, "police officers are appointees whose authority is executive rather than legislative ... [but] discretionary decision making by police might be
interpreted as a form of legislative activity” (p. 89). Police *de facto* power, then, can actually be rendered a *de jure* power as well, for the officer has the power of normalizing judgment, enabling the officer to make his or her judgments legally correct. Nikolas Rose (1996), drawing on Foucault, also suggests that police officers exercise a power of normalizing judgment (p. 46). Rose’s analysis reinforces the suggestion that police officers are technical experts sanctioned to determine an individual’s criminal capacity and as such, stand as agents of the disciplinary operations in society. British criminologist Ian Loader (1997) summarizes:

... [police power] has become the power of legitimate pronouncement: a power to diagnose, classify, authorize, and represent both individuals and the world, and to have this power of ‘legitimate naming’ not just taken seriously, but taken-for-granted. ... the police’s entitlement and capacity to speak about the world is seldom challenged. (p. 3)

The Police Officer as Doctor

This kind of power creates a relationship between police and civilians during moments of interaction parallel to that between the patient and doctor inside a panoptic setting as discussed in *Madness and Civilization* (Foucault, 1961/1965, p. 276). The police officer, like the doctor, examines the civilian/suspect by means of interrogation or routine questioning. The police officer individualizes the civilian, who is no longer a civilian during the period of interaction with the officer, but is instead transformed into a suspect, witness, or detainee, much like the doctor individualizes a person as a patient or
case. This process is made possible in public spaces by means of compulsory visibility executed in a manner like that which characterizes the panopticon. Civilians must reveal their identity and personal information to police officers when requested, whereupon they may be subject to citation or arrest. Due to police covert capabilities, civilians are often unaware of where police officers are and must therefore assume that they may be under police observation at any given time, which leads most civilians to monitor their own actions. Thus, the police officer functions on the street in a manner that is similar to the doctor in the asylum or warden in the prison by exercising corrective training. As Foucault (1975/1977) suggests, disciplinary punishment must “be essentially corrective” (p. 179). Very few officers actually patrol motor vehicle traffic, for example, yet the vast majority of motorists abide by posted traffic laws because experience has taught them that one cannot be certain of when and where a police officer may establish a guard tower. Some motorists continue to break traffic laws, but the experience of being caught may lead them to restrain their speed in the future, and the visibility of police stopping motorists reinforces obedience to traffic laws in other motorists.

To further explore the likeness of the relationship between police and civilians, and the relationship between doctor/prison guard and patient/delinquent, one must also consider the panoptic provisions for supervision of guards in the guard tower. In the panoptic model presented by Foucault (1975/1977):

The panopticon may even provide an apparatus for supervising its own mechanisms. In this central tower, the director may spy on all the employees that he has under his orders ... and it will even be possible to observe the director
himself. An inspector arriving unexpectedly at the center of the Panopticon will be able to judge at a glance. (p. 204)

This is, however, not the reality of societal functions on the street, for the gaze is not nearly as potent when applied to the gazers. This is perhaps the most problematic area of Foucault’s thinking with respect to understanding police power: it would be fallacious to suggest that police officers are also equally subject to the gaze. While police officers cannot obscure themselves entirely from the gaze, the gaze still does not descend on officers with the same degree of infiltration as it does on the average civilian since police officers themselves are primary agents for the socio-juridical gaze. Thus, while civilians grow to monitor themselves, police presence always serves as the external element of reinforcement. For police officers, however, the training received and endured shapes officers to monitor themselves, but once on the street, the element of external reinforcement is largely absent. Police discipline relies heavily on internal monitoring, but as Champion (2001) writes:

One major factor that perpetuates police misconduct is unwritten rules that are tacitly supported by many police officers. These unwritten rules encourage officers not to betray other officers whenever misconduct is discovered or witnessed. (p. 18)

Due to what is often referred to as the “blue wall of silence” (Champion, 2001, p. 27), police officers in the United States may then not have to worry about the external monitoring that effectively reinforces self-monitoring, evidenced by the infrequent conviction rate of police officers accused of misconduct, unlike civilians who grow to monitor themselves based on their awareness of potential police presence. Such is the
case in Canada as well, as Marin points out, where internal monitoring is the primary means for monitoring police misconduct (Marin, 1997, p. 48). In fact, this “blue wall of silence” may actually serve for individual officers as external monitoring, by means of a gaze driven by police culture itself, to ensure conformity within police ranks.

Furthermore, each individual police officer operates a micro-panopticon, networked with other micro-panopticons only to the extent that a central dispatch assists officers coordinate in times of need. Or, as Peter Scharf and Arnold Binder (1983) write, “street police work demands great organizational autonomy for its operatives (from patrol officers to commanders to detectives) ... mostly with little direct supervision” (p. 184). As such, one must submit to the officer not only by force, but by authority as well since the officer has the highest authority relative to civilian interaction. This therefore presents a classic problematic of police watching over civilians, but no effective external agency actively watching over the police, which begs the question: *Quis custodiet ipsos custodes?*—“who will guard the guardians” (Marin, 1997, p. 47). When an officer is alone with a civilian, a civilian can only hope to challenge false police testimony against him or her in the courtroom if the incident is captured on camera, which may still prove futile, as illustrated by the Nathaniel Jones case.

Ultimately, then, there are few mechanisms that restrict the officer’s power in the field other than the officer’s own moral integrity. The only restraint mechanisms on police power are punitive sanctions, which come after the fact. These punitive sanctions also deter police officers from criminal behavior just as the possibility of being cited or arrested deters civilians, but the relatively infrequent conviction rate of accused police officers lessens its deterrent strength. A more general societal power structure underlies
these loose methods of monitoring and sanctioning police improprieties, which tend to negatively affect certain groups more than others. More precisely, there is a class dimension to the police gaze, as mentioned earlier, where the socio-economic forces that underlie the power relationships throughout society at large are reflected through the actions of police officers. Foucault’s analysis does not sufficiently address this class/race dimension, which significantly compromises the possibility of a full conceptual understanding of police power. One must then ask: why are lower-class civilians and certain racialized minorities more significantly impacted by the exercise of police power than upper-class white civilians in North America? This all too prominent hole in the Foucauldian analysis of police power must first be filled in for a more adequate conceptual understanding of police power. Two theorists in particular can serve as useful complements to the Foucauldian perspective on police power: Frantz Fanon and Louis Althusser.

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7 A reference to Plato’s Republic.
Fanon' Perspective
... the policeman moves through Harlem, therefore, like an occupying soldier in a bitterly hostile country; which is precisely what, and where he is, and the reason he walks in twos and threes.

— James Baldwin

Police officers serve an administrative function by enforcing laws established by legislative assemblies. Yet, if the enforcement of these laws is routinely more violent for certain groups of people, like First Nations people in Canada and African Americans in the United States, then this represents a societal act of discrimination. Police conduct toward such racialized minorities is in many instances the product of institutional racism, and the very inaction of the general population anchors this institutional racism, as American civil rights thinkers Stokely Carmichael and Charles V. Hamilton argue. Carmichael and Hamilton (1967) suggest that institutional racism is the indirect expression of covert racist sentiments, as is the case when individuals support racist policies and public officials (p. 5). This chapter will explore the current racial tensions in North America between “whites” and these racialized minorities, which stem largely from European expansion, where First Nations people were physically displaced from their homes in Canada and Africans were enslaved and imported into the United States. Police power may then be usefully analyzed within a socio-economic framework that examines police interaction as an extension of past colonial-style relationships.

