The Criminalization of Political Dissent: A critical discourse analysis of Occupy Vancouver and Bill C-309

by

Debra Mackinnon

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Approval

Name:	**Debra Mackinnon**
Degree:	**Master of Arts**
Title:	***The Criminalization of Political Dissent: A critical discourse analysis of Occupy Vancouver and Bill C-309***

Examining Committee: **Chair:** Dr. Ann Travers
Associate Professor of Sociology

Dr. Wendy Chan
Senior Supervisor
Professor of Sociology _____

Dr. Robert Menzies
Supervisor
Professor of Sociology _____

Sheri Fabian
External Examiner
Senior Lecturer
School of Criminology
Simon Fraser University _____

Date Defended/Approved: August 11, 2014

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Abstract

Liberal democratic states have increasingly characterized expressions of political dissent as problems of 'security' that legitimize ongoing processes of pacification and securitization. In Canada, securitization has allowed for omnibus crime bills, increased surveillance and the continued curtailing of due process. This thesis employs the political economy of scale and anti-security literature to analyze two specific security cases – Occupy Vancouver and the making of anti-masking legislation. I draw on Access to Information and Freedom of Information releases from municipal, provincial and federal governments to explore the criminalization of political dissent, by focussing on pre-emptive social control tactics used during the two cases. These cases highlight the use of liberal ideology, the interoperability of multiscalar governance, and othering processes that construct dissenters as unlawful and illegitimate. This research provides a nuanced understanding of the tactics used to justify pre-emptive control, with the view to destabilizing the liberty-security regime.

Keywords: criminalization, social control of protest; security, surveillance, Occupy; anti-masking, ATI/FOI requests

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List of Acronyms

ATA	Anti-Terrorist Act
ATI	Access to Information
ATIA	Access to Information Act
CACP	Canadian Association of Chiefs of Police
CCTV	Closed-Circuit Television
CDA	Critical Discourse Analysis
CLEOC	City Large Events Oversight Committee
CSIS	Canadian Security Intelligence Service
DOJ	Department of Justice
DTES	Downtown Eastside
DVBIA	Downtown Vancouver Business Improvement Association
FOI	Freedom of Information
JIG	Joint Intelligence Group
OV	Occupy Vancouver
PSC	Public Safety Canada
RCMP	Royal Canadian Mounted Police
TPS	Toronto Police Services
VAG	Vancouver Art Gallery
VicPD	Victoria Police Department
VPD	Vancouver Police Department

Chapter 1. Introduction

On April 24th, 2013, Vancouver Police Chief Jim Chu presented to the Standing Senate Committee on Legal and Constitutional Affairs concerning Bill C-309. This private member's bill titled *Preventing Persons from Concealing Their Identity during Riots and Unlawful Assemblies Act* sought to make masking an indictable offense. However, Chief Chu's involvement with this legislation predates this hearing and can be traced back to an earlier policy recommendation drafted by police chiefs in Western Canada. Introduced in the wake of the 2010 Toronto G20 protests and the 2011 Vancouver Stanley Cup riots, this act was met with much speculation as to when the provisions should or could be used. Later in these parliamentary proceedings, Chief Chu recontextualized the case of the Occupy Movement to explain the scope of this act. Chief Chu stated,

> Using the example of Occupy, many dozens – hundreds, of protests occurred where people wore those masks. We had no reason to declare it an unlawful assembly. I have explained that I believe it is a very high test before people will say it is an unlawful assembly. When we do that, we are always worried that people will accuse the police of starting the violence and the problem. However, let us say the situation degenerated and an unlawful assembly was declared. Our actions will always be incremental. I know my commanders would definitely look for the ringleaders first (Standing Senate Committee on Legal and Constitutional Affairs, 2013c).

By suggesting that the Occupy Movement had the potential to degenerate into an unlawful assembly, Chief Chu cemented the connection between protest and riot discourses. Contingent on how the police (re)construct them, all lawful assemblies have the potential to become unlawful. Perniciously, Chief Chu's comment decontextualized the governance of the Occupy Movement. As Police Chief, Jim Chu aided in the creation of the regulatory and statutory framework that was used to pre-emptively manage Occupy Vancouver (OV). This framework, predicated on the surveilling of populations, was incrementally used by City law enforcers to label OV as unsanitary, unsafe and

unlawful thereby legitimizing its closure. In doing so, Chief Chu drew parallels between the closure of OV and the use of incremental and pre-emptive control. The above statement to the Senate served to recontextualize and repurpose discourses surrounding the criminalization of political dissent in Canada. This recontextualization of discourse surrounding these events exemplifies the ongoing state pacification project used to surveil, regulate and control the population, especially those deemed to be hostile.

In recent years, kettling[1] and mass arrests have become common police practices at protests (Cox, 2013; Cynic, 2012; Esmonde, 2010; Kraus, 2010, Monaghan & Walby, 2012a). Occupy camps have been shut down, environmentalists have been labelled as terrorists, masking has been criminalized, and international metadata surveillance systems have been adopted by Western nations (Damon, 2011; Egelko, 2012; Fitzpatrick, 2013; Freeze, 2013; Gill, 2010; Monaghan & Walby, 2012b; Potter, 2012). These events, often viewed as isolated and unrelated, illustrate the many ways in which political dissent has been delegitimized, pacified and subsequently criminalized.

In Canada today, all branches of the State have internalized a "tough on crime" mantra which allows for the curtailment of rights in the name of security, crime control and public safety. This process of pacification is evident in contemporary legislation such as the Canadian Anti-Terrorist Act and the omnibus crime bills C-2 and C-10. These pieces of federal legislation inform and work in tandem with provincial and municipal ordinances, codes, bylaws, zoning restrictions and demonstration permits (Clarke, 2002; Fernandez, 2008). The culmination of such legislation, together with media portrayals of political dissent, solidifies a potent narrative that conceives of "demonstrators as potentially violent criminals whose assembly requires repression" (Boyle, 2011, p. 116, D'Arcus, 2006; Fernandez, 2008 p. 34). In doing so, violent paramilitary tactics such as kettling, mass arrests, and the closure of public spaces are legitimized (della Porta & Reiter, 1998; Earl, 2003; Parks & Daniels, 2010). Dissenters' habeas corpus rights are routinely infringed upon when officers enforce arcane public order offences and tailored

[1]Also referred to as containment or corralling, kettling is a paramilitary crowd control tactic used during moments of protest, in which riot clad officers surround protestors, partially or completely limiting their means of exiting the space (Mead, 2011).

ordinances (Berger, 1981; Esmonde, 2003; Parks & Daniels, 2010). The temporary enforcement and then abandonment of these charges demonstrates how laws can be applied to specific instances, and then discarded (Barkan, 2006; Esmonde, 2003; Esmonde, 2010; Fernandez, 2008, p. 72; Katz, 2011). Rather than prosecute and incarcerate protestors, these formal control strategies are more concerned with expanding surveillance and intimidating citizens (Fernandez, 2008, p. 72). The combination of these factors constitutes a form of formal social control that undermines challenges to the current social order.

Academics and activists note the increased use of pre-emptive formal social control tactics employed to overtly and covertly regulate, manage and pacify dissent (Fernandez, 2008; Waddington & King, 2007; Monaghan & Walby, 2012a). Fernandez (2008) argues that, "legal control during protest plays a lesser role than it does before and after" (p. 88). While moments of protests demonstrate the enactment and privileging of mandates, focusing solely on these moments overlooks the underlying intent of the aforementioned legal controls. This thesis while, arguably a "case-study" approach, attempts to extend the scope of analysis by focusing on patterns of discourse surrounding the criminalization of dissent in Canada between 2011 and 2013.[2]

Given the publicized and unapologetic shift away from evidence-based legislation in Canada[3] I interrogate how current instances of the criminalization of dissent reflect social relations. Two questions guide the research in this thesis. First, how is dissent criminalized discursively and through what processes? Second, how do these processes elucidate relationships between government bodies? Informed by geo-spatial contexts, the history of policing cultures in Vancouver, and the ease of data collection within

[2]This research, while attempting to approach discussions of the criminalization of political dissent from various vantage points and extend the scope of analysis, has at times resulted in a two-dimensional analysis. Section 6.2 discusses research limitations and section 6.3 suggests measures for addressing these issues in future research.

[3]While "evidence-based" policy and legislation have never been a central mandate the current administration has launched an assertive attack. For instance, budget cuts to Statistics Canada, the hiring of party line commissioners, and Prime Minister Harper's infamous statement concerning how "now is not the time to commit sociology" reflect the Conservative government's complete dismissal of research-based legislation.

provincial boundaries, this thesis explores these processes through a Western Canadian lens[4] – specifically by looking at the governance of OV and the making of Bill C-309.

The main data source for investigating these questions will be Access to Information (ATI) releases and Freedom of Information (FOI) releases. I analyse these data using a dialectical relational approach to critical discourse analysis (CDA). My research examines discursive elements such as recontextualization, intertextuality and interdiscursivity to emphasize themes found in the data through two distinct "cases." The "cases" can be thought of as vantage points from which to understand discourses surrounding the criminalization of dissent. This epistemological[5] approach is guided by theoretical writings in three key areas: Marxian understandings of law, the political economy of scale, and anti-security studies. This body of literature focuses on ideas of power, regulation, scale, pacification and security, issues that are germane to my investigation of how and why dissent is criminalized.

The thesis is organized into six chapters. Chapter 2 engages with contemporary, scholarly literature concerning the criminalization of dissent. Chapter 2, influenced by the epistemological position taken in this thesis, explores discourses and the ways in which the criminalization of political dissent is discussed. Chapter 3 details the theoretical orientation and research methodology employed in this project. Chapter 4 and 5 present the research findings. These findings are organized in thematic sections and parallels can be drawn between similar recontextualized discursive practices. Chapter 4 examines the recontextualization of state/space during OV using documents collected from the Department of Justice (DOJ), Royal Canadian Mounted Police (RCMP), Canadian Security Intelligence Service (CSIS), Public Safety Canada (PSC), British Columbia Provincial Government, Ministry of Justice, City of Vancouver and Vancouver

[4]Arguably, language proficiency and location impacted the selection of "case studies." The selection of case studies is further discussed in section 3.2.4. As a means of providing a more nuanced analysis, future work may examine the impact of Bill 78 and the Quebec Student Union movement on the development of Bill C-309.

[5]Discussed in relation to the theoretical and methodological orientation explicated in Chapter 3, this project conceives of discourse as a way of accessing knowledge. More specifically, this epistemological position focuses on interdiscursivity – that is, the ways in which discourses are recontextualized, reproduced, and connected. While smaller in scale to Fairclough 2009, Jessop 2004, and Wodak 1989, this thesis seeks to emulate the epistemological position and methodological practices employed by these scholars.

Police Department (VPD). Chapter 5 examines the multiscalar making of anti-masking legislation Bill 309 – specifically, criminalizing discourses are traced through correspondence between federal legislators, DOJ, CSIS, Canadian Association of Chiefs of Police (CACP), the VPD and Victoria Police Department (VicPD). Finally, Chapter 6 provides closing remarks.

Chapter 2. Criminalization of Political Dissent Literature: A Discussion

In the wake of the 2010 Toronto G20 protests, the criminalization of dissent has garnered much attention from the media, the criminal justice system, advocacy groups and academics in Canada. As a result, this term and its many synonyms (e.g. legal social control, state repression, protest control, etc.) have been applied to various situations as a means of understanding the legal strategies employed by the state to regulate, manage and pacify dissent (Fernandez, 2008). Much of the writing in the areas of social movement theory (Giugni & Tilly 1999; Snow, Soule & Kriesi 2008; Tilly & Wood, 2013), public-order policing (King, 1997; King, 2005; King & Waddington, 2004; Waddington, Jones, & Critcher, 1989), citizenship studies (Dalton, 2008; Kennelly, 2011; Sparks, 1997) and human rights literature (Berger, 1981; Clément, 2005, Clément 2008, Ratner & Kunstler, 2011) has centred exclusively on 'moments of protest' – riot gear-clad officers, kettling, mass arrests, police brutality, and property damage – leading to a totalizing understanding of the criminalization of political dissent. However important it may be, focusing discussion solely around 'moments' of protest fails to recognize the longitudinal scope of processes of criminalizing dissent, specifically the various forms of pre-emptive control that regulate these 'moments'.

Scholarly literature on the criminalization of political dissent examined in this chapter depicts the phenomenon in the following ways: 1) as a form of state repression, 2) as a form of protest control and pre-emptive tactic, 3) as a means of governing people through space, and 4) as a securitization project. Scholars writing in this area come from a wide range of intellectual disciplines. For purposes of coherence, I have thematically grouped these disparate areas of scholarship together, and in doing so have necessarily conflated and erased ontological, epistemological and methodological distinctions. These groups of literature are neither static nor separate; rather, they are at times overlapping, dynamic and co-existing. However, for the purposes of review, this pseudo-chronological and thematic organization places bodies of work in a dialogue and enables

a summative critique. This chapter examines how these different perspectives shape research on the criminalization of political dissent. Through this review I demonstrate how studying the creation and implementation of pre-emptive social control tactics can provide insight into state power, discourses of illegality, and understandings of governance.

2.1. Criminalization of Dissent as State Repression

In much of the literature, the criminalization of political dissent has been discussed as an issue of state repression. This perspective, owing much to scholarship concerning the totalitarian state and the authoritarian state, problematizes the role of the state in the creation and regulation of dissent. Reinvigorated by public demonstrations and disciplinary legislation of the past 50 years, critiques of public order and state repression have sought to elucidate the relationship between law, crime and society, as well as the place of social theorists in this discussion (Scraton, 1987, pp. 59-61). Critical authoritarian scholars argue that understandings of law and crime cannot be divorced from political, economic and social structures, and they take aim at the pervasive positivism and the politicization of this discussion (Hall & Scraton, 1987, p. 471; Scraton, 1987). In this thesis, crime and criminalization are conceived of as strategic social control processes (Box, 1983, p. 12). Scholars argue for the need to explicate the deep-seated ideologies behind these constructive processes, as definitions of criminalization, including forms of state repression, often serve to officialize governance and develop popular consent (Box, 1983, p. 13; Gramsci 1971; Scraton, 1987, p. 61). In paving the way for critical analysis, much scholarship on the authoritarian state has sought to end causation-based research in favour of analysis that explores the contexts of social action and reaction (Scraton, 1987, p. 5). While some contemporary literature on state repression is able to keep within the tenor of these objectives, prevailing contemporary understandings of state repression have been taken over by pervasive positivism (Davenport, 2000; Davenport & Eads, 2001; Davenport, Johnston, & Mueller, 2005).

Davenport (2000) argues that contemporary discussions of state repression can be separated into three “ways of thinking”: 1) the negative sanctions tradition that conceives of state repression as the curtailment of political and civil liberties

(Feierabend, Gurr & Feierabend, 1972; Giddens, 1985; Tilly, 1978), 2) the state terror tradition that conceives of state repression in terms of threats and violence used to induce complacence (Agamben, 2005; Arendt, 1951; Stohl & Lopez, 1984), and 3) the human rights tradition that conceives of state repression in terms of the integrity of a person (Clément, 2005; Henderson, 1991). While these three "ways of thinking" should not be viewed as discrete, since they work in tandem and inform each other (Neocleous & Rigakos, 2011; Stohl & Lopez, 1984, pp. 7-9),[6] this review will focus primarily on the negative sanction tradition – specifically the growing areas of contentious politics and protest policing.

2.1.1. State Repression as Contentious Politics

The literature on contentious politics builds on relational and interactive approaches by partially embracing the calls of critical authoritarian scholarship for contextualized understandings of social life in response to the growing body of social movement literature (McAdam, Tarrow & Tilly, 2001). Although the term 'social movement' recognizes the impact of 18th century European social movements on the nature of contentious politics, it nonetheless obscures historical construction, homogenizes contention and prevents systematic comparisons (Tilly, 2004). McAdam, Tarrow and Tilly (2001) propose an analytic framework to bridge the studies of movements, revolutions, political struggle and other forms of non-routine politics to overcome and synthesize the diverse theoretical traditions engaging in this field.