Frantz Fanon’s examination of French colonialism in Algeria offers insight into the methods by which police law enforcement procedures impact certain groups more

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heavily than others in a post-colonial context. The colonial relationships depicted by Fanon prove quite similar in relevant ways to the relationship between “whites” and racialized minority groups who were subjected to European interests during the colonial/slavery era in North America today. Carmichael and Hamilton (1967) lend support to this suggestion, arguing that the racial divide in the United States, which in numerous ways parallels the relationship between “whites” and First Nations people in various parts of Canada, is a situation where “black people in this country [the United States] form a colony, and it is not in the interest of the colonial power to liberate them” (p. 5). The situation Fanon writes about is in many ways markedly different from the situation experienced by African-Americans in the United States and First Nations people in Canada today, for French settlers enjoyed a virtual carte blanche in their use of force against Algerian Natives. Nevertheless, in some important ways, the power relationship in North America between police and minority groups formerly victimized by slavery, European settlement, and segregation is similar to and an extension of that between settlers and natives in the former colonial-style setting, like that described by Fanon in Algeria during the mid-twentieth century. As such, Fanon’s account of colonial relationships can contribute to a better understanding of contemporary police power at the conceptual level by addressing the race/class dimension largely omitted in Foucault’s juridico-scientific analysis of power.
Fanon's works provide a variety of interpretative lenses through which police power can be analyzed. One interpretative dimension draws on the human desire for positions of power. Fanon poses the question: what do black men want? Shockingly, Fanon (1952/1967) answers in *Black Skin, White Masks* that black men would like to be white men, insofar as white men are recognized as fully human. As an extension of this proposition, one may conclude that humans desire to be among the social elite, for this status entails respect as an actual human being. Being in the police provides a means to fulfill this desire, and this proposition could prove well founded, given that police officers are often times bestowed greater public respect than their economic affluence, racialized background, or educational qualifications would otherwise command. Like medieval knights attaining nobility through a system of vassalage, police officers can attain a position of power and prestige by performing their duties in a manner benefiting the socio-economic elite—the modern-day nobility. While such an interpretation of police power may prove salient, Fanon's account of colonial relationships proves most useful for understanding police power at the dawn of the twenty-first century, though the proposition that black men long for 'white-ness' will be revisited.

Fanon (1961/1963) suggests that colonial relationships, such as that between French settlers and Algerian natives, emerged from the capacity for highly mechanized warfare being deployed against relatively defenseless populations. This advantage enabled colonizers to reduce inhabitants into instruments for colonial projects, with the settlers' use of violence subjecting the inhabitants to European interests. From this point
on, the inhabitants in colonized territories ceased to exist as human beings and instead became instruments—constructed beings that served the purposes of settlers. As Fanon (1961/1963) states, “the settler is right when he speaks of knowing ‘them’ well ... it is the settler who has brought the ‘native’ into existence and who perpetuates his existence” (p. 36). That is, an inhabitant of a colonized territory becomes a “native,” shaped by the power relationship with the settler. From the moment a “native” is born, violence underlies his or her relationship with settlers, and consequently, it is evident for the native that only absolute violence can overthrow the system into which he or she is born (Fanon, 1961/1963, p. 39). Fanon writes that:

In the innermost recesses of their brains, the settler’s tanks and airplanes occupy a huge place. When they are told “Action must be taken,” they see bombs raining down on them, armoured cars coming at them on every path, machine-gunning and police action ... they are beaten from the start.9

This assessment is in no way unfounded, for the state uses violence through police and state officials who are there precisely to mediate between settlers and natives. As Fanon (1961/1963) observes: “In the colonial countries ... the policeman and the soldier, by their immediate presence and their frequent and direct action maintain contact with the native and advise him by means of rifle butts and napalm not to budge” (p. 38). Violence as a mode of power, in the form of direct physical force, clearly underlies the relationship between settlers and natives, colonizers and colonized—between those with the capacity for armed violence and those without such capacities, respectively.

The “native” identity that results from this exercise of force entails submission to principles of individualism, which disrupt the possibility for unity among natives (Fanon,
1961/1963, p. 49). The colonial era in the colonized territory is grasped by the dominant as an extension of their history, for history is viewed from the standpoint of the colonizing country. There is no sense of native history, but a sense that the peoples present prior to the settlers' arrival did not in fact exist—for the colonized territory is after all a new world. History for natives begins with the arrival of colonial powers. Natives' actual adherence to western standards confirms this fact (Fanon, 1961/1963, p. 51). Integrating a view that is not just a state of mind for settlers, natives internally come to understand themselves in Europeanized terms, and believe in a European god (Fanon, 1961/1963, p. 42). Natives also learn to speak a European language, which Fanon (1952/1967) suggests "... means above all to assume a culture, to support the weight of a civilization" (p. 17). The pre-colonial identities of these peoples cease to exist, and in their place emerges a new set of beings. Thus, native identity is truly based on its role vis-à-vis his or her colonial master. Fanon (1961/1963) suggests that an indispensable Manichean division is drawn between natives and settlers based on these identities. Natives are produced and treated as hollow and ethically deficient creatures, representing the very negation of morality and ethics (Fanon, 1961/1963, p 41). Emerging from this characterization are related dichotomies between white and black, good and evil, and settler and native (Fanon, 1961/1963, p. 42).

Out of this Manichean division, the identity of the settler is also produced. For what the native is, the settler is not; what the settler is, the native is not. The identity of the settler is experienced as the polar opposite of the native's identity. Settlers must defend the power and privilege that contributes to their identities, and the means for this defense itself contributes to the settlers' identity. The threat of native independence must

\footnote{Ibid., 63.}
also occupy certain recesses of the settler’s brains, for maintaining the ability to enforce the status of natives presupposes a fear of that status changing. Fear, then, can be considered the end result of colonial violence, where the native fears its renewed exercise, and the settler, having used violence to establish the conditions present in his or her environment, fears the absence of that violence. That is, in the case of settlers, the capacity for a virtually unchallenged exercise of violence itself constructs an identity habituated to a perpetual capacity for unidirectional violence, which can be exercised at any given moment.

Police Power as a Post-Colonial Phenomenon

Fanon’s analysis is not so far removed from the situation facing the United States and Canada in the twenty-first century, though police do not exert the same level of direct control over African Americans and First Nations people as French settlers did over Algerian natives. As Carmichael and Hamilton (1967) point out, while an analogy between European colonialism and police/racialized minority relations today is not perfect, “it is the objective relationship which counts, not rhetoric (such as constitutions articulating equal rights) or geography” (p. 6). Despite differences between the two relationships, this power relationship is parallel in important ways. African Americans are no longer legally enslaved in the United States, nor are “whites” actively confining First Nations people to small parcels of land in Canada. Nevertheless, the relationship

10 The oldest example of such a relationship dates back to before the Common Era, when Spartans depended on Messenian slavery. Spartans devoted considerable effort to maintaining the slave-master relationship, as the prospect of a revolt in Messenia proved one of the greatest concerns for Spartans (Hammond, 1986, p. 166). See also Thucydides, *The History of the Peloponnesian War* (431 – 400 BCE).
between “whites” and these minority groups in the past reflects a power relation resembling the dynamic experienced during the colonial era, the period before emancipation and the granting of equal rights in North America, and the subjugation from the past lingers today through the exercise of police power.

This distribution of power results from what Carmichael and Hamilton (1967) call institutional racism. Unlike individual racism, which entails direct acts of violence or discrimination by a specific group or person, institutional racism is diffuse and covert. Institutional racism is the product of the concealed racist beliefs individuals hold, which leads to a general racist attitude that is widespread, though not overt, and a “sense of superior group position prevails: whites are ‘better’ than blacks; therefore blacks should be subordinated to whites” (Carmichael & Hamilton, 1967, p. 5). From the sixteenth to nineteenth centuries, African Americans were forcibly enslaved in the United States, while First Nations people were forcibly removed from their land and confined to small reservations in Canada. As such, just as one shaped the Algerian colonial setting previously described, a Manichean division applies to the North American context as well. This Manichean division is produced by an imbalanced power structure between two groups, and as such, varies from region to region. In the contemporary United States, African Americans represent the negation of “white” identity, and in contemporary Canada, First Nations people represent the negation of “white” identity.

The Manichean division that first emerged between the sixteenth and nineteenth centuries may thus still exist in North America at the dawn of the twenty-first century. It is from such binary divisions that institutional racism can find strength. One can argue that equality before the law, or the absence of personal commitments to discriminatory
behavior, render any hidden racist beliefs irrelevant (Carmichael & Hamilton, 1967, p. 5). Yet, as Carmichael and Hamilton (1967) write, while many white people deny their racist beliefs:

... they continue to support political officials and institutions that would and do perpetuate institutionally racist policies. Thus acts of overt, individual racism may not typify the society, but the institutional racism does—with the support of covert, individual attitudes of racism. (p. 5)

One of the most notable institutions perpetuating institutional racism is the police, which has committed numerous acts of violence against minorities without being subject to prosecution.

One recent Canadian instance of police violence against First Nations people involves the Saskatoon police department. A young aboriginal man named Neil Stonechild was found dead on the isolated outskirts of Saskatoon in 1990. A police investigation concluded that Stonechild had simply died from exposure, most likely due to hypothermia. Subsequently, four more aboriginal men, Rodney Naistus, Lloyd Dustyhorn, Darcy Dean Ironchild, and Lawrence Wegner, were each found dead on the remote outskirts of Saskatoon in January and February 2000, with police investigations also finding these deaths the result of hypothermia. In February 2000, however, Darrell Night, also an aboriginal man living in the Saskatoon area, stepped forward and revealed that he survived an attempted murder by Saskatoon police officers. Night alleged that two Saskatoon police officers had placed him under arrest and driven him to an isolated region in freezing temperatures, where he was abandoned by the officers and left to walk home without his winter coat. Upon the completion of a Royal Canadian Mounted Police
(RCMP) investigation of Night's allegations, the two police officers were only charged with unlawful confinement. RCMP investigations into the deaths of five other aboriginal men were also conducted, each concluding that there were no grounds upon which to file charges. While proof was indeed lacking in four of the aboriginal men's deaths, a witness in the Neil Stonechild case recalls two police officers arresting Stonechild, who was apparently battered and shouting for help. This particular case led the Saskatchewan Minister of Justice to form the "Commission of Inquiry into Matters Relating to the Death of Neil Stonechild" to investigate the nature of police contact with Stonechild. This commission, however, is not empowered to determine civil or criminal liability, as such issues are beyond the scope of its purpose—which is solely a public inquiry.\(^\text{11}\)

Similarly, numerous instances of police violence against African Americans have gone un-prosecuted in the United States. The deadly beating of Nathaniel Jones in Cincinnati (2003) and the lengthy beating of Rodney King in Los Angeles (1991), as discussed in the previous chapter, are two notable examples. Another example is found in the case of Aswan Watson, an African American driving in a stolen car. Watson was shot eighteen times by police officers in Brooklyn, New York, in 1996. Though officers claimed that Watson was reaching for a gun, a police investigation found no firearm in Watson's possession. Still, despite the fact that Watson posed no threat to police officers, the officers were not indicted.\(^\text{12}\) Similarly, the 1999 shooting of Amadou Diallo, an African immigrant, by four white officers marks another instance where officers escaped prosecution for violence against African Americans in the United States. Police officers fired 41 gunshots and hit Diallo 19 times outside of his home. Police officers argued that

\(^{11}\) Commission of Inquiry into Matters Relating to the Death of Neil Stonechild www.stonechildinquiry.ca (Retrieved February 8, 2004)

\(^{12}\)
Diallo was reaching for a weapon, but a police investigation revealed that Diallo was in fact unarmed. Nevertheless, the officers involved were acquitted of criminal charges.\textsuperscript{13}

Aside from these particular incidents, incarceration rates reinforce the point that the legal apparatus serves as a mechanism that further extends some remnants of colonial-like relations between "whites" and "blacks" in the American setting, which stem from slavery and segregation in the past. According to the Bureau of Justice Statistics, African Americans were between 2.5 and 49 times more likely to be incarcerated than "Caucasian" Americans, varying by state.\textsuperscript{14} Additionally, African Americans represent thirty percent of arrests in the United States while comprising only thirteen percent of the population.\textsuperscript{15} Most noteworthy, however, is that thirteen percent of African Americans have been disenfranchised due to criminal convictions, in comparison to two percent of white Americans.\textsuperscript{16} This translates into a greater absolute number of African Americans than "whites" being incarcerated, despite "blacks" making up a far smaller percentage of the country's population than white Americans.

A telling indicator of similar racial biases in Canada is found in Statistics Canada's rate of police officers per capita by province/territory (see chart, following page). These statistics indicate that police presence is far stronger in regions populated by a relatively large aboriginal population, where there are over twice as many police officers per capita in Canada's Territories than the provincial average. Thus, while most

\textsuperscript{12} "Grand jury exonerates 2 killer cops" \textit{Associated Press}, February 13, 1998.
\textsuperscript{14} \textit{Bureau of Justice Statistics}, Correctional Populations in the United States 1996 and Bureau of the Census data.
\textsuperscript{15} \textit{Bureau of Justice Statistics}, 1998 Sourcebook, Table 4.10 (arrests), Table 6.28 (jail inmates); Allen J. Beck and Christopher J. Mumola, "Prisoners in 1998," \textit{Bureau of Justice Statistics}, U.S. Department of Justice (August 1999).
Police departments’ mottos center on the traditional “To Protect and Serve,” police departments come to serve more as a force for punishment than protection for African Americans and First Nations people, as evidenced by American incarceration rates and the high police presence in regions more heavily populated by First Nations people.