From this vantage point, life is examined in terms of contention, collective action, and politics (Goldstone & Tilly, 2001; Tilly & Tarrow, 2007, pp. 4-8). Politics is seen as an area in which claims, usually bearing on others' interests, lead to coordinated and collective action against the government (Tilly & Tarrow, 2007, pp. 4). "The government" is understood as both instigators and targets of contentious practices rather than as monolithic or static entities (Tilly & Tarrow, 2007, pp. 4-5). By combining these concepts, Tilly & Tarrow (2007) argue that contentious politics, as a framework, enables the

[6]Entering into this conversation Gary Marx distinguishes repressive actions according to their specific aims: creation of unfavourable public image, information gathering, restriction of a movement's resources, de-recruitment of leaders, and internal conflict (Marx, 1979).

navigation of regimes,[7] structures, and routine interactions between governments and actors (p. 45).

This analytic approach attempts to operationalize social life. By quantifying social life into events, episodes, mechanisms and processes, contentious politics scholars endeavour to disaggregate these units of analysis, so that they can be studied in isolation (Tilly & Tarrow, 2007, pp. 26-45). In doing so, these components can be compared with controls and correlated with other factors (Tilly & Tarrow, 2007, p. 30). They suggest that only by looking at both institutional and non-institutional politics can we understand the dynamics of contentious politics, as well as the overlapping relationships between institutions, contentious politics, and social movement bases[8] (Tilly & Tarrow, 2007, pp. 124 & 183).

Dissent, while a form of collective action, is conceptualized principally as a contentious performance. These performances, or repertories, serve to limit and normalize forms of dissent known or available to political actors (Tilly & Tarrow, 2007, p. 11). Through this interactive account, dissent can be understood as both a reason for and a result of repressive actions. These repressive actions, including the criminalization of dissent, are defined as political control mechanisms and strategies of regulation, which are employed by regimes to produce political quiescence and ensure their continuation (Davenport, 2007, p.6; Tilly & Tarrow, 2007, p. 45). The more threatening the regime perceives a contentious repertoire, the more likely the actors will be the target of repressive regulations and mechanisms (Davenport, 2000, pp. 3-5). The construction and response to threats, while not conceived of as "contentious repertoires," are detailed in the following chapters.

Those who adopt this analytic framework extend these core components, adding more dimensions of analysis. For example, Davenport's (2007) work on the relationship between domestic threats and state repression builds on this framework, by

[7]From a contentious politics approach, rather than connoting authoritarianism, 'regime' refers to the regular relations amongst government, established political actors and established challengers (Tilly & Tarrow, 2007, p. 45).

[8]Tilly and Tarrow (2007) conceptualize social movements as longstanding campaigns of claim-making that rely on repeated performances that publicize the claims (p. 8).

incorporating dimensions of inequality, structures and boundary exchanges. Similarly, della Porta and Reiter (1998) expand discussions of social movements and protest by using contention to structure comparative studies of western democracies.

2.1.2. State Repression as Protest Policing

Many scholars note the "significant gaps" in these relational and interactive approaches, and seek to expand conceptualizations of contentious politics to account for the various levels of power they embody, and to enable transnational comparative analysis (della Porta & Reiter, 1998, Waddington, 1998). della Porta and Reiter (1998) coin the term "the policing of protest" in order to "appear politically neutral" and further distance discussions of the state from critiques from the "left."

The policing of protest, as a potential form of criminalizing dissent, refers to the police handling of protest events (della Porta & Reiter, 1998, p.1). This approach seeks to understand the interactions between police and protestors within the larger context of Western democracies.[9] Variations in the police handling of protest are explained by mapping the relationships between: the organizational features of police, the configurations of political power, public opinion, police occupational culture, and the interaction with protestors (della Porta & Reiter, 1998). Police then filter these ideas, policies, practices and procedures to determine various forms of protest policing (della Porta & Reiter, 1998). These forms are understood in terms of various dichotomies (e.g. "brutal vs. soft," "repressive vs. tolerant," "diffuse vs. selective," "illegal vs. legal," "reactive vs. preventive," "confrontational vs. consensual," "ridged vs. flexible," "formal vs. informal," and "professional vs. artisanal")[10] (della Porta & Reiter & 1998, p. 4). Using this dichotomized framework, the criminalization of political dissent can take on

[9]della Porta, Reiter and the other authors contributing to this edited volume differentiate between established democracies and young democracies; moreover, they discuss the implications of this categorization.

[10]From this model, della Porta and Reiter (1998) introduce five additional variables associated with democratic policing. Once again dichotomized, they comprise "representative vs. unrepresentative police"; "high to low visibility of police and demonstrator actions"; "identifiable vs. anonymous police demonstrations"; "administrative procedures for reviewing police behaviour and means for citizen to express grievance"; and "cooperation versus adversarial demonstrations" (p. 262).

many characteristics. Ultimately from this perspective, the criminalization of dissent is seen as an escalation of protest policing (King & Waddington, 2004). This conception of protest policing challenges and reinvigorates much of the work on public order policing.

Writings on public-order policing, influenced by protest policing literature, focus on the criminalization of political dissent as it pertains to police tactics. Unlike day-to-day patrol, public order policing involves the deployment of officers in squad formations to manage large crowds, using hard and soft line tactics (King, 1997, 2005; King & Waddington, 2004). Public order policing literature attempts to provide a holistic strategy for managing relations between protestors and the state, by analyzing the structural, political, cultural, contextual, situational and interactional levels (Waddington, Jones, & Critcher, 1989). While much research in this area suggests the need for public-order policing, questions remain regarding the impact of escalating state and police repression, thus shifting analysis to the meta-issues of protest rights.

2.2. The Criminalization of Dissent as Protest Control

While aspects of state repression literature have enabled productive discussion over the past decade, there has been a push towards discussing these topics as "the social control of protest" or as "protest control" (Earl, 2006, p.130). Informed by growing governmentality literature, Earl (2006) suggests that such a reorientation would shift discussion past state-based coercion, in order to account for the heterogeneity of repressive actors, as well as the non-violent and private forms of protest control they wield. A reorientation towards protest control would enable researchers to extend dialogue longitudinally to observe the effects of protest control over the life course of a movement (Earl, 2006, p.130). Earl (2004) stresses the importance of a longitudinal approach, recognizing the considerable effect of protest control on: the construction of grievances, capacity and formats for handling grievances, organizational formation and maintenance, recruitments and retention, strategic decision making, survival, and outcomes (Earl, 2004, p. 77). This thesis heeds these calls for a reorientation by examining ongoing discourses surrounding the criminalization of dissent – specifically the interests of private business on "non-violent" forms of protest control. To address issues with state-repression literature and advance the aims of protest control, Earl

(2006) suggests structuring discussions of protest control in terms of three fundamental dimensions: the identity of actors engaging in control, forms of coercive and channelling actions utilized by these actors, and the observability of these actions (Earl, 2003).

Table 2.2 A Typology of Protest Control[11]

	Coercion		Channeling	
	Observable	Unobservable	Observable	Unobservable
State Agents Tightly Connected with National Political Elites	Military action against protests	FBI counter-intelligence programs	Cutting off funding to social movements	U.S. tax law on non-profits
State Agents Loosely Connected with National Political Elites	Local policing of public protest events in the U.S.	Local police departments' counter-intelligence programs	Permitting requirements for protest events	Financial aid restrictions on students convicted of crimes
Private Agents	Violence by counter-movement	Private threats made by a counter-movement	Elite patronage limited to specific protest goals or group tactics	Company towns

Doing so would address some of the monolithic and normative dualism constructions perpetuated by state repression literature. Earl (2006) argues that typologies serve to challenge and remind researchers of potential epistemological and methodological issues. Not all research is comparable, and the typologies help scholars to assess the weight of comparable research (p. 130). Similarly, typologies allow scholars to conceptualize the work of others, determine topics of future research, and hypothesize the relationships between various forms of research (Earl, 2006, p. 131).

As a foil to early public order policing strategies, protest control literature[12] incorporates material from the sociology of law, criminology, social movement theory, media studies and anti-globalization discourses (Boyle, 2011; Davenport & Eads 2001; Davenport, Johnston & Mueller, 2005; Earl, 2003; Earl, 2006; Earl, Soule & McCarthy, 2003; Fernandez, 2008; Kennelly, 2011; Koopmans, 2005). By applying this typology

[11](Earl, 2003, p. 49; Earl, 2006, p.131)

[12]The lines between these "bodies" of literature are not clear. At times, depending on the author or publication, protest control literature is also referred to as theories of state repression and the social control of protest.

approach, the criminalization of political dissent is not seen as singular action, but rather as a specific result of the fundamental dimensions of protest control. By building on Davenport's (2000) threat approach and McAdam, Tarrow and Tilly's (2001) interactive approach, current research on protest control has expanded into the areas of private agents (Earl & Soule, 2006; Soule & Van Dyke, 1999), political opportunities (della Porta 1995) policing studies and policing culture (Davenport & Eads 2001; Davenport, Johnston & Mueller, 2005; Waddington, Jones, & Critcher, 1989), media representations (Davenport & Eads, 2001; Earl, Soule, & McCarthy, 2003; Koopmans, 2005), and subsequent mobilization (Earl, 2003). Much protest control research is intricately connected to academic and activist work on social movement mobilization, and attempts to assess the effects of coercive protest control on subsequent mobilization. In studying an array of movements, contexts and locations, some researchers suggest that coercive control negatively affects protest participation (DeNardo 1985; Muller and Weede 1990), while others note the potential it has for inciting mobilization (Hirsch 1990; Opp and Roehl 1990). Ultimately, Earl maintains these understandings are monolithic, and perhaps the variety of curved and non-lineal relationships may tell a more complicated story (see DeNardo, 1985; Hibbs, 1973; Lichbach & Gurr, 1981; and Rasler, 1996).

2.2.1. Protest Control and Pre-Emptive Protest Tactics

While Earl's typologies of protest control are able to account for many forms of dissent, its criminalization and its impact, little scholarship has focused exclusively on pre-emptive legal protest control tactics. In *Policing Dissent*, Fernandez (2008) argues that, "legal control during protest plays a lesser role than it does before and after" (p. 88).[13] Through his investigation of Western anti-globalization movements, Fernandez (2008) identifies six forms of pre-emptive control: host city selection, city ordinances and codes, zoning restrictions, the revision of old laws, demonstration permits, and protest

[13]Barkan (2006) is also critical of social movement and law and society scholars. He argues that little attention has been paid to the prosecution of protest. This neglect of the impact of arrests and prosecution on social movement members curtails longitudinal understandings of control and mobilization.

zones.[14] These pre-emptive tactics have long been discussed by law makers and law enforcers. Fernandez's discussion of these tactics serves as a useful means of organizing previous literature.

The location of large political events determines their nature and response. While global cities provide the amenities to host global summits, they also provide the infrastructure to attract large numbers of protesters (Fernandez, 2008, p. 94). Organizations select cities that are easily defensible, lack strong activist networks and are not easily accessible to activists (Fernandez, 2008, p. 94).

The power held by global cities and municipalities is illustrated by the use of city ordinances and codes. Ordinances refer to laws found in subnational (i.e. municipal, counties, parish, and prefecture) codes of law. In the context of British common law, ordinances task surrounding bureaucratic structures with making subsidiary legislation to supplement the ordinance. Research investigating the use of ordinances during protest has focused on their covert establishment (Fernandez, 2008; Fernandez & Starr, 2009; Wainwright, 2006), their temporality (Fernandez, 2008), normalcy (Yoder & Tempy, 2013), and their relationship to other forms of protest control (Yoder & Tempy, 2013).

While typically employed by local government to regulate land usage and development density, law enforcers utilize zoning and zoning ordinances as a pre-emptive control strategy (Fernandez, 2008; Hendren, 2000; Mitchell & Staeheli, 2005). In the months leading up to mass demonstrations, city enforcers (e.g. fire chiefs, public health officers, building inspectors and police chiefs) selectively enforce zoning laws. And so, during times of protest, the spaces used by protestors become vulnerable to fire codes, building codes, insurance issues and food handling problems (Fernandez, 2008,

[14]Arguably, Fernandez's analysis focuses on the governance of global summits – a specific and distinct form of meeting/organizing. Zajko & Béland (2008) maintain that global summits serve as both conduits for the transfer of neoliberalism, and spatial lightning rods for opposition and contestation (Zajko & Béland, 2008, pp. 724-725). Furthermore, by providing an ephemeral geographic location to issues that are framed as a-spatial, global summits create a space to challenge war, globalization, human rights and capitalism. However, by bringing together large crowds of political dissenters, summit diplomacy has also "necessitated new techniques of control" (Episten & Iveson, 2009, p. 272). The use of these techniques is not limited to summit governance and protest; rather, they are added to the arsenal of policing tactics.

pp. 76-79). Commonly used as parts of statutory frameworks, the application of zoning ordinances is further discussed in Chapter 4.

Statutory revision is the editorial process of redrafting, repealing and consolidating laws. While dependent on the legal system, statutory revision is a form of pre-emptive social control that can increase regulation during moments of protest (Fernandez, 2008; Kaminski, 2013; Simoni, 1992).[15]

Conceptualized by Earl (2004) as an observable state-based form of channelling, demonstration permits are used by local government to negotiate the time, location, duration, routes of protests, and the number of arrests at an event (Earl, 2003; Fernandez, 2008; McPhail, Schweingruber & McCarthy, 1998; Mitchell & Staeheli, 2005). In doing so, the permit process serves to pre-emptively "script" protests. Furthermore, the permit process is an "educational" process insofar as it labels and divides protesters based on their willingness to engage with state bureaucracy (Fernandez, 2008, p. 80; Mitchell & Staeheli, 2005).

Protest zones are erected as spaces for demonstration when they are used in conjunction with the permit process and the closing of pubic space. Also referred to as free speech zones, first amendment zones, and free speech cages, these areas are strategically used by law enforcers to corral protestors into highly securitized areas throughout the city (Clough, 2011; Episten & Iveson, 2009; Gilham & Noakes, 2007). The result is that protestors are separated from those they seek to influence (della Porta & Reiter, 1998; Mitchell, 2003; Shields, 1991). The use of kettling and mass arrests at the 2010 Toronto G20 protests highlights the nefarious uses of protest zones and the discretion employed in labelling them unlawful. This event was repeatedly mentioned throughout the collected ATI and FOI requests as a means of justifying and critiquing increased protest control tactics.

[15]It is interesting to note that Stephen Simoni's report *Who Goes There – Proposing Model Anti-Mask Act* was referenced by the VicPD department in early policy resolutions. Published in the Fordham Law Review, this report outlines the various US constitutional amendments that anti-masking legislation violates, as well as the justifications for these violations.

Pre-emptive control scholars argue that the criminalization of dissent is neither entirely repressive, nor negotiated; but rather, it is an effective mixture of hard and soft line tactics (Fernandez, 2008). This project employs a multivalent, rather than dichotomized conceptualization of control tactics, and this discussion is expanded in section 3.1.2. For example, by combining non-lethal weapons and crowd control policing, as well as laws, codes, regulations and public relations, the state attempts to control protest, directly and indirectly, through the management of space (Fernandez, 2008, p. 99). This thesis explores the various processes that culminate in the criminalization of dissent.

2.3. Criminalization of Dissent as the Governance of Space

The concept of space is simultaneously central and yet obscured in the aforementioned literature.[16] One area of scholarship that has given attention to the issue of space is critical legal geography. This body of literature draws on writings concerning power, resistance, identity, law, disorder and citizenship, to analyze how law, territoriality and identity intersect around issues of policing (Blomley, 1994; D'Arcus, 2004; Herbert, 2007). From this viewpoint, the criminalization of political dissent is understood only in relation to these concepts. In other words, what is considered criminal cannot be separated from the space in which it occurs. Space is thus imbued with larger questions of urbanization, democracy, political power, law-making and citizenship[17] (Carr, Brown & Herbert, 2009; D'Arcus, 2003; Hermer & Mosher, 2002; Mitchell, 1992; Mitchell 1995; Smith, 1992a). Building on the work of these scholars, the following analysis contextualizes discussions of the criminalization of dissent in terms of space.

[16]Arguably this claim homogenizes too much of the aforementioned literature. The use of the case study method by state repression and protest control authors creates nuanced arguments cognizant of space. Similarly, current research on protest control typologies attempts to introduce other fundamental dimensions to account for space. However, drawing similarities between entities such as global cities, jurisdictions, securitization, urbanization, corporate prominence, and economic development serves to erase the sites of protest.

[17]Central to many of these discussions are questions and declarations of what public space is and what public space should be. Mitchell suggests that public space should be an "unconstrained space within which political movements can organize and expand into wider arenas" (Mitchell, 1992; Mitchell, 1995). Discussed further in relation to the theoretical orientation, public/private space is a central thematic point of inquiry pervading this analysis.