<table>
<thead>
<tr>
<th>Province/Territory</th>
<th>Police Officers Per 100,000 Civilians</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nunavut</td>
<td>411.8</td>
</tr>
<tr>
<td>Yukon</td>
<td>399.2</td>
</tr>
<tr>
<td>Northwest Territories</td>
<td>389.3</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>200.5</td>
</tr>
<tr>
<td><strong>Provincial Average</strong></td>
<td><strong>173</strong></td>
</tr>
<tr>
<td>(excluding Sask.)</td>
<td></td>
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</tbody>
</table>

Pointing to this suggestion, Carmichael and Hamilton (1967) write that African Americans come to see “the white policeman on the corner brutally manhandle a black drunkard” (p. 9), while witnessing white criminals getting away with worse crimes. One could argue that such is also the case in Canada, where police officers target First Nations people for even minor violations. A recent incident involving racist remarks by Ontario police officers illustrates the likeness police themselves see between First Nations people in Canada and African Americans in the United States. During a 1995 standoff between Ontario Police Officers and First Nations people at the Ipperwash Provincial Park in Ontario, two officers were recorded making racially degrading remarks:

17 Obtained from Statistics Canada: http://www.statcan.ca/english/Pgdb/legal05c.htm (Retrieved February 1, 2004).
... there's no one down there. Just a great big fat fuck Indian .... We had this planned you know. We thought if we could get five or six cases of Labatts 50 [a brand of beer], we could bait them ... then we’d have this big net at a pit ... works in the [US] South with watermelon.¹⁸

Such comments illustrate the similar position held by First Nations people in Canadian racist discourse and African Americans in the American context, where a racialized group is the Manichean opposite for “whites” in each country. These racist discourses manifest themselves in discriminatory police practices through the effects of the institutional mode of racism described by Carmichael and Hamilton. This helps reinforce identities established during European expansion—based on oppression for “non-whites” under the threat of violence and incarceration, and superiority for European descendents through the unidirectional exercise force. Thus, as African Americans were previously enslaved by white Americans until the mid-nineteenth century and subjected to segregation until the mid-twentieth century, and as First Nations people were driven from their land and forced onto reservations by colonizing Europeans and denied political participation until the mid-twentieth century, the history of these two groups is in fact quite similar to that of colonized peoples who were also subjected to the interests of white Europeans in a given territory.

The Effects of Unrealized Decolonization

Presenting such conflicts between police and racialized groups, though, cannot be presented as an exclusively “white” assault against racialized minorities. Many police

forces today are comprised of members from various ethnic and racialized
denominations. Both the Nathaniel Jones and Rodney King incident had African
American police officers present. While Foucault’s account of police discipline, where
training regimens produce officers who follow police commands, may account for the
lack of intervention by the minority officers, Fanon, Carmichael, and Hamilton suggest
that something else is most responsible for this.

Declaring that a “black man wants to be white” (p. 9), insofar as white men are
considered human beings and black men are treated as objects, Fanon (1952/1967)
suggests:

Every colonized people—in other words, every people in whose soul an
inferiority complex has been created by the death and burial of its local and
cultural originality—finds itself face to face with the language of the civilizing
nation; that is, with the culture of the mother country. The colonized is elevated
above his jungle status in proportion to his adoption of the mother country’s
cultural standards. He becomes whiter as he renounces his blackness, his jungle.
(p. 18)

Fanon (1952/1967) writes that racial inferiority is something to escape, which may be
achieved by members of the native population by becoming “white” (p. 48), that is, by
adopting a “white” lifestyle and espousing “white” values. Fanon’s analysis suggests that
African American or First Nations police officers, in attaining such a position of power,
have successfully incorporated themselves into “white” culture. Therefore, a black police
officer taking part in illegitimate acts of violence against another black man, for example,
has escaped his “blackness” and would not deliberately “go back to it” (Fanon,
1952/1967, p. 48) by intervening. African Americans and First Nations people may use
the status of police officers to actualize dreams of being in the colonizers’ position, for,
as Fanon writes, “there is no native who does not dream at least once a day of setting
himself up in the settler’s place” (Fanon, 1961/1963, p. 39).

Carmichael and Hamilton (1967) further support this suggestion, pointing to the
American example where African American politicians put their own self-interests ahead
of the African American constituency they are supposed to represent (p. 10):

It is crystal clear that most of these people [politicians from racialized minority
groups] have accommodated to the racist system. They have capitulated to the
colonial subjugation in exchange for the security of a few dollars and dubious
status. (p. 14)

What this suggests is polarization of racialized minority political choices. One can
either become “white” and be protected by the politicians and police officers (or join their
ranks), or one can not become white, and be subjected to the repercussions of white
“colonial” power plus the power of those who have become white. For Fanon
(1952/1967), such a dynamic results when progress, as captured by Hegel’s master/slave
dialectic, is interrupted. Hegel (1807/1949) writes that:

Self-consciousness exists in itself and for itself, in that and by the fact that it
exists for another self-consciousness; that is to say, it is only by being
acknowledged or recognized. (p. 230)

Fanon’s concept of colonial liberation is clearly influenced by Hegel’s notion of the
master/slave dialectic. Fanon (1952/1967) agrees that mutual recognition is necessary for
one’s human identity as a conscious being, but argues that between the master and the
slave in a colonial setting, there is no such mutual recognition (p. 217). For this reason, Fanon (1961/1963) insists that liberty cannot be simply granted to aboriginals, but instead, aboriginals must win their freedom. Moreover, this freedom must be won through violence, for as Fanon suggests, “violence in its natural state ... will only yield when confronted with greater violence” (p. 61). Fanon claims that violence is the means by which the colonized can regain their self-respect, for at the individual level, “violence is a cleansing force ... frees the native from his inferiority complex ... and restores his self-respect” (Fanon, 94). Only with violent repossession of freedom can the colonized attain true freedom and be liberated from feelings of inferiority to colonial masters. Without this violent triumph, the colonial master will not recognize the slave’s conscious existence.

African Americans in the United States and First Nations people in Canada did not win equality with “whites” through violent acquisition. “One day,” Fanon (1952/1967) writes of the case in many Former French colonies, “the White Master, without conflict, recognized the negro slave” (217). Fanon continues: “the negro is a slave who has been allowed to assume the attitude of a master ... [the master] has allowed his slaves to eat at his table” (p. 219). This is what has transpired in Canada and the United States: First Nations people and African Americans were granted the right to act like “white” people. Institutions like All Hallows School in British Columbia, Canada, illustrate this right to act like white people. Such schools, which were standard throughout Canada at the dawn of the twentieth century, brought in First Nations children to assimilate them into the dominant culture (Barman, 1995, p. 337). As Jean Barman (1995) writes, “once in school, Indian pupils had little choice as to whether or not they
wished to be ‘civilized’” (p. 342). This freedom to be “white” for First Nations people was a “gift” from the “colonizers” of European descent in Canada, and according to Fanon’s conception of freedom in such a setting, genuine freedom for these racialized minorities has not been attained. The police, then, serves as the force that punishes non-conformity to the requirement to be white, and ensures that African Americans and First Nations people do indeed conform to the ideal “white” standard. Hence, some of the violent attacks by police on minorities for relatively minor infractions like public drunkenness. Alongside the Darrel Night and Neil Stonechild cases, similar instances of police violence that target intoxicated First Nations people have also been reported in various parts of Canada like Vancouver and Halifax.¹⁹

Such instances result from the capacity for violence remaining in the hands of the former colonizer, as Huey P. Newton (1967) would suggest. Newton, concerning the American example, states that the white power structure can still violently oppress African Americans (p. 137). The police, acting largely on behalf of a “white” legal structure in the United States, maintains a capacity for violence over African Americans, as was the case in formal colonial settings. Such is the case in Canada, where like Newton’s depiction of the American situation, police maintain “white” standards just as dominant racial groups did in colonial settings, by maintaining the capacity for violence to overpower First Nations people. The Oka crisis in Québec, during the summer of 1990 illustrates this point. A group of self-proclaimed Mohawk warriors and the provincial government disputed a project that was to expand a golf course over sacred ground. As police officers confronted the Mohawk warriors, gunshots were exchanged, killing police

officer Marcel Lemay. Following this exchange, additional officers arrived within a matter of hours, establishing a force of approximately one thousand officers to confront the twenty-five Mohawk warriors. Thus, just as violence remains in the hands of the "former colonizer" in the United States (Newton, 1967, p. 137), where police officers' capacity for violence overpowered demonstrations by African Americans during the Civil Rights movement in the mid-twentieth century, violence is also in the hands of the "former colonizer" in Canada, with police officers maintaining a decisively advantageous capacity for violence and force against First Nations people.

In the colonial setting, Fanon (1961/1963) points out, "the policeman and the soldier ... maintain contact with the native and advise him by means of rifle butts and napalm not to budge" (p. 38). The role of the police today in the American and Canadian post-colonial setting with respect to African Americans and First Nations people has changed little in its actual practice. The level of violence against African Americans and First Nations people exerted by police and society has decreased quantitatively in North America through the abolition of slavery and enforced confinement within reservation boundaries, but this is according to Fanon (1961/1963) also the result of a superstructure in the post-colonial capitalist first world that creates a belief that the legal system is fair. As Fanon (1961/1963) states, alluding to the ideological state apparatus that will be examined in the following chapter, "aesthetic expressions of respect for the established order serve to create around the exploited person an atmosphere of submission and of inhibition which lightens the task of policing considerably" (p. 38).

Within the context of a dominant racialized class and racialized minority groups in a post-colonial situation, then, it can be argued that police power is a mechanism that enforces standards of the dominant racial class. Fanon (1961/1963) argues that natives must win their freedom—it cannot be a gift. In North America, however, African Americans and First Nations people did not win their freedom from the dominant racialized class, but were instead granted freedom. Police remind racialized minorities of this gift and punish any act of ingratitude. Thus, it is not freedom, but instead, it is permission from former colonial masters to be free—free to act white, more precisely. The prevalence of police violence against these racialized minorities illustrates the function of police power, which serves to maintain white cultural supremacy and maintain control of those who do not make historically white cultural values their own. Police power, in the American and Canadian context, serves as means for maintaining possession of freedoms granted to the formerly colonized groups—ensuring that such racialized minorities are only free by permission of the “white” social structure. Thus, while the legal relationship and degree of violence between colonizers and colonized has changed, the relationship at the base level of power remains largely unchanged: the former maintains dominance over the latter. This quantitative decrease in violence is made possible by, as mentioned previously, the ideological state apparatus present in North American society, which can best be understood through an analysis of police power from Louis Althusser’s perspective.
Althusser’s Perspective
A tyrant has no power other than that which is given to him—the voluntary servitude of his subjects.

— Étienne de la Boétie (1548)

While the influence of race and post-colonial tensions significantly impact police-civilian interaction, it is also useful to examine police power from a perspective of class differences based on economic conditions. As mentioned previously, there is a certain class dimension influencing police surveillance that Foucault’s work does not adequately address. Police often scrutinize individuals from lower income brackets more closely than average middle-class citizens, especially when such lower-class individuals venture into affluent neighborhoods—though the reverse, where a wealthier citizen ventures into less affluent regions, does not ordinarily prove true. However, profiling and arresting low-income civilians for crimes motivated by their poor economic circumstances, in many cases structured by racialization since race and class often intersect in North America, would be untenable if it were based solely on the police’s capacity for violence. After all, despite the numerous instances of police violence, police power is often exercised without resorting to force. Louis Althusser’s theory of ideological state apparati provides valuable insight into the nature of such injustices within a system of gross inequality—that is, in late capitalism. Further, Althusser provides a framework for understanding power dynamics within such a system. This chapter, then, will first examine the dissimilar treatment of various classes by the broader legal system; and concludes by deploying Althusser’s work on the repressive and ideological dimensions of
the state to explain and account for these class phenomena, especially the role of police therein.

The Legal System as a Reflection of Class Interest

The state is one entity for Althusser, comprised of an infrastructure, which encompasses the relations of production and the productive forces themselves, and a superstructure, made up of repressive and ideological apparati (Althusser, 1969/1971, p. 134). The superstructure acts to secure the reproduction of the infrastructure through its repressive capacity, which relies on police, military, and prisons (Althusser, 1969/1971, p. 137). However, Althusser suggests that the relations of production are also reproduced through the ideological state apparatus (p. 143). Hence, Althusser (1969/1971) claims that “the ultimate condition of production is ... reproduction of the conditions of production” (p. 127). The state is then, according to Althusser (1969/1971), the “State of the ruling class” (p. 144). It is from this vantage point that one may better understand the relation between class and police power.

According to this perspective, individuals each possess a certain value within the standing systems of economic production, determined by their productive capacities. Thus, as the legal system is part of the repressive state apparatus (its relationship to the ideological state apparatus will be discussed shortly) seeking to reproduce the relations of production, the legal system can translate into a system of discrimination based on economic viability. Philosopher Jeffrey Reiman (1995), supports this assertion, claiming that “the label ‘crime’ is ... primarily reserved for the dangerous actions of the poor” (p.
49). For example, when an individual kills a man or woman during a robbery, the perpetrator is ordinarily tried on murder charges. If a company's executive, on the other hand, falsifies safety reports and violates safety protocols in a manner that results in the deaths of ten men, as was the case with a Kentucky mining explosion during the 1990's, it is only prosecuted as an administrative violation (Reiman, 1995, p. 50). There may be differences between these two crimes, for some may argue that the perpetrator in the burglary is more directly the cause of another person's death. Both the robber and company executive, however, are motivated by financial gain, and both of their actions lead to the deaths of innocent people. One could thus argue that it is not the criminal act's harmful consequences or intents that are punished, but instead, the identity of the perpetrator and the context of the crime, namely, how property relations are at stake therein. This context often correlates to the perpetrator's capacity for contributing to the forces of production. Judges have in some "white-collar" criminal cases stated openly, Reiman (1995) notes, that "they would not make criminals of reputable businessmen" (p. 113). Hence, white collar crimes like embezzlement are much less harshly punished than other forms of theft, even though the motivation and actions are the same: stealing forms of financial value for personal gain. Foucault (1975/1977) acknowledges the increasing legal emphasis on protection of property, pointing to "an increase in wealth and property and 'a consequent need for security'" (p. 76) as responsible for this new valuation, but does not address the distinction between white collar and street crime and their respective punishments. Reiman (1995) does make this distinction, suggesting: "the more likely that a crime is the type committed by middle- and upper-class people, the less likely that it will be treated as a criminal offense" (p. 109). The very definitions of crime by
legislators, then, tend to emphasize only certain types of criminal activity: the kinds that are primarily committed by less affluent members of society (Reiman, 1995, p. 59).

For these kinds of distinctions between criminal and less than criminal acts to hold up, the population at large must accept a moral system that corroborates the legal doctrines in place. These conceptions of fairness are learned by children in schools, as Althusser (1969/1971) suggests, but the conceptions of justice children are taught are actually the "rules of respect for the socio-technical division of labour and ultimately the rules of order established by class domination" (p. 132). Such notions of justice, Althusser (1969/1971) argues, reproduce the conditions of production by means of:

The legal-political and ideological superstructure ... [that] is secured by the exercise of State power in the State Apparatuses, on the one hand the (Repressive) State Apparatus, on the other the Ideological State Apparatuses. (p. 148)

As such, the legal system itself can serve as a legitimating force for the oppression of particular groups through its definitions of crime.