Specifically, the theoretical orientation adopts ideas from the political economy of scale to understand the geospatial contexts of the case studies in Chapter 4 and Chapter 5.

"The city", in its urban industrial context, is conceptualized as a strategic site of legal and governmental regulation in many discussions of space and democracy (Carr, Brown & Herbert, 2009, p. 1963; Fraser, 1990; Habermas, 1989; Lefebvre, 1996). Urban space is both a site of intense governance, political strategy and resistance (Leitner, Sheppard, Sziarto, Maringanti, 2007). Some scholars argue that in the context of urbanization, neoliberalization and globalization, the power of the nation state is minimized and new forms of power are developing at the subnational level (Brenner, 1998a; Sassen, 2004; Smith 1992b). Through zoning codes, policing practices and regimes of private property, subnational levels are bestowed with the powers to construct and regulate space[18] (Carr, Brown & Herbert, 2009, p. 1963; Crilley, 1993; Valverde, 2012). Chapter 4 explicates the administrative role of the City of Vancouver during OV by expanding and adding to these discussions of municipal governance.

Glazer uses Lefebvre's conceptions of representational space versus representations of space[19] to suggest that imposing limits and controls on spatial interactions has been one of the key aims of urban development and this has resulted in the erosion of public space (Glazer, 1992). D'Arcus (2003) argues that public space is constructed through the dialectics of inclusion and exclusion, order and disorder, rationality and irrationality, violence and peaceful dissent (p. 723). Subnational legislation is therefore imbued with this bifurcated discourse surrounding identity, and serves to include and exclude populations based on these criteria. Carr, Brown & Herbert (2009) suggest that citizenship and desirability are manifested through the spatial regulation of the city (p. 1963-1965). Legal regulation facilitates, creates and redevelops subnational assemblages into literal and metaphorical fortified enclaves

[18]This constructive process is often discussed in terms of the closure, end, or destruction of public space. In doing so, public space is cast in opposition to private space.

[19]In *The Production of Space* Lefebrve (1991) explains that representational space is that which is used by inhabitants (Lefebrve, 1991, pp. 39-42). It is physical space imbued with symbolic meaning, and it is a space of meaning-making (Lefebrve, 1991, pp. 39-42). In contrast, representations of space are the ways in which space is conceptualized, designed and organized by city planners (Lefebrve, 1991, pp. 41). Lefebrve (1991) argues that how spaces are purposefully planned and designed reflects historical ideologies (p. 42).

(Caldiera, 2000; Davis, 1990, 1992). Out of this discussion, the criminalization of dissent is viewed as a binarized distinction between the virtuous urban citizen in need of protection and the unruly protestor.

From this perspective, public space is a product of contention through which complex relationships are worked out, including relationships across scale (Mitchell 1995; Smith, 1992a, 1992b). Discussions of scale attempt to understand geographies of power and analyze how the various actors are able to access certain spaces. In discussing the criminalization of dissent, D'Arcus argues there is a scalar mismatch of space – specifically, that "the importance of public space lies in the mismatch between material scale in which a larger ideological scale is invoked" (Ruddick, 1996, p. 140 in D'Arcus 2003). The criminalization of dissent can also be viewed as a scalar mismatch as the subnational geo-politics of exclusion cannot be separated from larger revanchist and neoliberal policies (Carr, Brown & Herbert, 2009). These discussions of scale are expanded upon throughout the remainder of this thesis.

2.4. Criminalization of Dissent as Securitization

"Contemporary critical security studies"[20] speak to these larger political scales by nesting the criminalization of dissent in discussions of securitization (Buzan, Waever &

[20]I have used the term "contemporary critical security studies," rather problematically, to discuss the combinations of critical security studies, as well as the Welsh School (Booth 1997, 2005; Wyn Jones, 2005) and the Copenhagen School (Buzan, Waever, & de Wilde, 1998). Despite being a new and specialized subfield, contemporary critical security studies (see Collins, 2010; Williams, 2008), which house these aforementioned schools, are fraught with ontological and epistemological divisions. Therefore, applying this homogenizing label grossly simplifies and invisiblizes these distinctions.
The Welsh School, led by Booth, argues that the "critical potential" of critical security studies was hampered by post-structuralism. To create revolutionary space in their literature, the Welsh School has adopted an emancipatory realist ontology, grounded in post-Marxist critical theory (Booth, 2005, p. 268). From this worldview, all knowledge is viewed as a social process. In other words, knowledge does not exist outside of social relations – relations that serve the social, political and economic interests of some, while disadvantaging others (Booth, 2005). Highlighting knowledge production and social relations serves to denaturalize the nation state and other institutions (Booth, 2005). In adopting this worldview, Booth outlines three key questions, which define the Welsh conception of critical security studies: What is real? Who benefits from knowledge production and how does this knowledge support the interests of certain groups? And what is to be done?

de Wilde, 1998), insecurity (Buzan, Waever & de Wilde, 1998; Salter, 2008; Seager & Netherton, 2002), and state exceptionalism (Agamben, 2005; Brabazon, 2006). Contemporary critical security studies, which were created in response to traditional security narratives of the 1960s that depicted the state as a benevolent, paternal, and unbiased entity (Morgan, 2007; Walt, 1991), challenge the state as the sole purveyor of legitimate force. By rejecting the tautology that 'people are secure if the state is secure,' contemporary critical security scholars problematize nation states' wilful neglect, active oppression, and incapacity to provide for their people (Booth, 2005; Mutimer, 2010). In doing so, contemporary critical security studies expands our understanding of referent objects to include individuals, society, economies, and the environment (Mutimer, 2010). From there, contemporary critical security studies attempts to understand what renders referents insecure and how security is to be achieved.

While providing different theories of securitization,[21] contemporary critical security scholars suggest that by articulating an issue in terms of security and persuading a relevant audience (e.g. public, nation states and international bodies) of its immediate danger, the audience legitimates the use of extraordinary measures (Brabazon, 2006; Buzan, Waever & de Wilde, 1988; Robinson, 2010). Although these practices would be rejected under other circumstances, when an issue is framed as a problem of security, securitization further legitimates armed forces, martial law and increased military spending, as well as the curtailment of civil liberties and the restriction of domestic political institutions (Anthony, Emmers & Acharya, 2006).

[21] Securitization is defined as a process in which non-politicized acts are politicised and ultimately securitized (Buzan, Waever, de Wilde, 1998). Securitization is based on the accepted classification of certain people and phenomena as existential threats requiring emergency measures (Buzan, Waever, de Wilde, 1998). Like critical security studies, the Copenhagen School expands the referent of security to include military, environmental, economic, political and societal sectors. These categories of security are defined by securitizing actors (i.e. government, political elite, military, civil society), who aim to maintain the status quo (Buzan, Waever, de Wilde, 1998, pp. 40-43 & 50-52).

The concept of insecurity, coined by the Copenhagen School,[22] has been incorporated into discussions of securitization and regionalism as a way to contextualize state responses to threats. Insecurity, a term scattered throughout contemporary security studies, is closely tied to objectivism and realism. Often used during a speech act,[23] insecurity refers to "external threats" that pose a risk to anything that is valuable (Buzan, Waever, de Wilde, 1998, p. 4). In this process, security becomes something that is achievable only when insecurities are removed. The removal of these insecurities is often done though the negative labelling of both internal and external "threats". In the post 9/11 Eurocentric context, insecurity remains an issue faced by the developing world, but has increasingly become a means of constructing and defending against threats to the developed world too (Seager & Netherton, 2002, pp. 7-9). Smith (2002) carries out a comparative discourse analysis of intelligence documents from the 1980s and 2001 (p. 170). He draws on Canadian Security and Intelligence Service and Canadian Security Review Committee documents to understand the relationship between rights and security (Smith, 2002, p.173). He argues that this balance has been swayed in favour of collective security, at the expense of individual rights (Smith, 2002, p. 189). Although he does not discuss the collective rights of marginalized and subaltern people, he does problematize the latent effects of legislative power used to curb political dissent (Seager & Netherton, 2002, p. 13; Plaw, 2006, p. 248). Plaw (2002) picks up on this discussion of "balance" by problematizing the Anti-Terrorist Act (ATA) (p.233). He argues that acts of terror should be dealt with by using existing criminal law and that the ATA should be abolished (Plaw, 2002, p. 234). The ATA's definition of terrorism, which links crime to political, religious and ideological motivation, problematically raises questions of intent. The definition of terrorism allows for too much subjectivity in its interpretation, resulting in opaque decisions by the criminal justice system, and calling its

[22]While recognizing the construction of social life, the Copenhagen School suggests that the construction of security is relatively stable and can therefore be discussed objectively (Buzan, Waever, de Wilde, 1998). Based on this constructivism and objectivism, the Copenhagen School attempts to broaden the contemporary understanding of security and securitization.

[23]Buzan, Waever and de Wilde (1998) argue that the success of the securitizing actors is based on the conviction of their speech act – the discursive representation of the issue (p. 26)). By articulating the issue in terms of security and persuading a relevant audience of its immediate danger, the audience legitimizes the use of extraordinary state measures, which are often poorly defined (Buzan, Waever, de Wilde, 1998, p. 40).

administration into disrepute (Plaw, 2002, pp. 253-254). Like Smith, Plaw sees a lack of balance in the relationship between rights and security.

To respond to the realism and objectivism of the above critical security theories, state of exception literature adopts a post-structuralist framework. At first glance, Agamben's *State of Exception* bears a close resemblance to the theory of securitization as offered by the Copenhagen School (see Buzan, Waever, & de Wilde). Similarities can be drawn between concepts such as state of exception/extraordinary measures, governmentality/securitization, and discourse/speech act. However, these similarities fade away when contextualized by the ontologies and methodologies employed by the authors. Agamben argues that the French Revolution marks the emergence of the state of exception. Specifically, he cites the 1789 French assembly in which the distinction between a 'state of siege' and a 'state of peace' is made (Agamben, 2005, p. 11-14). As an ongoing project, this modern institution – the state of exception – seeks to colonize life through the gradual retrenchment of political actions. The state of exception is removed from its wartime context and gradually adapted to deal with social disorder and economic crises (Agamben, 2005, p. 15). Agamben argues that the state of exception had become a dominant institution by the mid 20th century. He problematizes this development by asking what is "normal" and what is the "exception"? In rejecting any dichotomized understanding, Agamben suggests that the state of exception "is not a state of law, but a space without law, a zone of anomie" (Agamben, 2005, pp. 50-51). In summarizing his work he suggests,

> To show law in its non-relation to life and life in its non-relation to law means to open a space between them for human action, which once claimed for itself the name of 'politics'. Politics has suffered a lasting eclipse because it has been contaminated by law, seeing itself, at best, as constituent power (that is, violence that makes law), when it is not reduced to merely the power to negotiate with the law (Agamben, 2005, p. 88).

With this, Agamben's work serves to reinvigorate a discussion of the relationship between philosophy and the law. Arguably written under a state of exception, Agamben's work raises questions about the state of law under globalization, and how laws are globalized.

State of Exception, perhaps due to its accessibility and its relevance in the post 9/11 context, has provided fertile ground for critical scholarship. Much scholarship has utilized this concept to analyze the Patriot Act, Guantanamo Bay, Camp X-Ray, Abu Ghraib prison, the 'black sites' in Eastern Europe, extraordinary rendition, domestic surveillance programs, and other increases in executive power (Salter, 2008, p. 366). Within the Canadian context, Brabazon uses the state of exception to understand the impacts of anti-terrorism legislation on social movements and community organizing. She argues that the state of exception, created in response to September 11th, permitted the state to eliminate the threats posed by social movements, thereby protecting the hegemonic economic project without risking the political project (Brabazon, 2006, pp. 1-5).

2.5. Summary: Mapping Discussion and Making Space

I have sought to understand the trajectory of this research area, and how current research can critically engage with these ongoing discussions by placing theorists in conversation, and mapping discussions of the criminalization of dissent through various bodies of work. This literature, as both a point of critique and agreement, serves to inform theoretical, methodological and analytical choices in the following chapters.

State repression literature and its subfields attempt to facilitate discussion through creating a common ontological, epistemological and methodological framework. Through the operationalization of social life, this framework seeks to provide a broad basis for the study of political struggles. From this perspective, the criminalization of dissent is a control mechanism and a strategy of regulation employed during collective action. This articulation of the criminalization of political dissent and the accompanying operational toolkit provide a strong means of conceptualizing the various interactions and players involved in this process. Critics argue that much of the literature from this perspective has been taken over by a pervasive positivism (Smith, 1996). This analytic framework's espousal of the scientific method raises significant epistemological questions. Specifically, what does it mean to operationalize and isolate a contentious performance? Critics problematize this pseudo-scientific method, calling into question the scope of the research, data sources, and western-world scale. Some go further to

argue that this positivistic discussion panders to liberal logics and allows for the neutralization and sanitization of state repression (Marx, 1984).

As my review of the literature demonstrates, protest control typologies are a useful conceptual tool for understanding the criminalization of dissent. From this perspective, the criminalization of dissent is understood in terms of the interactions between state agencies, elites, and private agents. This typology-based approach attempts to overcome many of the critiques launched at state repression literature – specifically, issues surrounding research design and comparative analysis. While addressing these issues, critics note the limitations of the typology tradition. They argue that it reaffirms normative dualism and portrays dissent as an isolated event (Earl, 2006). Furthermore, responses to these challenges have resulted in a growing body of pre-emptive control literature. This thesis seeks to engage with and add to these emerging discussions.

Critical legal geography enters into these ongoing discussions of the criminalization of political dissent by adding the much needed concepts of space and scale. Work from this field maintains that understandings of legality and illegality cannot be divorced from their geo-spatial contexts. However, with little acknowledgement, this body of literature eclectically combines works from a wide array of ontological and epistemological positions. This body of literature greatly influences the following discussions, and ontological consistency is maintained through a critical emancipatory framework outlined in Chapter 3.

By discussing issues of political dissent on numerous scales, contemporary critical security studies problematize the referent object of security to challenge conceptions of the state. Contemporary critical security studies extend a Weberian analysis to question who is the legitimate purveyor of force, as well as who is constructed as a “deserving” recipient of force. In providing a direct commentary on the legal system, insecurity literature often questions the latent effects of the law and the covert implications of securitization. Furthermore, insecurity highlights how speech acts and legislation allow national populations to be constructed as threats to national security. As mentioned, contemporary critical security studies is a fractured and divisive body of literature, and these fractures reflect long-standing critiques. Perhaps the most

relevant, all-encompassing critique waged against contemporary critical security studies has come from anti-security scholars. This body of literature, explicated in detail in the theory section of Chapter 3, argues that security is an ideal that can never be reached and contemporary critical security studies, while critical, serve to reify security.

Scholars working from and in response to these areas call for research on the criminalization of political dissent to take transdisciplinary, longitudinal, multiscalar and multivalent approaches in order to expand and nuance the discussions. Chapter 3 supplements this review by outlining the theoretical and methodological frameworks that will shape my analysis.

Chapter 3. Theoretical Orientation and Research Methodology

As addressed in Chapter 2, the criminalization of political dissent is currently being discussed from a variety of ontological, epistemological, and methodological vantage points. While there has been a general shift away from positivist and functionalist thought, current discussions remain theoretically diverse. This chapter explicates the theoretical underpinnings and research process utilized in this thesis. Chapter 3 is divided into two main sections. The first section addresses the theoretical orientation of this research. Informed by Marxian theory, this thesis employs Marxian conceptions of law, the political economy of scale, and anti-security to frame the discussion in the chapters that follow.

The second section of this chapter introduces the research questions and the methodological approach employed in this project. I demonstrate the connections and congruencies between the research objectives, theory, and methodological approach. By using a dialectical-relational approach to critical discourse analysis, I explicate how discourse and other social elements (re)produce understandings of the criminalization of dissent. Following this, I review the research strategy of this project – specifically the methods employed for data collection and data analysis. Issues of data collection are addressed through a discussion of Freedom of Information Releases and Access to Information Releases. The remainder of this section is dedicated to a reflexive discussion of the making of public knowledge and understandings of "the public."

3.1. Theoretical Orientation

Key discursive elements and thematic points of inquiry are illuminated by discussing the criminalization of political dissent in terms of contention, protest control, spatial governance, and securitization. Informed by, and engaging with these ongoing

discussions, this thesis concentrates on politicization, liberalism, privatization, legality, securitization and criminalization. These themes are analyzed through a political economy and anti-security framework. Specifically, this thesis hinges on concepts of law as a social relation, the state in the representational sense, scale, neoliberalization, and pacification as an ongoing project. With these concepts, I have crafted an ontologically congruent theoretical framework from which to analyze discourses of the criminalization of dissent.

3.1.1. Political Economy – Law and Scale

Law as Material and Ideological

Either through critique or support, Marxian thought pervades much of the literature discussed in Chapter 2. Due to the politics surrounding Marxism, many academics are quick to dismiss this theoretical approach, citing issues of instrumentalism, teleology, eschatology, and underdeveloped concepts. Neo-Marxists and others building on Marx's work have responded to many of these criticisms by continuing to develop his critique of political economy. This project is grounded in Marxist thought – specifically the political economy of law.

For Marx, understanding comes through destruction. This Hegelian sentiment was central to Marx's historical materialist analysis of capitalism as political economy. Critically responding to enlightenment and liberal thought, Marx's conception of law and the state is rooted in the idea that under a capitalist mode of production, life itself is commodified and all wealth appears in the form of commodities (Marx, 1976). Commodities circulate on markets, which are predicated on liberal ideology – as workers are free and equal to sell their labour power in return for a wage. However, this ideological façade obscures alienation, as workers are forced to enter the labour market and become equally replaceable due to the threat of the reserve army of labour (Marx, 1976, 1978).[24] Exploitation and ideology are essential to the capitalist mode of

[24]Using a historical materialist approach to explicate the origins of contract law, Gabel and Feinman (1982) argue that modern contract law is a conceptual form of liberal ideology. Under capitalism workers are free and equal to sell their labour power in return for a wage; however, these notions of freedom and equality are a hegemonic means of maintaining class relations.

production and (re)produces struggle (Marx, 1976). Marx found in his analysis of legislation that this struggle has been promulgated, incited, and quelled by the state (Marx, 1976, pp. 348-349, 382, 395). The state is nothing but the protector of private property – a committee for managing the affairs of the capitalist class (Marx, 1976 p. 475). To protect this class, liberal understandings of security, the supreme concept of civil society, reinforce individualism, separation and protectionism (Marx, 1978). Laws do not make for revolutions, rather, laws are ideology that allow for the reform and maintenance of the capitalist system (Marx 1976).

This renowned argument and dichotomy between reform and revolution found in Marx and Engels' work has had a profound impact far beyond scholarship. Cain and Hunt (1979) problematize the existence of this dichotomy, specifically the tension between the legal form and fetishized commodity form. This tension explicates the structural significance of law under a capitalist mode of production. Echoing the humanism found in Engels' work, Cain and Hunt (1979) suggest that since law embodies actual social relations, it is not only ideology (superstructural), but also a place of struggle (material). Herein resides the dialectic inherent to the contemporary Marxist thought that challenges ideas of instrumentalism (Harvey, 1982, 1999; Jessop, 1982, 2002, 2007; Olin Wright, 1998).

This discussion also begets the place of law and legal theory in Marxian thought. Specifically, should law be studied in its own right, or only as a logic of economic conditions (Cotterrell, 1996, p. 113)? Furthermore, if studied in its own right as a distinct set of practices, should law be studied as a political concern? Studies of law, legislation, and politics remain a divisive area in Marxian and Neo-Marxian thought (Cotterell, 1996). Some argue that nuanced discussions of law are redundant for an economic theory (Cotterrell, 1996; Santos, 1979). From this perspective the only relevant legal theory is one that explicates the connections between law and capitalist social relations, particularly the futility of law as an emancipatory weapon (Cotterrell, 1996, p. 13). In attempting to move beyond this reductionist understanding of law as class coercion or violence, Pashukanis conceptualizes law as the product of commodity relations. Law, as ideology, or as only an economic logic, is unable to explain why repression takes the form of law (Pashukanis, 1989). Rather, he stresses the importance of explicating the

conditions under which legal repression and legal ideology serve to support or challenge social relations.

As the foundation of my theoretical frame, this Marxian discussion of the law serves to guide my research questions and analysis. In the following chapters, these concepts are used to discuss the power of business. This analysis highlights the visibility of these social relations while being careful not to suggest 'the increasing role of business". Chapter 4 details the role of business associations in dictating policing mandates and the increasing interoperability between public and private security. Chapter 5, following many of the same actors in Western Canada, highlights the role of business in the making of legislation. The following subsections build on this framework to develop a nuanced understanding of pre-emptive social control.

The Political Economy of Scale

As mentioned in Chapter 2, social geographers have injected concepts of space and scale into these ongoing discussions of social relations, law, and the state. In critiquing the Marxian and Weberian traditions, Agnew (1984) argues that theory construction and empirical research have fallen prey to the "territoriality trap" (cited in Brenner, Jessop, Jones, MacLeod, 2003; Mahon & Keil, 2009). By focusing on issues of force, legality and legitimacy, he suggests that there has been a wilful neglect of space as a serious object of study (cited in Brenner et al., 2003). To illuminate this "geographical unconscious," he debunks common sense assumptions – specifically, the sovereign unilateral control of borders, the ontological construction of domestic and foreign, and the state as a static and timeless container of space (Agnew, 1994). Many schools of thought, including contemporary critical security studies, have challenged the nation state as the referent object of study. In doing so, social geographers have also challenged conceptions of space, state power and political life (Brenner, et al., 2003, p 3). Thematically, social geographers have turned their attention to areas of: society and space (Harvey, 1982, 1996; Lefebrve, 1991; Mann, 1993); globalization debates (Cox, 1997; Brenner, 1997; Jessop, 1999); the crisis of the Keynesian welfare state (Peck, 2001; Jessop 2002); and new localism and new regionalism (Keil, 2009; Smith, 1984;

Sassen, 2001). These thematic areas have resulted in the political economy of scale,[25] understood as "ways in which the scalar organization of political and economic life under capitalism is socially produced and periodically transferred" (Brenner et al., 2003, p.3). Furthermore, this area of research has systematically critiqued entrenched geographical assumptions about the state and space (Brenner et al., 2003). This theoretical approach, grounded in Marxian thought, guides my research practices and analysis.

Scholars working from and in dialogue with this perspective have sought to challenge these assumptions by reconceptualizing theory and methodology. In particular, the political economy of scale calls for an exploration into "state space". Brenner et al. (2003) examine three dimensions of state space: 1) state space in the narrow sense, 2) state space in the integral sense, and 3) state space in the representational sense. In the narrow sense, state space refers to the juridico-political institutions and regulatory capacities based on the territorialization of power (Brenner et al., 2003). Historical contexts have resulted in specific strategies for parcelling, regulating, monitoring, and representing social space (Brenner, et al., 2003). Discussions of state space in the integral sense focus on the specific ways (territory, space, scale, etc.) in which state institutions regulate and reorganize social relations (Brenner, et al., 2003). Influenced by Marxian theory, some scholars working from this dimension maintain that state territoriality imposes a capitalist "spatial power matrix". Through this matrix, social relations are stratified within national borders, and presented as homogeneous on a global scale (Brenner, et al., 2003). Harvey enters into this discussion of state in the integral sense, by highlighting the contradictions between fixity and motion – between capital's annihilation of space and capital's scalar organization (Brenner, 1998b, p. 461; Harvey, 1999; Marx 1976, p. 539). He argues this dialectical tension has triggered major transformations in the scalar organization of territory. These spatial fixes attempt to "adjust to the constantly changing geoeconomic and geopolitical conditions in which they operate: their modalities, targets and effects evolve qualitatively during the history of capitalist development" (Brenner, et al., 2003, p 10).

[25]As per Mahon and Keil's discussion, political economy is "understood here as a colourful collection of contemporary and competing intellectual projects, unified in their joint interest in critically commenting on, and ultimately changing, contemporary capitalism" (2009, p, 20). Acknowledging the diversity of this intellectual project, this theoretical discussion focuses in part on a Marxian tradition of political economy as explicated above.

Finally, the representational sense builds off the work of Lefebvre and refers to the competing spatial imaginaries that represent state and political space. These different forms of discourse and representational practices are multiscalar in that they function not only at the level of political struggle, but also at the level of the everyday. As spaces for representational politics, Brenner et al. (2003) stress that "states are not simply located upon or within a space; rather they are dynamically evolving special entities that continually mould and reshape the geographies of the very social relations they aspire to regulate, control and or restructure" (p. 11). This thesis primarily engages with state space in this representational sense. As social movements challenge representations of space, various levels of government bodies seek to maintain this form of state/space. Chapter 4 explicates challenges to representations of state space during OV.

Central to these conceptualizations of state space is a discussion of scale. Scale refers to the organization of space (Monaghan & Walby, 2012a). Furthermore, national, regional, and local scales serve to organize social relations, as well as surveillance and suppression (Boykoff, 2007). Broadly conceptualized, geographical scales are constructed, contested and transformed through an interconnected range of socioeconomic, political and discursive practices, processes and strategies that cannot be essentialized into any single dynamic (Agnew, 1997; Cox, 1990; Cox and Jonas, 1993; Herod, 1997; Smith, 1993; Swyngedouw, 1997). Mahon and Keil (2009) emphasize that scalar units are not causality inducing, hierarchical, or singular. Rather scale is relational, and only understood through its horizontal and vertical connections (Brenner, 2001, p. 605).

As mentioned in Chapter 2, much of the contemporary literature on political dissent analyzes the responses to anti-globalization and anti-capitalist movements (Boyle, 2011; Giugni, McAdam & Tilly, 1999; Snow, Soule & Kriesi, 2008). Scholars working from these conceptions of state space and scale have entered into these discussions, by questioning the transformation of the geographies of socio-political struggle and conflict (Brenner et al, 2003, p. 6). Brenner, inspired by Harvey, Lefebvre and Smith, argues that globalization can be interpreted as a "multidimensional process of re-scaling in which both cities and states are being re-territorialized in the conflictual search for 'glocal' scalar fixes" (Brenner, 2003, p. 6). This articulation of globalization

highlights the tension between local, national, global state and non-state organizations (Amin, 2002). Globalization, as a multiscalar project and point of discontent, cannot be separated from neoliberalism (Harvey, 2008).

As a "coordinated, rarely self propelled and violent process," neoliberalism challenges the global architecture of accumulation (Keil, 2002, p. 580). This political project[26] attempts to establish market-centric reconfigurations of governance, while disassembling welfare state institutions through political-economic policies that are implemented and expressed unevenly in multivalent social, cultural and spatial contexts (Keil, 2002; Mudge, 2008; Brenner, Peck, & Theodore, 2010). Under neoliberalism, capital engulfs all spheres of production and reproduction, leaving essentially no alternative means of subsistence.

Central to neoliberalization are the logics of privatization, neoregulation, globalization, free trade, and the downsizing of government (Harvey, 2008; Pechlaner & Otero, 2010). Privatization permeates the lives of individuals by attributing agency, and by calling for individual responsibility and initiative (Braedley & Luxton, 2010; Harvey, 2008, p. 176). In this thesis, privatization is discussed in terms of governance and policing. In Canada, private policing surpasses public policing. The following chapter problematizes the growing interoperability of these organizations, and the implications this has on the criminalization of dissent.

These logics have been promulgated through the co-optation and reconstitution of enlightenment discourses. Like the Marxian discussion above, this pacification project employs "freedom" and "liberty" as a means of gaining hegemonic consent for the re-establishment of class power (Harvey, 2008). Consent is garnered through the prospect of upward mobility, by instilling principles such as private property, personal responsibility, individualism and entrepreneurialism (Harvey, 2008). This bid for power utilizes neo-conservatism, nationalism, homophobia, racism, and sexism. Furthermore,

[26]Neoliberalism, a buzzword in contemporary academia, is a much-debated topic. The contradictions between ideological and enacted neoliberalism have left scholars divided on whether neoliberalism is a political project, a political theory, or an academic construct. While political economy of scale scholars remain divided, this project conceives of neoliberalism as part of the ongoing pacification project as discussed below.

under this discursive guise, neoliberalism justifies and legitimizes the accumulation of capital, rights and freedoms for the wealthy, at the expense of the poor (Harvey, 2008). Freedom, in essence, becomes a commodity that accumulates in the hands of a few. Building on these discussions, in the subsequent section, anti-security is added to this theoretical frame as a means of challenging this ubiquitous discourse used by academics, law enforcers and lawmakers alike.

In this thesis, the criminalization of political dissent is understood in light of the current social, political and economic milieu. Also by employing Marxian conceptions of law in tandem with the political economy of scale, I approach discussions of dissent by analyzing state discourses. In the analysis, state space is conceptualized in its representational sense and in doing so, criminalizing discourses are understood as relational multiscalar processes impacted by jurisdictional and spatial practices.

3.1.2. Anti-Security

In responding to various schools of thought, primarily contemporary critical security studies mentioned in Chapter 2, anti-security scholars have contributed to discussions of state violence, policing, political economy, neoliberalism, resistance and liberalism. Through these discussions, they argue that critical analyses of security have been taken over by the hegemonic logic of security – reasoning that security is an illusion that has forgotten it is an illusion (Neocleous & Rigakos, 2011, p. 5).

With this claim, anti-security scholars adopt a social constructivist and critical emancipatory approach based on Marxist, Foucauldian and anarchist thought (Neocleous & Rigakos, 2011, p. 9). They argue that security today is dangerous, as it colonizes and de-radicalizes political discussion. The more security is discussed, the less attention is paid to the material foundations of emancipation and the more we become complicit in the exercise of police powers (p.15). Security is a special commodity which produces its own fetish, concretizing ephemeral insecurities under capitalist social relations. Security operates as the supreme concept of a bourgeois society (Neocleous & Rigakos, 2011, pp. 9, 20). Furthermore, security serves to legitimatize the production and reproduction of the capitalist order, since to be against

security is to be against the entire global economic structure (Neocleous, 2011a, p. 24; Rigakos, 2011, p. 59).

Rather than perpetuate the discussion of security, anti-security scholars use the concept of pacification as a starting point. Security allows for the fabrication, structuring and administration of pacification (Rigakos, 2011). Pacification is defined as a form of state power that serves to secure the insecurity of the capitalist order. The constant external pacification of colonial subjects normalizes pacification, and creates technologies and techniques of control that can be used to pacify internal populations (Rigakos, 2011). Already used throughout the above discussion, I argue that the criminalization of political dissent is understood as part of the ongoing pacification project.

Building on Neocleous and Rigakos' work, anti-security scholars created a declaration that explicates their intellectual heritage, delimits the subfield, and outlines their dedication to dismantling the ideological façade of security. In taking issue with the Copenhagen and Welsh schools of contemporary critical security studies, as well as other disciplines, they reject many of the binaries that are produced and reproduced by contemporary security studies. First, taking aim at liberalism, they dispel the binary of liberty versus security. Anti-security scholars argue that liberty was never intended as a challenge to security; rather liberty is security and security is liberty (Neocleous, 2011a, p. 15). This discussion of liberty builds on political economy of scale discussions of neoliberalism. Second, by infusing feminist scholarship (Boyd, 1997), they dismiss the binary of public and private by insisting that the public sphere does the work of the private sphere (Neocleous 2011a, p. 16). Third, influenced by governmentality theory, they dispel the constructions of hard and soft power, arguing that they serve to distract us from the universal pacification carried out in the name of capital (Neocleous, 2011a, p. 17). Fourth, they problematize the opposition of barbarism and civilization, suggesting that the law has been key to the "civilizing" project (read as the commodifying project of enlightenment). By reinforcing capitalist relations, bourgeois civilizing becomes another form of barbarism (Neocleous, 2011a, p. 17). Fifth, anti-security scholars argues that the "greatest tyranny of security is the insistence on the construction of the other" (Neocleous, 2011a, p. 18). While the security discourse constructs internal and external threats, anti-security scholars problematize this dichotomy, suggesting that the policing

of external threats is a laboratory for the militarization of internal security (Neocleous, 2011a, p. 19). Sixth, while not attempting to minimize the tragedy of the September 11th attacks, anti-security theorists argue that to make a pre- and post-9/11 distinction is to commit a purposeful act of forgetting. The response to September 11th was only possible due to pre-existing pacification projects (Neocleous, 2011a, p.19). Seventh, anti-security challenges Agamben's *State of Exception*, arguing that capitalism's deliberate attack on human rights in the name of security is not normal. Rather, violence in the name of accumulation is normal (Neocleous, 2011a, p. 19). This declaration, based on the dismissal of these binaries serves as the foundation for anti-security literature.