There are a number of laws prohibiting activities particularly representative of poorer civilians. Drug use, burglary, prostitution, and petty theft are more common as regular forms of criminal activity among members of lower income brackets (Reiman, 1995, p. 16). As studies have suggested however, people within these lower income brackets do not demonstrate any greater disposition for such criminal activities; but rather, the poverty endured is itself a source of such activities (Reiman, 1995, p. 106). In other words, most people are just as likely to steal as anyone else in circumstances when they are engulfed by poverty. Yet, few economic relief efforts by means of direct investment in low income regions have been undertaken, and the gap between rich and
poor in North America has instead increased throughout the end of the twentieth century. In the United States, according to 1990 statistics, the poorest fifth of Americans accounts for 4.6 percent of the national wealth, while the richest fifth accounts for 44.3 percent (Reiman, 1995, p. 28). An individual from this lower income group has neither much opportunity for success in steady higher income employment, nor much hope of being accepted into an established academic institution in efforts of rendering him or herself a viable candidate for such higher income jobs (Reiman, 1995, p. 27). In many cases, such a situation forces individuals to choose either minimum-wage employment that offers little hope for escaping the poverty surrounding them, or conform to the criminal/drug lifestyles surrounding them, where drugs are perceived as an escape from misery and suffering, as either something to use based on its psycho-hallucinogenic properties, or as something to traffic for high monetary gains.

Intensifying the problematic nature of this situation, drugs like heroin, crack, and cocaine are illegal in the United States and Canada, resulting in dramatically inflated prices. Personal drug use can therefore not be supported by low-wage employment. Users must resort to theft, prostitution, and burglary to buy narcotics, whose exorbitant prices can soar to approximately one hundred-twenty dollars (USD) per day (Reiman, 1995, p. 33). In terms of theft, one must steal about six times the retail value of an item to earn its cash equivalent, which can add up to well over seven hundred dollars in value of theft per day to earn one-hundred and twenty dollars cash (Reiman, 1995, 33): In the city of Vancouver, British Columbia, it is estimated that approximately four percent of the population is responsible for up to eighty percent of property crimes. Sergeant Gord Elias of the Vancouver police department’s Analysis Unit states that “drugs are the main
driving force behind our property crime, no doubt whatsoever. Similar patterns can be found in major metropolitan centres throughout North America, where Douglas Anglin and George Speckart's (1988) research suggests "strong evidence that there is a strong causal relationship, at least in the United States, between addiction to narcotics and property crime levels" (p. 226).

Such criminal problems are widely being addressed by increased police presence and incarceration. In Canada, for example, the number of police officers per 100,000 people has steadily increased in every province except New Brunswick. The number of prison sentences issued in Canada has also increased steadily for violent crimes, property crimes, drug trafficking, and drug possession. In the United States, the 1993 Federal crime bill called for an increase in the number of prisons and police officers, and encouraged the dispensation of longer prison sentences (Reiman, 1995, p. 26). Despite these efforts, though, punitive tactics centred on prisons and policing may prove in vain. As former FBI director Louis J. Freeh states:

The crime and disorder which flow from hopeless poverty, unloved children, and drugs can't be solved merely by bottomless prisons, mandatory sentencing minimums or more police.24

This suggests that other measures are necessary to reduce theft, prostitution, burglary, and drug crimes. The state could provide currently contra-band substances legally through government-regulated clinics at minimal cost, as some European countries have

done, to reduce the drug-induced property crimes and drug trafficking (Reiman, 1995, p. 33). Investing a fraction of the vast financial resources devoted to the “war on drugs” and the justice system could alleviate need-based crimes that often entail violence and robbery. These suggestions are of course worth many pages of argument in and of themselves, but it is nevertheless worth suggesting that there are direct solutions that could better address the abundance of criminal activities discussed, but they have yet to be seriously considered in North America.

The focus in North America, then, is on controlling drug trafficking/possession, theft, and its perpetrators, rather than eliminating its causes. Althusser (1969/1971) suggests that “the ultimate condition of production is ... reproduction of the conditions of production” (p. 127), which proves significant when considering that those involved in “street” crime, like drugs, prostitution, and burglary, typically come from lower income groups. As their primary means of support are derived from drug sales and theft, these classes of people neither contribute to economic production nor contribute to the reproduction of those conditions. That is, they fail to serve as viable labourers, as members of the property-less class drawn into a culture that is incompatible with mainstream economic production. Members of the lowest income brackets can only serve as a valuable source of low-wage forms of employment if not drawn into drugs and street crime. After all, individuals under the influence of crack-cocaine or heroin surely cannot prepare food at a fast-food restaurant in a sanitary and efficient manner while simultaneously exercising good customer service skills. Targeting these particular criminals, then, may serve a valuable purpose for the reigning structure of the economy and propertied interests. Émile Durkheim suggests that, generally speaking:
crime (and by extension other forms of deviation) may actually perform a needed service to society by drawing people together in a common posture of anger and indignation. The deviant individual violates rules of conduct which the rest of the community holds in high respect; and when these people come together to express their outrage over the offense and to bear witness against the offender, they develop a tighter bond of solidarity than existed earlier. (Erikson, 1966, p. 4)

More specifically, in late capitalist society, the criminalization of narcotics and the lack of effort to eliminate the conditions that foster related criminal acts like theft and burglary create another Manichean division, similar to that suggested by Fanon regarding racialization. What these forms of criminalization of the poor produce is a dichotomy between miserable and sickly criminals, on the one hand, and successful, healthy, and well adjusted non-criminals, on the other. This serves to encourage members of the lower class to choose a disciplined lifestyle that accepts low-wage employment. Messages embedded in various media forms throughout society illustrate this point, where drugs and crime are packaged together to present the "junkie," in contrast to non-drug-using and law-abiding citizens. Such messages do not prove, however, that productive labour for the lower classes, that is, minimum wage jobs at fast-food restaurants for example, is significantly better than a life of crime. In fact, if financial success is an individual's objective, crime may be the only hope for the attainment of wealth, albeit still an unlikely possibility nonetheless given the effectiveness of law enforcement agencies. Thus, while many argue that drug laws protect society and individual prospective users from the harmful effects of narcotics, it may instead be the
case that criminalizing drug use is intended to and to a great extent does benefit the existing conditions of capitalist production.