Kempa extends Rigakos' argument concerning pacification as a police project, by problematizing the dichotomy between public policing and private security. He argues that they share many institutional, technological and practical characteristics (Kempa, 2011, p. 99). He goes on to detail the implications that this has for understandings of public, communal and private space; and how the distinction between the policing of public space and the regulation of private property has allowed for further pacification (Kempa, 2011, p. 97). This false dichotomy between public and private security is discussed in Chapters 4 and 5 in terms of the surveilling, law enforcement and law-making practices of the Downtown Vancouver Business Improvement Association.

Heroux (2011) also extends this conversation regarding the state, drawing connections between national laws and global political economic ideology. Similar to discussions of the political economy of scale, he charts the effects of neoliberalism on Canada, through the federal policies of the Mulroney, Chrétien and Martin governments, and similar policies implemented in Ontario under the Harris government. These instances of multiscalar policy mobility and mutation served to target marginalized populations and criminalize poverty (Heroux, 2011). This war on the poor, as a project of pacification administered by the state, serves to impose internal austerity measures as an ostensible means of cutting the massive deficits caused by the most recent economic crisis (Heroux, 2011, p. 132).

Rimke (2011) further develops Neocleous and Rigakos' original argument by suggesting that "if security is pacification…then anti-security is resistance" (p. 195). Writing in a similar vein to Kempa and Heroux, she outlines spectacular security – the

practice of governance through uncertainty, suspicion and extraordinary expenditures (Rimke, 2011, p. 195). The policing of public protest serves to reify control and restriction. She further espouses that police control and violence is a systemic issue and is a key part of the apparatus designed for the social war of capital (Rimke, 2011, p. 211). Lamb (2012) extends this discussion in his thesis *The Pacification of Radical Dissent,* which offers a case study of the Toronto Joint Intelligence Group (JIG). Borrowing insights from Neocleous, Rigakos, Foucault and anarchist theory, Lamb (2012) casts the G20 security operation as a pacification project, which he defines as

> a type of police mechanism that tends to mobilize strategic power networks and deploys particular techniques, technologies and discourses in an attempt to proactively suppress populations considered hostile, adversarial or risky to the imperial objective of power within a specified territory. (p. 193)

The Joint Intelligence Group used legal discourse surrounding criminality to enable and rationalize the use of security intelligence and counter-intelligence against anti-G20 activists (Lamb, 2012). As mentioned above, much scholarship has focused on the 2010 Toronto G20 protest. In addition, this protest is frequently referred to in the collected documents, and serves as a defining moment in discourses surrounding the criminalization of political dissent in Canada.

As previously stated, this discourse is predicated on enlightenment and neoliberal thought. Jackson (2011) critiques the hegemonic and normative liberal-security regime. Specifically he takes aim at the liberal intellectual intervention, as it serves to legitimize and maintain the status quo by reinforcing the liberal democratic rhetoric of the state. By adopting the concept of balance between security and liberty, Jackson argues that liberal intellectualism[27] is complicit in the culturalization politics that serves to depoliticalize and moralize security (Jackson, 2011, pp. 170-173). With this critique, Jackson calls into question the relevancy of the divided left (Jackson, 2011, p.

[27]Liberal intellectualism engages with the criminalization of political dissent, through the constant production of policy that refers to the delicate balance between the protection of the state and the protection of individuals. Using concepts of utilitarianism, just wars, lesser evils, universal democracy and empathetic approaches to human rights, this literature serves to legitimize and maintain the status quo, by reinforcing the liberal-democratic rhetoric of the state (Dworkin, 1985; Ignatieff, 2004; Rorty, 2005; Walzer, 1997).

180). Jackson's discussion along with other critiques of the balance discourse are addressed in the following chapters.

Many anti-security authors speak directly to criminalizing practices in Canada. Unlike other contemporary securities studies, which privilege international relations, anti-security scholarship situates its discussion across national and international levels. In doing so, it explicates multiscalar economic practices and austerity measures. Furthermore, by focusing on pacification rather than security, anti-security, as a conceptual framework, opens up discussion to include voices from other disciplines that have been otherwise silenced. Anti-security revives a critical analysis that many argue contemporary critical security studies have lost in recent years, and by dissolving problematic binaries, anti-security restarts the conversation.

Written in opposition to discourses of politicization and securitization, this thesis employs anti-security as a guiding framework for discursive analysis. By conceptualizing dissent and its criminalization as an ongoing project of pacification, this thesis explicates connections between the liberty-security regime, hard vs. soft power, public vs. private policing, and the construction of the other. The next section introduces the research questions, which guide the analysis of the following substantive cases, and explains how they fit into larger ongoing discourses.

3.2. Research Methodology

3.2.1. Research Questions:

This thesis has two central research questions:

1. How is dissent criminalized discursively and through what processes?
2. How do current instances of the criminalization of dissent elucidate the relationships between government bodies?

The first research question aims to explicate the interdiscursivity, intertextuality and recontextualization of the discourses of the criminalization of dissent. Moreover, it serves to understand the discursive processes through which political dissent is criminalized. It is comprised of the following subquestions: What argumentation schemes

are employed? How are social actors (dissenters, government, business owners, etc.) constructed? What is criminal? When is it criminal?

The second question intends to examine the interoperability of governing bodies in relation to OV and the genesis of Bill 309. This is explored through several subquestions: What is the relationship between federal, provincial and municipal governing bodies? What about business? Is there evidence of multiscalar practices?

3.2.2. FOI & ATI as Methodology and Method

The selection of theory and methods is intricately connected to the nature of research and the intellectual puzzle under investigation (Mason, 2002, pp. 19-20). This thesis conceptualizes the criminalization of political dissent in Canada as a mechanical puzzle, in an attempt to understand how these discourses are constituted and how they work. Larsen (2013) argues that Access to Information[28] and Freedom of Information[29] requests are useful for addressing questions that concern the internal dynamics, historical contexts, knowledge production and representations of government bodies (p.27). Understanding these contexts, processes, and representations is central to my research questions. This thesis utilizes ATI and FOI requests as a means of gaining access to the daily activities of civil servants and the large amounts of information they produce (Larsen & Walby, 2012). By analyzing this form of discursive production, recontextualization and deployment, ATI and FOI as a methodology is an invaluable approach for gaining insight into information and surveillance society, the interoperability of government agencies, and the suppression of internal dissent (Larsen & Walby, 2012).

3.2.3. Critical Discourse Analysis and A Dialectical Relational Approach

Used in combination with the theoretical and methodological discussions above, CDA examines language for opaque and transparent structural relations of dominance,

[28]See Appendix A.
[29]See Appendix A.

discrimination, power and control (Wodak & Meyer, 2009, p. 10). Grounded in hermeneutics and semiosis, CDA sees discourse[30] as a form of social practice (Fairclough & Wodak, 1997, p. 258; Fairclough, 2009, p.163; Wodak, 2008). Fairclough (2009) defines social processes as the interplay between various levels of social reality, which is comprised of social structures, social practices and social events (p.164). Therefore, language, as a social practice, serves to mediate relationships between general/abstract structures and particular social events (Fairclough, 2009, p. 164). He suggests that are three ways in which semiosis relates to the social – namely: facets of actions, representations of the world, and constitutions of identity. These social semiotics are then respectively categorized as genres, which are ways of acting and interacting; discourses are ways of construing aspects of the world; and styles are identities and ways of being. Fairclough (1992) refers to the semiotic dimensions of social practices as orders of discourse and the semiotic dimensions of events as texts. Focusing on orders of discourse as particular configurations of different genres, discourses and styles, Fairclough examines the operationalization of discourse – specifically, how discourse is put into practice, enacted, inculcated and materialized. Conversely, he explains how discourse is recontextualized. Recontextualization refers to the process of colonization of a field or institution by another, as well as the incorporation of strategies pursued by particular groups of social agents within the recontextualizing field (Fairclough, 2009, p. 165).

By conceiving of discourse as dialectic, Fairclough suggests that discursive events shape and are shaped by social structures (Fairclough, 2009, pp. 163-164). "That is, discourse is socially constitutive as well as socially conditioned – it constitutes situations, objects of knowledge, and the social identities and relationships between people and groups of people" (Fairclough & Wodak, 1997: 258). Therefore, discourse is more than semantic – it is socially consequential. As such, discourse is intricately related to issues of power and ideology. Discursive practices produce and reproduce unequal power relations and they provide avenues for change (Fairclough & Wodak, 1997: 258;

[30]As outlined in Wodak and Meyer (2009) CDA has numerous followers and forms. For this project I will be using Wodak and Fairclough's conception of CDA. Fairclough (2009) defines discourse as "(a) meaning making as an element of the social process, (b) the language associated with a particular social field or social activity, and (c) a way of construing aspects of the world associated with a particular social perspective" (pp.162-163).

Fairclough, 2009, p.163; Wodak & Meyer, 2009, pp. 8-9). Illustrating this connection between theory and methodology, Jessop (2004) maintains that the "semiotic dimension is fundamental to re-structuring and re-scaling, in the sense that these processes are semiotically driven" (as cited in Fairclough, 2009).

With this emancipatory world-view, Fairclough suggests the first stage in CDA is to "focus upon a social wrong in its semiotic aspect" (p. 167). Fairclough (2009) conceives of social wrongs as "aspects of social systems, forms or orders which are detrimental to human well-being, and which would in principle be ameliorated if not eliminated [through major changes in these systems and orders]" (p. 167). He suggests choosing a research topic that can be theorized in a transdisciplinary way – that is, to not only work with various bodies of social theory and research, but also synthesize and include often neglected semiotic dimensions (Fairclough, 2009, pp. 168 & 182). While Fairclough's CDA espouses no particular theoretical perspective, he suggests selecting one that provides a rich basis for critical and emancipatory research (Fairclough, 2009, p. 169). The second stage is to "identify obstacles to address this social wrong" (Fairclough, p. 169). This indirect means of approaching the research question involves an analysis of dialectic relations between semiosis and other social elements, a selection of texts and categories for analysis, and an analysis of texts (Fairclough, 2009, pp. 169-170). For Fairclough and Wodak, analysis involves a close examination of semiotic strategies, semiotic categorizations, genre networks, linguistic characteristics, argumentation structures, logic, personal deixis, interdiscursivity, recontextualization, operationalization, and politicalization[31] (Fairclough, 2003; Fairclough, 2009, pp. 168-171; Wodak, 2008). After this analysis, stage three "[considers] whether the social order 'needs' the social wrong" (Fairclough, 2009, p. 181). Critiquing liberal and neoliberal ideology, Fairclough (2009) examines the discourse surrounding the necessity of these

[31]An analysis of politicalization and depoliticalization is central to CDA (Fairclough, 2009, pp. 171-173 & 182). These concepts, however, have many definitions, each with its own ontologies. For instance, the Copenhagen School incorporates depoliticalization and politicalization into its model of securitization. They argue that the hegemony of securitization is challenged by bringing securitized issues back into the political sphere (desecuritization), and this results in the politicization of issues (Buzan, Waever, de Wilde, 1998, pp. 24-30 & 40). While CDA does not adopt a comprehensive framework for this political discussion, I argue that pacification might be a more helpful framework for discussing security and politics, given my theoretical perspective.

dominant and unequal power structures (p. 181). For example, when analyzing the rhetoric of political debates, he explains how the suppression of political differences in favour of consensus is necessary for states to function effectively under hegemonic neoliberalism (Fairclough, 2009; p. 181). Lastly, stage four attempts to "identify possible ways past [these] obstacles" (Fairclough, 2009, p. 163). In doing so, analysis shifts from negative to positive, identifying possible entry points into further research that indicate how obstacles are tested, challenged, reacted to, and resisted (Fairclough, 2009, p. 171).

3.2.4. Research Process

Data Collection

From the outset of this project key epistemological decisions were made concerning the research protocol for focusing on the criminalization of dissent in its semiotic aspects. Specifically, my own involvement with community organizing, attendance at protests, work with activists, implications of my research, and experience surrounding research ethics informed my decision not to interview participants.

For example, an early ethnographic project examining activists "measures of success" was severely limited, as ethics clearance precluded discussions of criminal activity. When issues of riots, violence and unlawful activity were raised I turned off the tape recorder or redirected conversation. In doing so, protestors' stories were truncated and distorted, since removing discussions of violence decontextualized tactical decisions and understandings of "success." As this thesis concerns processes of criminalization, I was concerned about ethics limitations, and more importantly the level of confidentiality I could guarantee potential research participants. While facing fewer ethical concerns due to the research question, a second project, also concerning OV, was riddled with problematic issues of participant recruitment. Over a three month long process only four people responded out of the 20 contacted, most of whom were friends or participants found through snowball sampling, and of these four, two repeatedly cancelled our meetings. These early experiences impacted my research approach to this topic.

Guided by Fairclough's stages for CDA, preliminary research included the ongoing collection of North American mainstream and alternative newspaper articles, civil liberty association publications, and Canadian parliamentary proceedings from 2008 onwards. With these documents, I created timelines and maps to situate discussions of the criminalization of dissent, which illuminated connections between events, governing bodies, legislation, law, etc. In addition, preliminary research also highlighted the significance of the Toronto G20 Summit, the 2011 Stanley Cup Riots, the 2011 Occupy Movement, and the 2012 Quebec Student Protests. During discussions of the criminalization of dissent these events were continually referred to, retold, and recontextualized throughout media reports, policy discussions, civil liberty associations and publications. This preliminary research further informed my theoretical and methodological decisions, research questions and selection of case studies.

Case studies were selected based on the aforementioned research direction, ease of data collection access, primary language of correspondence, contextual knowledge, amount of previous literature on the "cases," and preliminary evidence of recontextualization and intertextuality. These research parameters limited the scope of analysis to events in Western Canada, specifically OV and the making of Bill C-309. As discussed in Chapter 1, these cases share similar social actors and discursive themes. Arguably, focusing on just one of these "cases" would have provided a richer nuanced analysis, and this is discussed further in Chapter 6. However, early discussions about the scope of this project pervaded data collection and analysis. Furthermore, in heeding the calls of scholars writing on these topics,[32] I sought to demonstrate connections between criminalizing tactics and the policing of dissent.

After selecting the two case studies that would be the focus of my project and familiarizing myself with the *Canadian Access to Information Act* and the *Freedom of Information and Protection of Privacy Act*, I began the ATI and FOI request process. This involved researching all potential governmental bodies (federal, provincial and

[32]Scholars writing about the criminalization of the Occupy Movement have drawn connections between longstanding issues of protest control and highlighted the need for future research discussing negotiated management, paramilitary techniques, criminal justice system, and the use of surveillance (Giroux, 2013; King, 2013; Wolf, 2012).

municipal) that might have information pertaining to my case studies. I sent emails, letters and facsimiles to 5 governing organizations requesting previous releases. Concurrently, I sent my own ATI and FOI requests – this process involved 18 requests to 13 government bodies. Larsen (2013) maintains that a strong request is clear, concise and manageable in its scope, complexity and depth (p. 11). One of my first FOI requests, to the VPD, illuminated this imperative when my all-encompassing request elicited a quote totalling over $11,000.[33] The number of requests, technologies used for correspondence, timelines, contact information and clarifying questions necessitated vigilant record keeping.[34]

I slowly received confirmation from all bodies that they would begin to process my requests. In many instances, I was contacted via email or telephone with requests for clarification – Larsen and Walby (2012) refer to this phase of the research process as access brokering. In most other cases, questions of clarification were involved, such as verbally rearticulating my request, explaining and justifying the timeframe of my request, and/or justifying whether I had contacted the "most appropriate" government body.[35] Responding to these questions quickly improved my rapport-building skills. Many analysts were curious about my requests, and would often ask about my affiliations and or plans for the material, or even strike up conversations. Larsen (2013) maintains that rapport building can be the difference between a delayed and an expedited process. While I took these words to heart, and attempted to be relatively transparent, in order to broker access at times I invoked discourses of citizenship, and public interest. For example, in order to have file costs removed or lowered, I petitioned that my request was in the public interest. To do so, I explained the need for transparency and providing more nuanced and balanced intellectual arguments.

[33]Through correspondence with the VPD analyst, I learnt that this was one of the largest FOI quotes to the VPD.

[34]See Appendix B.

[35]This happened in many instances. The most notable was a 35-minute conversation with PSC. I had contacted this governing body concerning Bill C-309, as documents from both Chief Constable Jamie Graham and the City of Montreal described instances of civil servants, via PSC, requesting said legislation. PSC had no documents and recommended contacting the DOJ. My earlier, ATI request to the DOJ did not contain these specific documents.

In some instances, the request period was extended from 30 days to 60 days to 120 days due internal backlogs. To remedy backlogs, in many cases, analysts attempted to negotiate the scope of the request. Most often suggestions included: removing requests for cabinet confidences,[36] narrowing the timeframe of the request, and narrowing the record types. For example, one of the most common suggestions was to remove email correspondence. However, based on my research purpose and questions, I was hesitant to narrow record types, as previously released documents demonstrated the numerous forms that public body to public correspondence took. In a couple of instances, especially when internal backlogs placed request timelines outside of my data cut off point, I did comply with this negotiation process. And many of these suggestions resulted in pages of redacted information, and required redrafted requests that I got colleagues to submit.

As of March 1, 2014 I received 42 documents packages from 12 government bodies. In three instances, the costs and timelines of requests precluded their inclusion. Central to data collection was the concept of triangulation as implied by Fairclough and explicated by Reisigl who takes a politolinguistic approach to CDA. Triangulation refers to the creation of discursive data through collecting many forms, in order to ascertain a deeper and more accurate conception of social processes (Reisigl, 2008, p. 100). Initially, I attempted to triangulate by comparing government documents, civil liberty association documents, and media documents. However, this collection of material was beyond the scope of my research questions, and I decided to scale back to government documents collected through information releases and publicly available documents. Whether or not these various forms of material collected (e.g. briefing notes, memoranda, executive summaries, background papers, reports, decks, photographs, videos, diagrams, incident reports, memoranda of understanding, mead lines, emails, texts, financial documents, meeting agendas, meeting minutes, meeting handouts, and written notes) from various government bodies can be considered as triangulatory collection is debatable; however, this methodological approach amassed a diverse array of formal and informal dialogue between government bodies. These issues of data

[36] In one case, based on consultation with an analyst at the Privy Council, I received over 400 pages of completely redacted material under s.69 of the ATIA. This novice type mistake resulted in two new requests, which yielded less than 8 pages of material.

collection are discussed further below and in the research limitations section of the Conclusion.

Data Analysis

I received material from most government bodies within two months of my initial requests. As I received documents I began preliminary analysis, which involved: examining exemption, exception and exclusions clauses used to redact material; rough thematic coding; and rough semiotic analysis. Using FOI and ATI as a methodology, redactions and the sections that justified them were often as interesting as the readable material. While beyond the scope of this thesis, I made note of the predominant sections utilized. Throughout most records packages, s.22 of *FOIPPA* and s.19 of *ATIA* were used regularly to protect personal privacy (i.e. the positive redaction of names on emails). The other predominant clauses included disclosures harmful to individual or public safety[37] and disclosures harmful to the business interests of a third party.[38] The use of these specific sections is interesting and obvious in light of the thematic areas discussed in the following chapters.

Once I had collected and finished primary analysis, response packages concerning the two substantive case studies were collated and analyzed as orders of discourse. Packages were organized by the issuing government agency and then placed in chronological order[39] or grouped by content.[40] In many instances previously collected publically available government documents were inserted chronologically into the response packages to provide further detail and context. Genres were coded as issues

[37]s.19 of the FOIPP and s.17 of the ATIA.

[38] s.21 of the FOIPP and s.20 of the ATIA.

[39]Few ATI/FOI documents came in chronological order, and only 3 of the 42 were paginated. In a few instances, packages were organized based on the person they concerned, but in most instances the logic behind the "organization" of the releases was completely obscured.

[40]To follow email chains, the (re)drafting of policy, and other discussions, documents were grouped together within and across release packages. In some instances this revealed an uneven release of information, as one organization was able to provide material that another did not disclose. For instance, my FOI request to the Toronto Police Services did not yield any documents concerning Bill C-309, since they claimed they all concerned the CACP. However, documents from the VicPD release included Toronto Police Services correspondence. Another instance of this occurred between the City of Vancouver and the VPD. In this instance, I got in contact with the VPD analyst and was able to promptly pick up the documents from the VPD.

of correspondence, jurisdiction and interoperability. Discourses and styles were coded in terms of social actors and the argumentation patterns they employed. I attempted to perform rigorous and close examination of as many semiotic strategies as possible, ultimately the "emergence" of patterns resulted in a close analysis of rhetorical structure, interdiscursivity, recontextualization and semiotic categorizations.

3.2.5. Reflections: What is public information? Who is the Public?

ATI and FOI releases are increasingly being used by academics as a means of accessing "backstage information" (Larsen, 2013). These processes of brokering access not only highlight issues surrounding transparency, but they also illuminate who can access public information; rather, who is "the public." Like others, I argue that costs involved, timelines, use of bureaucratic language, and ability to portray oneself as "in the public interest" are key determining factors in brokering access.

This project totalled over $600.00 in release-associated costs. In some instances, by demonstrating that my research was in "public interest" I was able to have costs waived under section 20(6) of the ATIA.[41] In other instances, due to funding I was able to pay for what Larsen refers to as the "making of public information." These ideas of "the public," and who can make knowledge public, serve to discriminate based on language, class, education and undoubtedly other factors. As mentioned above this work would not have been possible without the resources provided by civil liberty associations such as The British Columbia Freedom of Information and Privacy Association or databases of previous releases created by research groups. Discussed further in section 6.3 future projects stemming from this research will attempt to find a variety of ways of making this knowledge "public," including newspaper articles and civil liberty publications and pamphlets.

[41] See Appendix A.

3.3. Summary

This chapter has outlined the theoretical and methodological approaches that have informed this research process. Combining ideas from Marxian legal theory, the political economy of scale and anti-security with a dialectical-relational approach to critical discourse analysis, I have attempted to create a framework for understanding the semiosis of the criminalization of political dissent. To address my research questions, this thesis focuses predominately on records released through ATIA and FOIPP. In detailing my data collection and analysis processes, I have reflexively engaged with ATI as a methodology for understanding the making of public knowledge. These discussions of "the public" permeate the remainder of my analysis.

Chapter 4. Occupy Vancouver and the Recontextualization of State/Space

4.1. Introduction

The criminalization of political dissent in is an ongoing pacification process. When discussing protest and political dissent in North America, activists and scholars cite the 1999 Battle in Seattle as a (re)defining point in the anti-globalization movement and in protest control (Herbert, 2007; Starr & Fernandez, 2009; Wainwright, 2007).[42] Since then, responses to summit diplomacy and dissent in Canada[43] have been met with pre-emptive control, surveillance, and paramilitary tactics (Fernandez, 2008; Lamb, 2012; Smith & Cowen 2010). Throughout this criminalizing process, discourses of

[42]Much has been written on the 1999 protests in Seattle surrounding the World Trade Organization Ministerial Conference. As a formative moment in the anti-globalization movement, many scholars suggest this protest marked the beginning (or resurgence) of large-scale demonstrations in North America (Herbert, 2007; Starr & Fernandez, 2009; Wainwright, 2007). Caught off guard by the size of this demonstration, law enforcers did not use the full battery of pre-emptive measures. Protest permits did little to control upwards of 40,000 protestors blocking major intersections and engaging in both peaceful and violent tactics. In fact, it was not until midday that city and county police began to use non-lethal control tactics, firing pepper spray, tear gas canisters, stun grenades, and rubber bullets. Seattle highlighted the need for pre-emptive social control tactics.

[43]Global summits, while conduits for the transfer of neoliberalism, also serve as "spatial lightning rods" for opposition and contestation (Zajko & Béland, 2008, pp. 724-725). Furthermore, by providing an ephemeral geographical location to issues that are framed as a-spatial, global summits create space to challenge war, globalization, human rights, and capitalism (Zajko & Béland, 2008, p. 724). However, by bringing together large crowds of political dissenters, summit diplomacy has also "necessitated" new techniques of control (Episten & Iveson, 2009, p. 272). During the last decade, Canada has hosted three global summits, 2001 Summit of the Americas in Québec, 2002 G20 Summit in Kananaskis Alberta, and the 2010 G20 Summit in Toronto. The protests at these summuts were met with a barrage of formal control mechanisms including: the relocation of host cities, restrictive security measures, changes to zoning and ordinance practices, requirements of demonstration permits (Fernandez, 2008), the creation of protest zones (Smith & Cowen, 2010) and paramilitary policing (Starr & Fernandez, 2009, pp. 42, 44; Wainwright, 2006).

protest and political dissent have become purposefully entangled in discussions of illegality, unlawful assembly and riots.[44]

Since 2011, discussions of social movements and protest control have examined many aspects of the Occupy Movement. While some have explicitly discussed this movement as a response to pacification, few have considered how its criminalization is part of the same pacification process. Specifically, how did the governance of OV serve to re-contextualize the discourses of criminalization of political dissent in Canada? By drawing on Access to Information releases and Freedom of Information releases, this chapter examines how state power and space came together during OV to create a potent narrative of illegality.

OV serves as a useful point of entry into this ongoing discursive pacification project. Under neoliberalism, security entangles and places rights and freedoms at odds with the preservation of liberty. The criminalization of political dissent hinges on the use of this liberty-security regime to obscure the privileging of the (property) crime control mandate. This is a multiscalar project, intent on making dissenters unsafe, unlawful, and illegitimate in terms of their relation to private property.

4.2. Context: The Occupy Movement and Occupy Vancouver

Members of the Occupy Movement saw its emergence as the coalescing of global anti-austerity demonstrations. Those with relative privilege were finally feeling the repercussions of neoliberal policies. The slogan “we are the 99%” became a means of understanding global economic stratification. Building on the work of anti-globalization activists, the Occupy Movement attempted to show that another world is possible. Through utilizing public space, Occupy Wall Street created a rare illustration of direct democracy in the centre of New York City’s Financial District. By bringing together people from different, and often marginalized backgrounds, Occupy Wall Street provided

[44]Throughout the collected data, officials have attempted to not only separate, but also purposefully conflate these ideas. This practice will be further analyzed in Chapter 5.

members with free medical services, free food, independent media, and the ability to make autonomous, inclusive and consensus based decisions. These ideas resonated with activists around the world, and October 15th, 2011 was designated a day of solidarity and worldwide protest.

Concurrent investigations by numerous Canadian law enforcement agencies began into the potential of the Occupy Movement. On October 7th, 2011, the Canadian Security Intelligence Service released a series of threat assessments, casting Occupy protests in Toronto, Ottawa, Vancouver, Montreal, Edmonton and Calgary as potential security threats (Doc2).[45] These reports were both informed by and served to inform various government agencies.[46] Local police are increasingly using threat assessments to profile members of social movements and further legitimize increased surveillance (Monaghan & Walby, 2012b). In correspondence with the City of Vancouver, the Downtown Vancouver Business Improvement Association (DVBIA), and the City Large Events Oversight Committee (CLEOC), Chief Constable Jimmy Chu of the VPD requested that extra officers be deployed to Vancouver in light of the potential protest (Doc4, October 14, 2011; Doc5, October 20, 2011). This correspondence between Chief Constable Chu and B.C. Solicitor General Shirley Bond made reference to Vancouver's population distribution,[47] Occupy's connection to Vancouver,[48] the Stanley Cup riots,[49] as well as the practices of protest policing in Ontario and Quebec.[50]

[45]Data collected from ATI and FOI requests, as well as previously released requests, have been given consistent document numbers (DocX) throughout this thesis. These document numbers refer to specific pages or sections (thematically grouped pages) for the release packages. The documents include: email chains, (re)drafted policies, meeting minutes, presentations, media lines, pictures, and other material contained in the releases. To find the released package containing the document, see Appendix B, Column "Doc."

[46]While stating that the solidarity protests were non violent, the threat assessments cited the October 1, 2011 Occupy Wall Street Brooklyn Bridge crossing, as a reason for increased alarm (Doc1, October 7, 2011).

[47]"While similar protests are taking place in other major Canadian cities, I must draw your attention to the uniqueness of Vancouver's funding predicament as we are the only major Canadian city that polices only the core of a much larger region. I am not bringing this up to engage in the pros and cons of regional policing; I am raising this to once gain point out the financial hardship this extraordinary regional event will have on the VPD which is funded by a population tax that encompasses about 27% of the region, and to illustrate why we are more than likely than other jurisdictions to ask for the assistance of the provincial police force" (Doc4, October 14, 2011).

With the charges still outstanding for the 2011 Stanley Cup riots, OV was understood in light of these riots, and it was constructed as a potentially similar event. This conflation of protest and riot served to justify increased police presence. This early message also illuminated the internal correspondence between various policing agencies (municipal, provincial, and federal) across Canada (Doc1, October 7, 2011; Doc2, October 7, 2011; Doc4, October 14 2011). The culmination of these officializing discourses began to construct OV as a potential site of dissent and illegality in need of securitization and pacification.

On October 15th, 2011, the Vancouver branch of the Occupy Movement assembled in front of the Vancouver Art Gallery (VAG), located at 750 Hornby Street in downtown Vancouver. After a general assembly, where various members of the public brought forward their points of contention, the green space surrounding the VAG was cordoned off and tents were erected. The "tent city", as coined by the local news, expanded and housed various demographics, including activists, young and old, as well as marginalized populations. In uniting these disparate voices, people from Vancouver's Downtown Eastside (DTES) were given safe shelter and a sense of community through participation. Like other solidarity sites, OV attempted to address local issues such as homelessness, drug-use, aboriginal land claims, and the environment.

As the weeks progressed, this community became a point of contention in downtown Vancouver. Within two weeks of its construction, the City of Vancouver, backed by numerous organizations, pushed for the removal of the tents (Doc13, October 27, 2011). OV was discussed in terms of the harms and risks it posed to the public, and

[48]"The Vancouver event is being dubbed "Occupy Vancouver" and its particularly significant as the originators of this movement – Adbusters – are a Vancouver based organization" (Doc4, October 14, 2011).

[49]"As with the Stanley Cup preparations, we are working with our regional partners to develop an operational plan… As noted in recommendation 10 of the recent Independent Review of the *2011 Vancouver Stanley Cup Playoff Riots: That the Minster of Public Safety and Solicitor General should develop a framework delineating authorities and cost allocation for policing regional events that defines which costs and authorities are municipal and which are provincial"* (Doc4, October 14, 2011).

[50]"I have spoken to senior police personnel from both Ontario and Quebec and I have been advised that when a local police agency requests assistance from the Provincial Police force in the form of Public Safety Unit resource, this assistance is provided at the cost of the Provincial police agency" (Doc4, October 14, 2011).

after a drug-related death in early November, the British Columbia Supreme Court granted an interlocutory injunction. OV was ordered to cease and desist until a merit-based trial could be heard before the British Columbia courts. At 2:00 pm on November 7th, 2011 sanctions were imposed, and provincial and municipal police forcibly removed OV from the VAG lands (Doc11, November 7, 2011).

4.2.1. First Press Release: Recontextualizing Political Dissent

From the outset of OV, Vancouver Mayor, Gregor Robertson,[51] employed the rhetoric of acceptability, informality, and intentionality to define OV. Selected quotes from Mayor Robertson's first press release serve as an entry point into the thematic discussion. The following sample of officializing discourses illuminates key recurring themes found throughout the collected documents – specifically 1) disjunctions, 2) multiscalar interoperability, and 3) semiosis and the making of the protestor – and serves to structure the remainder of the analysis. While treated as thematic areas of analysis and discussion, these three themes are not separate, or disconnected; rather they are entangled parts of this pacification process.

[51]Gregor Robertson, as the leader of Vision Vancouver, was elected as Mayor in 2008 and re-elected in 2011 (City of Vancouver, 2013). An entrepreneur and a longstanding member of the New Democratic Party of British Columbia, Gregor's rhetoric of acceptability, informality and intentionality can be connected to his politics and Vision Vancouver's platform (City of Vancouver, 2013). Central to his initial campaign were the environment, transportation, and marginalized populations (City of Vancouver, 2013). The handling of OV, rather the handling of marginalized populations, became a decisive issue in the days leading to the November 19th 2011 civic election (Bula, 2011). Distancing himself from neoliberal political rhetoric espoused by previous leaders and critics, Mayor Robertson initially appealed to various conceptions of "the public" as potential voters. While distancing himself from "law and order" rhetoric, as Mayor, Robertson has led the Vancouver City Council to pass several bylaws concerning safety and public order. In the months leading up to the 2010 Winter Olympics the Council passed an omnibus package of bylaws, which approved: security checkpoints, close circuit cameras, the closure of public space, increased nuisance laws, prohibition of flyers at celebration sites and an extension of powers to City Manager Ballem (CBC, 2009; Dembicki, 2009). These actions resulted in numerous complaints from civil liberty associations and other councillors.