Althusser's claim about the reproduction of the conditions for production can now be read in terms of these insights. It is clear that the criminalization of narcotics, and the failure to eradicate the conditions of poverty that foster other criminal activities, facilitates an easy and powerful contrast between those members of society who contribute to the productive forces and those who do not. As Reiman (1995) notes:

the failure to stamp out deviance does not simply reinforce a consensus that already exists; it is part of the process by which a very particular consensus is created ... attached to a social order characterized by striking disparities of wealth, power, and privilege, and considerable injustice. (p. 40)

What this all suggests is that members of society falling within a lower class demographic are targeted by means that include and may go beyond racial profiling and stereotyping; this analysis suggests justice itself is an ideological force that legitimizes repression, through police brutality and harsher arrest patterns, as a means to sustain the terms of a particular economic structure. As Althusser notes, conceptions of justice are learned in childhood and are based on the legal system: citizens are shaped to believe that what is legal is right, and what is illegal is wrong. Thus, the very fact that one action against property is against the law and punished harshly, while another equally harmful act is classified as a lesser crime and is only minimally punished, carries a powerful ideological force that justifies punishment of members within certain sectors of the population who are not directly tied to economic production.
The police functions as a repressive mechanism in the state apparatus through its exercise of and capacity for force. In practice, however, this exercise of force is not equal in North America between police treatment of legal violations by lower income people and higher income people. Martin Gold’s research on delinquent behavior reveals that “if the offender came from a higher status family, police were more likely to handle the matter themselves without referring it to the court” (Gold, 1966, p. 38). Terence Thornberry’s study of Philadelphia youths corroborates this conclusion, which finds that lower-class minors are referred to juvenile court more often than minors from wealthier families, with identical criminal records, for the same criminal violations (Thornberry, 1973, p. 90). More recent studies further support these findings. Belinda R. McCarthy’s (1991) research, for example, finds that a strong correlation exists between unemployment and arrest patterns. These studies indicate that wealth/class factors into police treatment of suspected criminal activities, such that police are more likely to criminalize lower income civilians. Beyond that, as Reiman (1995) states, “the simple fact is that for the same offense, a poor person is more likely to be arrested and, if arrested charged, than a middle- or upper-class person” (p. 106).

However, the legal doctrines through which police officers operate function as an ideological complement facilitating law enforcement (Althusser, 1969/1971, p. 149). This ideological element facilitates law enforcement by creating a belief that police actions are legitimate and those against whom police acts are directed indeed deserve the treatment received. Even the popular media reinforces beliefs that police enforcement is
fair by portraying police as the "good guys" pursuing the "bad guys." As Reiman (1995) points out, television programs and movies suggest that:

One-on-one crimes of the poor are the typical crimes of all and thus not uniquely caused by the pressures of poverty; and that the criminal justice system pursues rich and poor alike—thus, when the criminal justice system happens mainly to pounce on the poor in real life, it is not out of any class bias. (p. 60)

This not only leads one to see those who do not contribute to the productive forces in society as failures, but that these people deserve the failure of their condition. After all, if an ideological force instills a view of justice that is then served by the state apparatus, Althusser (1969/1971) suggests, people will tend to unconditionally submit to the legal apparatus (p. 167). So, when a police officer issues a one hundred dollar speeding ticket to a low income civilian, the thought that justice is blind comes to mind, not that the one hundred dollar fine could prove crippling to one individual and of no consequence to a wealthier individual. Or, the profiling and brutality found in policing does not necessarily find thoroughgoing legitimacy, but escapes widespread concern as it is largely seen as the enforcement of just laws, which apply equally to everyone—with little thought that the poverty one is born into pressures him or her into drugs and crime far more than an individual born into middle-class property relations (Althusser, 1969/1971, p. 145). Those who are arrested often accept their criminality without resistance, as it is difficult to argue against the criminality of their actions, since clearly defined laws have been broken. Beyond that, the arrests of suspected "street" criminals conveys a message that this group constitutes the primary threat to middle-class and law-abiding citizens,
which often becomes a reality after being sentenced to spend time in prisons that typically “harden” criminals (Reiman, 1995, p. 151).

Althusser’s student, Michel Foucault (1975/1977), also addresses the production of criminality and delinquency, suggesting that prison actually creates “an unnatural, useless, and dangerous existence” for prisoners (p. 266). This assures that once released, former inmates either become productive workers in low-wage employment or are once again arrested. Either way, those prone to delinquency prove dangerous to the propertied-class, and they are effectively neutralized through incarceration. The police serve as agents who can monitor these people, ensuring that if these delinquents are not satisfied in their low-wage employment and resort to crime, the threat and harm they may pose to society are removed (Foucault, 1975/1977, p. 268). Harm in this case, like the distinction between administrative violations and murder, is defined in a manner relative to the propertied class. That is to say, while an individual having his or her car broken into is defined as having been harmed, those enduring the pangs of poverty are not. Moreover, just as deaths resulting from administrative safety violations are not treated as murder, assault and other forms of violence are defined as harmful, and rightfully so, but the poverty contributing to suffering and higher mortality rates is not (Reiman, 1995, p. 87). Instead, the physical harm that results from poverty is treated as an inevitable consequence of varying merit: those who work hard are rewarded. This, however, still ignores the fact that one’s socio-economic background significantly influences his or her chances for well being. As Foucault (1975/1977) notes, the prison system, fed by police arrests, produces new delinquents when the head of the family is arrested and
incarcerated, which throws the family into economic destitution, by forcing his or her dependents into a criminal lifestyle for income (p. 268).

Althusser (1969/1971) notes that this ideological force’s effectiveness depends on its “function (which defines it) of ‘constituting’ concrete individuals as subjects” (p. 171)—a theme that Foucault also later develops. For Althusser, ideology solidifies each individual as a subject, which situates and establishes him or her as an identifiable and concrete entity (Althusser, 1969/1971, p. 173). That is, ideology interpellates an individual as and into a subject. Interpellation, which Althusser also refers to as hailing, can be a simple “hey, you there!” shouted by police (p. 174). Ninety percent of the time, Althusser (1969/1971) suggests, the individual who was actually hailed will in fact turn around and in doing so make him or herself a subject (p. 174). The ideological force that benefits the upper echelons of society subjectifies each individual, where each person comes to be a subject of this ideology (though most do not realize their subjection to it) and submits to the authorities when asked to do so (Althusser, 1969/1971, p. 175).

The Police Officer as Lower Nobility

Ultimately, then, the police can help produce delinquency, as defined by Foucault, by closely monitoring lower class citizens and assuring that they are arrested for criminal behavior: thus legalizing their delinquency. Ideology serves as a complement to police power as a function of the repressive state apparatus by making most people obey the law.

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25 Althusser writes in the original French that “L’idéologie interpelle les individus en sujets.” The translation of the word “en” proves problematic, for it has often been translated as “as.” However, as Rastko Močnik (1993) suggests, the word “en” may also be translated as “into”, in which case, Althusser’s claim can also be interpreted as “ideology interpellates individuals into subjects” (p. 140).
and submit to police by authority alone without excessive resistance (Althusser, 1969/1971, p. 181). At the same time, police power as a repressive physical force complements the ideological apparatus by intervening with violence in cases involving "the 'bad subjects' who on occasion provoke the intervention of one of the detachments of the (repressive) State apparatus" (Althusser, 1969/1971, p. 181). Through this symbiotic relationship between capacities for violence and ideology, coupled with the justification for profiling and arrests of situationally coerced criminals (civilians pressured into criminal acts by the conditions in which they live) that ideology also provides, police power is effectively rendered a force that, as Althusser states, ensures "subjection to the ruling ideology" (p. 133). Hence, as the repressive apparatus of the state and reinforced by the ideological apparatus, the police can target and abuse lower class citizens with little official reprisal, as they are the class of people police function to monitor most. The police's participation in maintaining adherence to the ruling ideology may thus situate police officers as members of the ruling class, just as knights could attain the status of nobility through systems of vassalage during the medieval era.
Conclusion
The panopticon described in Foucault’s *Discipline and Punish* best exemplifies how to understand police power vis-à-vis its exercise on the street. As the micro-techniques of power that developed in panoptic settings like prisons and hospitals were decentralized from these institutions, they expanded throughout society at large. On the streets, outside of prisons and factories, this thesis argues, the police operate like the wardens, schoolmasters, and doctors, observing civilians closely to ensure that the panoptic mechanisms remain in place at all levels. The most efficient behavior for street life, just as the most efficient behavior for the factories and schools, is shaped on the street through discipline. In the case of police, this comes in the form of arrests, citations, warnings, and so forth. The result: obedience to the law and efficient, and possibly safer, public life and traffic systems. Police officers function like wardens and doctors through their exercise of normalizing judgment over civilians. Officers, as a result of scientific training and evaluation, become experts. Their judgment is held as more credible than that of civilians. Thus, what an officer believes happened in confrontations involving civilians is effectively rendered true. Legal infractions by civilians, even if witnessed by only one police officer, can rarely be challenged: a result of police credibility and police codes of silence. As such, an examination of police power from a Foucauldian perspective reveals that police officers are much like the doctors in asylums and prisons, and constitute us as subjects of the law—the domain of legitimate police concern.