From: City of Vancouver Communications Office
Sent: Friday, October 14, 2011 11:01 AM
To: City of Vancouver Communications Office
Subject: City of Vancouver: Mayor's Statement on Occupy Vancouver

City of Vancouver
Oct. 14, 2011

Statement from Mayor Gregor Robertson on Occupy Vancouver

Vancouver Mayor Gregor Robertson offers this statement on Occupy Vancouver:

"This Saturday, citizens from across Vancouver and throughout the Lower Mainland will gather downtown for the Occupy Vancouver event being held in front of the Vancouver Art Gallery.

"We have seen the Occupy Wall Street movement grow and spread to dozens of cities across North America. In these turbulent economic times, I recognize and appreciate the concerns and angst that people, especially young people, feel about the economy, rising inequality, the environment, and state of the world right now. I fully support the right of people to demonstrate those concerns publicly and peacefully.

"The vast majority of those planning to participate in Occupy Vancouver have expressed openly their desire to do so peacefully and lawfully. The City of Vancouver has a long history of protecting free speech and the right to protest peacefully.

"However, we know from our experience with the Stanley Cup riots and the protests that marked the start of the Olympic Games that large gatherings can sometimes attract small groups of people determined to use these avenues for their own violent ends.

"Violence, whether against people or property, will not be tolerated and will only detract from those who wish to legitimately express their opinions. Senior City staff are working closely with the VPD and stakeholders across the community to ensure we are positioned to support a lawful and peaceful protest.

"The issues of economic instability and inequality are important, and our citizens are free to voice their concerns and protest peacefully as they see fit.

"However, there will be police presence in and around this protest, as there is for any large event downtown. This is to ensure the City is doing what we can to ensure people have the ability to be heard safely, and that this protest is not undermined by violence or destructive behaviour of any kind."

1. Disjunctions: "Striking a Balance" between Due Process and (Property)Crime Control
2. The Multiscalar Interoperability of Public Policing and Private Security
3. Semiosis: The Making of the Unsanitary, Unsafe, Unlawful and Illegitimate Protestor

Figure 4.2.1 Mayor Robertson's First Press Release

First, as expanded in section 4.3, Mayor Robertson's use of "however"[52] creates a disjunction between "rights" and "police presence". He employs the longstanding rhetoric of seeking a balance between due process versus crime control. Critical criminology has long debunked this manufactured dichotomy of balance, arguing that due process is always in the service of crime control (Scraton, 1979; Box, 1983). As a key discursive tool of the liberty-security regime, this discussion of balance serves to justify and obscure the purposes of the crime control mandate. In the case of OV, the City's administrative actions reified crime control in terms of defining and protecting private property.

Second, Mayor Robertson alludes to the various agencies[53] and organizations involved in this process and responsible for the administration and enforcement of the (property) crime control mandate. In section 4.4, this project of pacification is discussed as part of a multiscalar criminalization process that is reliant on the interoperability of these governing bodies. Rather than a top-down-linear process, the closure of OV troubles understandings of administration and enforcement.

Third, while those initially participating in OV were conceived of as "lawful," "peaceful" and legitimate "citizens,"[54] the official labeling of the occupiers changed over the course of OV. This semiotic change reflects how the processes of criminalizing political dissent led to occupiers being redefined as "illegal," "illegitimate" and "unsafe." Building on the two previous sections, section 4.5 examines treatment of OV protestors as a pacification project of the liberty-security regime, in which illegality is understood in terms of property relations.

[52]"I fully support the right of people to demonstrate those concerns publically and peacefully… The issues of economic stability and inequality are important and our citizens are free to voice their concerns and protest peacefully as they see fit… *However (emphasis added)*, there will be police presence in and around this protest, as there is for any large event downtown. This is to ensure the City is doing what we can to ensure people have the ability to be heard safely, and that this protest is not undermined by violence or destructive behaviour of any kind" (Doc6, October 14, 2011).

[53]"Senior staff are working closely with the VPD and stakeholders across the community to ensure we are positioned to support a lawful and peaceful protest" (Doc6, October 14, 2011).

[54]"This Saturday, citizens from across Vancouver and throughout the lower mainland will gather downtown for the Occupy Vancouver event being held in front of the Vancouver Art Gallery… The vast majority of those planning to participate in Occupy Vancouver have expressed openly their desire to do so peacefully and lawfully" (Doc6, October 14, 2011).

4.3. Disjunctions: "Striking a Balance" between Due Process and (Property) Crime Control

Over the course of OV, various public officials used disjunctions in internal correspondence and official statements that echoed Mayor Robertson's first press release. In an October 24th internal memorandum between City Manager Penny Ballem and various stakeholders, she stressed that the key principles for managing OV were to "respect and protect people's rights" in a way that did not compromise the "health" and safety" of the "participants" or the "public", tolerate "criminal activity", and/or interfere with the "activities of the public and business" (Doc7). This mandate was made official at the October 27th Council Briefing, and recontextualized in a November 6th 2011 press release concerning the above-mentioned death at the OV camp. In this press release, Mayor Robertson stressed that "the City's steps to remove the encampment [were] not premised on any one event," but rather on the accumulation of concerns (Doc11, November 6, 2011). Referring back to Ballem's list of key principles, this death served to justify and solidify the camp as a space of criminal activity. This argumentative structure and criminalizing discourse, which was shrouded in longstanding issues endemic to downtown Vancouver, were later used in Ballem's November 7th 2011 notice to the persons occupying Vancouver Art Gallery Plaza and surrounding grounds.

> The city has long supported the right to gather and carry out peaceful protest. The Occupy movement is a global protest addressing a number of important issues of concern to our citizens. *However (emphasis added)* the safety of people is paramount. Much work has been done to cooperatively find solutions to safety issues on the Occupy Vancouver Site. *However,* over the last 4 days there has been an escalation of safety concerns in the area of fire safety, injection drug use, the presence of pets and other hazards (Doc12, November 7, 2011).

The use of the disjunction is central to liberal-democratic rhetoric (Jackson, 2012; Reisigl, 2008). This logic of balance permeates policy, legislation, case law and intellectualism (see Dworkin, 1985; Ignatieff, 2004; Rorty, 2005; Walzer, 1997). The disjunction in both internal and official discussion surrounding OV represents the manufacturing of balance. By placing OV in opposition to safety, public health, legality and business, dissent was understood exclusively in relation to these dichotomies. In doing so, OV was seen as a threat to the safety of "the public" and business.

Furthermore, this logic serves to legitimize and maintain the status quo by reinforcing the liberal-democratic rhetoric of the state (Jackson, 2011). Like others critiquing liberal intellectualism and this discourse of balance (Box, 1983; Scraton, 1979), I maintain that this balance has long been skewed in favour of crime control and collective security.[55] Moreover, by employing these dichotomized understandings, the liberty-security regime serves to obscure and erase power and domination (Jackson, 2011). Specifically, it obfuscates the intentions behind the crime control mandate – whose interests does this mandate really serve? (Hay, 1992). In the case of OV, crime control, which was entangled in discussions of space, conceptions of "the public" and homelessness, was seen as concerning property use and property crime.

Property crime in this case was the occupation of space – specifically the lands surrounding the VAG. The City and province reacted to OV by using various bylaws that pertained to space, including the *City Land Regulation By-Law*, the *Trespass Act*, and the V*ancouver Charter* (Vancouver (City) v. O'Flynn Magee. [2011] BCSC 1647). These pieces of legislation defined the use of the VAG lands in terms of authority, ownership and protection – protection from the "harms" caused by OV to the space and "the public". This rhetoric, found throughout correspondence and official releases, was solidified with the provincial Supreme Court's ruling.

> I agree with the City that as the representative of the public, it will suffer irreparable harm if the injunction is not granted. "Irreparable" refers to the nature of the harm suffered rather than its magnitude (RJR-MacDonald, p. 405). It is harm that cannot be readily compensated by an award of damages (Mickelson, para. 24). In the circumstances, an award of damages cannot properly compensate the public for the irreparable harm in terms of the use of public property (Vancouver (City) v. O'Flynn Magee. [2011] BCSC 1647).

B.C. Supreme Court Justice Mackenzie found that "the public" represented by the City would face "irreparable harm" if OV was not removed. Furthermore, she chose to uphold the barrage of bylaws cited by the City, as they promoted health and safety and acted in

[55]Many authors critique this concept of balance (see Plaw, 2002; Seager & Netherton, 2002; Smith, 2002). However, by perpetuating this binary and equally weighted dichotomy, I argue that much of this work reifies balance as a useful conceptual frame. In the following sections, I challenge the concept of balance by troubling these binaries and highlighting how this discourse of balance obscures power.

"several public interests." The Supreme Court's findings cemented the fact that the City was the sole representative of "the public." Furthermore, these interactions between governing bodies served to at once construct "the public," and then cast OV in opposition to it. Since OV was no longer representing the public, it no longer deserved access to "public space."

These rights and conceptions of the public were understood in relation to property. Like the discourse of balance that conceals the intentions of crime control, legal orders that place private property and public property in opposition to one another obscure the privileging of one pole over the other (Blomley, 2003, p. 5). Public space is often associated with the concept of common property or "public property".[56] However, under capitalism, this form of property relations does not exist. Instead, what is defined as "public property" is often state property or privately owned public spaces.[57] State property, which is land owned and controlled by the nation-state, province, or municipality to use and dispose of as it sees fit, takes two forms: private and communal (Marchak, 1989; Singer 2000). While state communal property appears as public and open to all, in the case of OV, access to the VAG lands was denied based on conceptualization of who constituted "the public." This pacification project highlights the intersections of state space and the construction of people, rights and property.

This discussion of "the public" is analyzed here in relation to property, and is thematically built on in the remaining sections. Rather than referring to "the public" as an

[56]Common property refers to a type of property to which no one person has an exclusive right and relationship (Marchak, 1989). It is based on the principle of co-management, as a community shares the space with no sole owner (Marchak, 1989). In turn, this means that no one person has the power to exclude others from using it (Marchak, 1989).

[57]Thomas Balsley (2012) maintains that the Occupy Movement sheds light on the urban governance of public space. Referred to as "privately owned public spaces" and "privately owned public open spaces", these spaces reveal complex social relations. Rather than being operated by municipal, state or federal governments, the management, maintenance, and programming of these "public areas" is dependent on nonprofit organizations (Balsely, 2012, p. 351).

aggregate, or everyone, both OV[58] and the City couched their discussions of "the public" in terms of the right to access space. For the City, access to public space was fiscally driven. Throughout the released documents, OV was understood in terms of costs – both in terms of policing and property damage, but also, as an obstruction to revenue generating activities (Doc7, October 24, 2011; Doc13, October 27, 2011; Doc14, December 19, 2011).[59] Unlike OV, regulated and revenue generating activities, such as parades and other public gatherings, which are discussed below, serve to limit the political, social and democratic function of public space (Nemeth, 2009, p. 2463). "Public property", according to the City, is a planned, orderly, and safe place for recreation and entertainment (Mitchell, 1995, p.115). As OV challenged this representation of space, the City and various governing bodies enforced bylaws and sought an interlocutory injunction. This exercise of authority established that the VAG land, in the case of OV was state private property. The city has exclusive rights and relations towards its resources. Moreover, it only extends these rights, through access, to law abiding, revenue-generating members of "the public" (see section 4.4). Therefore, "public property" was seen as an exclusive place for the properly behaving public.

> The well being of the public, as constructed by the government, has come to depend on a mentality of exclusion – that public safety and security depend upon finding, punishing and excluding an enemy "other" (Hermer & Mosher, 2002, p. 16).

[58]This thesis, as a discussion of the criminalization of dissent, focuses on the discourses employed by various levels of the state and this chapter focuses on state responses to OV. By focusing on the discourses surrounding the criminalization of political dissent, this thesis attempts to move away from the aforementioned "moments" discussion. Instead, it seeks to understand events as recontextualized discourses. However, this approach prevents engagement with discussions of and by social movements. Arguably research about how the Occupy Movement was pacified and how it responded is incredibly important – but that discussion is beyond the scope of this project.

[59]A memorandum sent out on December 19th, 2011 by City Manager Ballem estimated that the management of OV totalled over $981,103 – almost double the $543, 398 estimate from November 1st 2011 (Doc15). Most of these expenditures were attributed to overtime and facility costs, specifically, the VPD, Engineering Emergency Operations Centre, and Vancouver Fire and Rescue Services (Doc15, December 19, 2011). This concluding memorandum addressed the role of business in lowering these costs due to the resources they provided to the City and the VPD. This discussion of resources revenue generating activity is expanded upon in section 4.4.

Shrouding OV in discussions of criminality served to construct it as "the other," thereby justifying its exclusion from the VAG lands. As argued above, this othering process was based on actual private property relations, as well as OV's attitudes towards these relations. By laying claim to public space, OV challenged representations of space in downtown Vancouver. Responses to these claim-making processes illuminated who the City deemed to be "the public" – specifically, the propertied and gentrified. Conversely, those without property or occupying private property are treated with ambivalence, suspicion, fear, and hostility (Blomley, 2003; Mosher, 2005, p. 50). These politics of spatial exclusion, othering and internal pacification solidify an unquestioned connection between the control of disorderly people and the securing of space in the name of "public" safety and security (Hermer & Mosher, 2002, p. 16). The privileging of the crime control mandate in the case of OV was not intended to protect those actually at risk of street crimes – specifically, the homeless – but rather to protect property from the homeless and those calling for their social inclusion (Hermer & Mosher, 2002, p. 16). These processes serve to regulate and manage populations in downtown Vancouver. The following sections extend this discussion of spatial exclusion, by explicating the role of multiscalar governance in the construction of protestors. These processes serve to regulate and manage populations.

4.4. The Multiscalar Interoperability of Public Policing and Private Security

Multiscalar interoperability was a key factor in the criminalization of OV, as well as the Occupy Movement.[60] Multiscalar interoperability refers to non-linear correspondence, intelligence gathering, and administrative decisions between and within governing bodies, as well as similar practices with those outside of the governing bodies. As mentioned above, the VPD, on behalf of the City of Vancouver, sought additional resources from the provincial government, namely the RCMP Tactical Troop and the Provincial Police force (Doc4, October 14, 2011). In his request, Chief Constable Chu listed the DVBIA, the Canadian Bankers Association and various property owners as key

[60]Wolf, Dec 29 2012.

stakeholders in the management of this protest event (Doc4, October 14, 2011). Cited as potential targets of OV, the relationship between these organizations, as city partners, was detailed in further correspondence. In Ballem's October 24th internal memorandum, which was officialized at the October 27th meeting, the DVBIA along with Vancouver Coastal Health, VAG, Translink, the Government of BC, BC Ambulance Service, and E-COMM were named as key external partners of the CLEOC (Doc7, October 24, 2011; Doc13, October 27, 2011). On a recommendation from the June 2011 Stanley Cup riots inquiry,[61] the CLEOC was created as the body overseeing the regulation and enforcement of bylaws. Based on this briefing, as well as DVBIA publications, the Business Improvement Association assumed a prominent leadership role in liaising with the CLEOC and local business. At the November 1st, 2011 Council briefing, the DVBIA was stated to be working closely with the business community, adjacent hotels and the Vancouver Art gallery to mitigate the impacts of OV (Doc 14). The relationship between the City and the local hotels was explicated in a December 19th, 2011 internal correspondence from City Managers to the City Council. City Manager Ballem stated,

> During the occupation, the local business community was extremely supportive of [the City's] efforts to manage the occupation. As an example local hotels provided [the City] with access to their business centre to enable access to computers and printers for some of the legal and regulatory work involved in the Occupy issue. They also provided intermittently through the situation access to a hotel room to allow us to monitor events and deploy staff when required. Both VPD and VFRS used these facilities intermittently for their 24/7 oversight of the situation (Doc15).

The cooperation of businesses surrounding the VAG lands was key to the City's statutory and regulatory framework for managing OV. The gradual creation of this framework was illuminated throughout internal correspondence. Initially presented as part of the guiding principles of managing OV, the creation and administration of this

[61] As mentioned above, the Stanley Cup riots of 1994 and 2011 were referenced throughout the released documents concerning OV. Riots and dissent are conflated, and so too are understandings of management and policing.

framework involved various members of the CLEOC,[62] the external partners of the CLEOC, and consultations with other jurisdictions. For instance, the City of Vancouver drew on discourses and strategies previously deployed in Victoria, Calgary, Ottawa, Edmonton, Toronto and Montreal[63] (Doc13, October 27, 2011). The City and DOJ legitimized the use of surveillance in its framework, by constructing the strategies of other jurisdictions as "monitor and wait" approaches (Doc13, October 27, 2011; Doc17). Specifically, this framework included the *Public Health Act*, the *Fire By-law*, the *Street and Traffic By-law*, the *Criminal Code*, the *City Land Regulation By-law,* and the *Trespass Act*.