Foucault is neither ignorant nor dismissive of the socio-economic forces that shape institutional power. Nevertheless, while his analysis of power considers the development of the state in a historical context, and how certain forces have shaped the
reality that has come to dominate humanity in modern Western states, he does not specifically examine how race and class influence the exercise of panoptic power and normalizing judgment to any great extent, emphasizing instead that the disciplinary “apparatus as a whole produces power” (p. 177). It is insufficient, however, to examine police power without considering the effects of race and class in particular, which often intersect in North America. An examination of the race and class dimensions is critical to understanding how this Foucauldian definition of police power is actualized in practice, for these two factors are so pronounced in multi-ethnic late capitalist environments like Canada and the United States. The Foucauldian definition of police power presented here, then, is valuable, but incomplete. The panoptic framework through which police operate and the sanctioned judgment exercised over civilians, this thesis argues, is a useful and meaningful depiction of police power. Fanon’s perspective, reinforced by Althusser’s work, treats power as more particularly located. That is, this authority of normalizing judgment and panoptic power is used instrumentally by certain groups. For both Fanon and Althusser, police power serves the state, which in turn serves a particular interest. The police functions as part of the repressive apparatus for the state through its capacity to use force. For Fanon, however, the state in post-colonial contexts is a “white” state, working for “white” interests. African Americans in the United States, and First Nations people in Canada, hold a similar historical position to that of Algerian natives in French Algeria during the mid twentieth century, as described in Fanon’s work. Fanon suggests that in Algeria, French colonizers used natives for European projects and recognized Algerian peoples only as instruments for such projects. When many various colonized peoples were liberated, freedom was often granted to them by the colonizers,
and thus, even in the post-colonial setting, colonizers still held a position of supremacy over natives in the sense that they allowed natives to be free. In North America, one witnesses a similar experience, where First Nations people and African Americans were granted freedom by “whites.” Police, as evidenced by the disproportionate violence against racialized minorities and disproportionate criminal conviction rates, enforce a “white” system among former slaves/natives. Fanon suggests that such a system is supported by an ideological framework, explained in greater detail by Althusser’s discussion on the ideological state apparatus.

Althusser also holds police power to be a repressive function of the state in the interest of the ruling class. Whereas Fanon defines the ruling class according to race, however, Althusser defines the ruling class largely by production and wealth (though in North America, wealth and race are often strongly correlated). Evidence of differing law enforcement standards illustrate this point. Police are more likely, for example, to arrest lower class citizens, and only give warnings to higher class citizens, for the same criminal violation. Thus, from an Althusserian perspective, police act on behalf of dominant class interests in the same manner that police act on behalf of “white” interests in the post-colonial setting. Althusser, however, points out that the state relies on ideological apparati to supplement its repressive complement. Conceptions of justice, Althusser suggests, are created by and in favor of the dominant classes. This legitimizes repression, for, according to the conceptions of justice ingrained in society, what is legal is right. In shaping a system of law that makes illegal harmful acts, based on definitions surrounding propertied interests, which are more often committed by lower classes, repression can be effected ideologically. Police power, then, is not simply a repressive force of the state
able to exercise its authority by force alone, but it is also viewed as legitimate. The propertied classes may come to believe that law enforcement is right, and many lower class civilians cannot deny the illegality, by definition, of certain actions. The generalized dichotomy, which contrasts drugs and crime with successful and law abiding lifestyles, presents such contrasts as the result of personal decisions, thereby allowing for widespread approval of policing, as those criminalized are believed to merit the punitive treatment they receive. This ideological support allows police power to be exercised more efficiently and with less resistance to its authority—it enables the police to constitute individuals as subjects.

One must also be cautious when analyzing police from these three perspectives lest this theory of police power be rendered nothing more than an outlandish government conspiracy theory. While all three perspectives contribute to a better conceptual understanding of police power, the positive contributions of policing must not be disregarded. Police officers more often than not pose little threat to the majority of civilians. Police officers sometimes come to the aid of civilians in danger. Over all, policing generates safety and well being for many. Taken as whole, then, police officers by and large keep the peace. Police officers, by the same token, must be granted significant authority to maintain the peace that prevails in many North American cities. Of course, as with any institutional organization, policing is influenced by special interests like race and class. Policing may be no more affected by special interests than other institutions are, but police officers are granted far more power than most other administrative officials. As evidenced by instances of misconduct, like murder, and internal codes of silence, the strength of this power can thus prove quite dangerous.
Hence, while officers by and large keep the peace, they can in some instances pose a threat to civilians—and as infrequent as these instances may be, they may prove even more terrifying than they are rare.

The coming decades may render police power even more dangerous. John Schaar (1970) suggests that legitimate authority is on the decline in the west (p. 278), where a “significant ‘de-authorization’ of the dominant institutions and ideas” is underway (p. 281). This challenges the Foucauldian interpretations of disciplinary power and subjection, for as Schaar (1970) writes:

We hear of riots and rebellions, demonstrations and assassinations. Heads of state in many modern countries cannot safely go among the citizenry. ... A lot of young people are trying drugs, and a lot of older people are buying guns. ... Some developers recently announced plans for a “maximum security subdivision” ... ringed by a steel fence and patrolled by armed guards and patrolled by armed guards, the shrubbery will hide electronic detectors, and visitors will be checked through a blockhouse. (p. 277)

If the disciplinary forces weaken, historically marginalized groups may begin to challenge traditional authority more, rather than submitting to institutional forces by authority alone. This could lead to, as Schaar indicates, authority becoming increasingly reliant on force. Thus, if the ideological apparati lose strength, policing could become defined more by its role as a function of the repressive state apparatus based on the actual use force. Police power at the turn of the twenty-first century, then, is surrounded by a host of questions regarding how it may change in the future. Will police power become more reliant on physical force as the ideological apparati lose strength? Can policing
remain effective if based more on physical force and violence? If more reliant on violence—considering the profound effects of the Rodney King incident—will public support for police officers be maintained? Ultimately, police power as it stands today may either need to go through significant changes that address concerns of disadvantaged groups as these groups grow more defiant, or police power may have to be quantitatively magnified to uphold the level of control it holds today. Only time will tell, of course, but as police power is clearly an instrumental part of safety, justice, and peacefulness in North American cities, it would be folly to simply wait and see. By understanding the theoretical capabilities of police power as presented here, and how this power can manifest itself at its worst extreme, future research can and must find new ways to secure police power as a just function, from a critical perspective, in Canada and the United States that will protect and serve everyone, everywhere.
Bibliography