As detailed in the previous section, the regulation of public space (read as property) was central to the crime control mandate and the criminalizing process. As argued above, this process involved numerous levels of government. Early correspondence between officials at the provincial and municipal levels highlights the confusion over the ownership of and responsibility for the VAG lands (Doc3, November 1, 2011). On behalf of the Attorney General Solicitor General, Premier, and Ministry of Public Safety, the original 1980 lease was presented by legislative executives on four separate occasions to the City of Vancouver, when the city council and managers were unsure how to proceed with the enforcement of the regulatory framework. The lease states,

> The Province owns the Land and it has been leased to the City of Vancouver for 99 years commencing March 1, 1980. As such the City has full responsibility for items such as safety and security on the Land for situations such as Occupy Vancouver for which they would make the call with respect to the rules and regulations for use of the site including evictions. All City by-laws apply (Doc3, November 1, 2011).

[62]Based on the October 27th 2011 Council Briefing, internal members of the CLEOC included the City Manager, Deputy General Manager, Community Services Group, Chief Building Official, City Homeless Advocate, City Engineer, Director of Transportation, Special Events Office Manager, Director/AD Communications, Directors Facilities Manager, Directors OEM, Fire Chief/Deputy, and Chief Constable/Deputy Chief (Doc13).

[63]Interestingly these cities were later used as points of comparison when reviewing the costs of OV. In the December 19th 2011 memorandum City Manager Ballem stated, "Vancouver's expenditures are in-line with other North American cities dealing with the Occupy Movement … We have asked Toronto, Calgary and Edmonton for their comprehensive cost data, but as of Friday December 16 2011 they were not yet available" (Doc15).

The “disclosure” of this lease justified the increased municipal powers. These materials, and the jurisdictional power it bestowed, were incorporated into the City’s statutory/regulatory framework.

The enactment and effectiveness of this regulatory frame were met with mixed reviews from governing bodies, the media and “the public.” Chief Constable Chu responded to these criticisms in his internal memorandum titled *The Policing of Protest in Vancouver*. When discussing the regulatory framework and the eventual shutdown of OV, he stated,

> …the courts have been unpredictable in the timing of their ruling. The City of Vancouver injunction took 7 days to be decided. The Provincial Law Courts injunction application on Nov 22 was decided in a few hours… When the City successfully obtained the injunction, it provided a much stronger legal justification for our actions in the event force became necessary (Doc10, November 24, 2011; Doc18, November 24, 2011).

In alluding to the multiscalar governance of OV, Chief Chu illustrated the varying levels of power and forms of control used by the City. Furthermore, his closing remark served to cement OV as a potentially dangerous event that could require escalated force.

Rather than adhering to a top-down linear structure, the governance of OV was a multivalent and multiscalar process. Valverde (2012) maintains that the governing of urban space is predicated on the amalgamation of constitutional, corporate, and contract law. For instance, this occupation of private state property troubled divisions between public law and civil law, as well as jurisdictional boundaries. While the City primarily managed OV, the creation and utilization of the CLEOC blurs the roles and responsibilities of administration and enforcement. The social control of protest is not limited to the actions of municipal or state officers, but instead it is an organizational means of maintaining security (Earl, 2003). The maintenance of this unobtainable idea is reliant on the increasing multiscalar interoperability of security and surveillance networks, as well as the connections between the “public” and “private” networks (Monaghan & Walby, 2011b; Neocleous & Rigakos, 2011). As maintained by anti-security scholars, there is false dichotomy between public policing and private security. Private security agents play an increasing role in this pacification project, as they are key

to supplying local police with information (Monaghan & Walby, 2011b). Pacification is reliant on the surveilling of dissent populations.

As OV challenged representations of space, various levels and forms of governance established reciprocal information sharing relationships (as well as free hotel rooms) (Doc15, December 19, 2011). Charles Gauthier, executive director of the DVBIA, claimed that OV necessitated the creation of a "robust network for disseminating information about critical incident matters" (DVBIA, 2012, p.1). For this ongoing project,

> [the] DVBIA gathered its own intelligence and obtained tips from the VPD, such as names of businesses that were at risk of being targeted, and protest march routes. Updates were sent out around the clock. Throughout Occupy Vancouver, the DVBIA solicited advice and perspectives from fellow BIAs in Canada and the United States. Going forward, the Vancouver Police Department and the City Large Event Oversight Committee have both agreed to share information about the future of public gathering with the DVBIA (DVBIA, 2012, p. 1).

The role of the DVBIA highlights another case of correspondence with multiple jurisdictions, but also the role of the private businesses in governance. Once again citing the June 2011 Stanley Cup riots[64] as a justification for more surveillance, security, and interoperability, the DVBIA recontextualized this riot discourse. By viewing "public gatherings" as potential riots and revenue losses for the downtown core, the DVBIA further legitimized its administrative role. The DVBIA "leveraged relationships with the police, security experts and hotel operators" in order to gather information on strategies employed by police officers and other business owners (DVBIA, 2012, p.1).

These connections between private business, private security, and law enforcers are pertinent to the ideas presented in the previous section – specifically concerning questions of "the public," space and private state property. While sharing information about "future public gatherings," none of the organizations clearly explicate what constitutes a "public gathering." The VPD in its *Public Demonstrations Guidelines* (2012)

[64]"…although the City had unanticipated costs, we were able to build on our experienced gained through learning's [sic] from the Stanley Cup riot and our extensive experience with encampments and resolve the protest without collateral damage to the downtown and neighbourhoods involved" (Doc15, December 19, 2011). Occurring months after the infamous riots, these past events discussed in Chapter 5 dictated responses to OV – a dangerous event.

states, “[it] manages approximately 250-300 public gatherings a year. These range from large planned congregations such as the [Honda, HBSC] Celebration of Light to gatherings which ultimately become demonstrations, such as Occupy Vancouver…” (p.2). This differentiation between public gatherings and public demonstrations was recontextualized by the DVBIA. In *Downtown Matters* (2012), the DVBIA noted that OV’s “tent city” forced the relocation of the “Coast Capital Christmas Square” and shortened the “Rogers Santa Claus Parade.” It is evident that “public gatherings” for the DVBIA are not those attended by the public, but rather those that are not organized by private business. Private interests bring with them insurance, economic sponsorship, and usually profit; whereas, OV sought to challenge these property and profiting relations.

4.5. Semiosis: The Making of the Unsanitary, Unsafe, Unlawful and Illegitimate Protestor

Definitions of “public,” be it in terms of “the public,” “public space,” “public property,” “public bodies,” and or “public law,” were central themes to the criminalizing discourses surrounding OV. Over the course of OV, various conceptions of who was the “legitimate” public were invoked and revoked as a means of understanding dissent and its criminalization. Initially, Mayor Robertson addressed those participating in the October 15th, 2011 day of solidarity as “citizens...[who] have expressed openly their desire to [participate] peacefully and lawfully” (Doc6, October 14, 2011). In adopting the “monitor and wait approach” of other jurisdictions, surveillance became a key tool in the construction of OV members (Doc13, October 27, 2011). The CLEOC and its external partners monitored OV through a variety of practices, and internal City correspondences regarding the behaviours exhibited at the site were circulated regularly. On October 24th, 2011, noting the “absence of criminal activity”, issues of alcohol, infighting, and fire safety were raised (Doc7). Through a pointed discussion of these issues, OV members were cast as increasingly hostile, aggressive and uncooperative by business owners, private security, the VPD and the City (Doc 7, October 24, 2011). Two days later, emails between property use inspectors, managers and City officials discussed noise

complaints by business owners made against OV (Doc8, October 26, 2011).[65] These issues were recontextualized at the October 27th, 2011 and November 1st, 2011 Council Briefings. Occupiers quickly went from being members of the gentrified public, to being potentially violent criminals apt to jeopardize their own health and safety, and more importantly, the health and safety of the gentrified public (Doc13; Doc14).

The November 6th, 2011 VPD news release titled, *Masked Protestors Infiltrate Occupy Vancouver,* served to expand and cement this violent narrative. VPD Constable McGuinness recounted recent events at the OV camp and distributed this release widely to city officials, including City Manager Ballem and Mayor Robertson, and the Department of Justice (Doc16, November 7, 2011; Doc18-19, November 6).

> Nearly a dozen masked protestors dressed in black and carrying flagpoles and backpacks have infiltrated the Occupy Vancouver gathering this afternoon. Vancouver police have increased their presence at the Vancouver Art Gallery and are monitoring the actions of the group closely (Doc9, November 6, 2011).

This release was a culmination of the above delegitimizing processes, which troubled OV's status as a lawful political movement by shrouding it in rhetorics of violence and anarchy. Once again, OV was cast as a violent threat to the gentrified, well-behaved and propertied public. Often presented as historical context and/or justification for increased force, the threats posed by anarchists are prevalent in the released documents. For example, the labelling of protestors, youths and others on the streets during the 2010 Olympic protests and 2011 Stanley Cup riots as anarchists effectively homogenized these disparate groups, making their property destruction part of a larger political agenda. Through the repetition of these terms – anarchists, the black bloc, and black bloc tactics – discourses of political dissent, riots, unlawfulness, and illegality are inextricably entangled. Furthermore, including anarchism in discussions of riots serves to simultaneously politicize unlawful behaviours, and depoliticize protest through the threat of violence. In combination with the escalating safety concerns these threats of violence were used to justify increased surveillance and police presence.

[65]City officials, while wanting to address noise complaints, noted that the "bylaw's intent [was] not to regulate public demonstrations" (Doc8, October 26, 2011).

On November 6th 2011, after the death of a young woman, as mentioned above, Mayor Robertson used her passing as a political platform and a means of enacting the City's regulatory framework. Informed by the above VPD news release, he stated,

> The original Occupy Vancouver protest on October 15th saw thousands of Vancouverites from all walks of life come together to collectively raise concerns of inequality and the global economic system, as well as a local focus on housing and affordability…However, in Vancouver, we are seeing the issues that the Occupy movement seeks to highlight drowned out by the rising and acute life safety concerns (Doc11, November 6, 2011).

By using a disjunction, Mayor Robertson uncoupled issues of drug-use from issues of inequality, housing and affordability. In doing so, the City created an "original" OV against which to juxtapose the illegal and unlawful activity of the then current OV "tent city." No longer did OV comprise people "from all walks of life." Based on city surveillance, no longer did it house legal and legitimate protestors – members of the middle class. These critiques of authenticity served to distance the City from its initial endorsement. This narrative was recontextualized on November 7th 2011, when City Manager Ballem gave official notice to the people occupying the VAG lands requiring them to leave. To justify the enactment of the regulatory frame, Ballem expanded the City's list of "life safety concerns" to include "fire safety, injection drug use, the presence of pets and other hazards" (Doc12, November 7, 2011). This criminalizing discourse placed OV, free speech, and liberty in opposition to health and safety, thereby reifying the false dichotomy between liberty and security. Furthermore, this use of liberty-security rhetoric solidified the contention that according to the City OV was not "the 99%."

As demonstrated above, the City was not concerned with the health and safety of all its citizens. In fact, if the City were genuinely concerned with issues of life safety, perhaps local manifestations of systemic inequality would be meaningfully addressed. Instead, the City was only concerned with the visibility of these issues. No longer rendered invisible by the boundaries of the DTES, OV's inclusion of homeless populations, in addition to its attitude towards property relations, destabilized the legal and spatial borders of downtown Vancouver.

To maintain the status quo, the City used various legal frameworks to construct OV as a threat to people and property. As powerful ideological tools, used in tandem with discourses of poverty, these laws facilitated economic and social exclusion (Hermer & Mosher, 2002, pp. 16-18). The City, at once, was able to criminalize political dissent – dissent which challenged the very issues of inequality, poverty, and drug-use that were used to shut it down – as well as sustain the criminalization of poverty. By recontextualizing ongoing discourses of homelessness and poverty in Vancouver, the lawful, safe and legitimate public was understood through its juxtaposition to poverty. These criminalizing processes are congruent parts of the same pacification project. The same laws that are used to criminalized homelessness, such the *Public Health Act*, the *Fire By-law*, the *Street and Traffic By-law*, the *Criminal Code*, the *City Land Regulation By-law,* and the *Trespass Act*, were used in this instance to remove OV. In the case of OV, this quasi-criminalization served to protect the economic health and safety of downtown business, by maintaining and securing the spaces of/for the gentrified, orderly, propertied and consuming public.

4.6. Summary

Initially, OV was seen as part of the public, and thus deserving of public safety and supervision. However, by challenging property relations and systemic inequality, OV temporarily disrupted the social, spatial and legal boundaries of the City. Guided by the aforementioned liberal rhetoric, specifically the disjunction between due process and crime control, the City quickly re-casted OV as an inconvenience, and then as a threat to the orderly public. This change in rhetoric was promulgated by the input of various CLEOC members, in particular the VPD and DVBIA. The interoperability of “public” and “private” security illuminated the multiscalar enactment and administration of the (property) crime control mandate. The City and its partners used a potent regulatory framework that sought to criminalize both political dissent and the inequality OV critiqued. Rather than protect those most “at risk”, the crime control mandate served to protect the economic “health and safety” of downtown Vancouver businesses. Through this multiscalar and multivalent process, the City and its partners concretized the categories of lawful and unlawful behaviours based on pre-existing property relations. However, in attempting to trouble numerous false dichotomies exhibited in this “case”,

much of this analysis reifies the distinction between lawful and unlawful dissent. This false binary is explicated in detail in Chapter Five.

Chapter 5. The Making of Anti-Masking Legislation Bill C-309

5.1. Introduction

The policy-making processes that underwrite the governance of public order and dissent in Canada are changing – the combination of a 'tough on crime' ethos and the increase in omnibus and private member bills has given rise to new techniques of power that seek to criminalize political dissent (Brabazon, 2006; Hermer & Mosher, 2002; Parks & Daniel, 2010; Smith & Cowen, 2010). However, as mentioned in Chapter 2, much scholarship has centred exclusively on 'moments of protest' and 'moments of control'. While this case study approach yields contextually rich analysis, in many instances it fails to address the scope of criminalizing processes. Specifically, how do these 'moments' culminate, inform and recontextualize the discourses surrounding the criminalization of political dissent?

As stated above, "legal control during protest plays a lesser role than it does before and after" (Fernandez, 2008, p. 88). While 'moments of protests' demonstrate the enactment and privileging of mandates, Fernandez's statement informs the following critical discourse analysis of Bill C-309.[66] This bill, entitled the *Preventing Persons From Concealing Their Identity during Riots and Unlawful Assemblies Act*, amends the

[66]As expanded above, ease of data collection and the language of the released materials dictated the selection of these "case studies". Initially I had collected FOI and ATI releases concerning the criminalization of the 2012 Québec Student Protest. In response to these protests, provincial and municipal governments respectively passed Bill 78 and Montreal Bylaw P-6 during May 2012. These laws prevented protest on university grounds, required protestors to disclose routes, and banned the wearing of masks. This concurrent development of anti-masking legislation, while mentioned in parliamentary debate, was not discussed in depth. While analysis of bylaw P-6 and Bill C-309 may provide rich comparative discussion, language barriers and lack of contextual information on the 2012 Québec Student Protests precluded this approach to analysis. A future collaborative paper will address the genesis and repercussions of anti-masking legislation in Canada.

concealment of identity in the Criminal Code, making masking an indictable offense. By drawing on Freedom of Information releases (from the Victoria Police Department, the VPD, and the City of Montreal) and parliamentary debates, I examine the legislative recontextualization of criminalizing discourses employed by various public and private agencies in Western Canada in order to justify pre-emptive[67] crime control.

While presented beside a discussion of OV, the following "case" should not be simply conflated with, or overly compared to the previous chapter. Rather, this investigation of Bill C-309 serves as another vantage point from which to understand the larger contexts surrounding the criminalization of dissent in Canada – in particular the interoperability of governing bodies in Western Canada. When, how and by whom are these criminalizing discourses employed? With the particular forms of neoconservatism[68] and neoliberalism currently being invoked in Canada to legitimize "tough on crime" policies and "challenges" from liberal intellectuals reinforcing these recommendations, explicating law-making and law enforcement practices is key to critical scholarship.

5.2. Context: The Multiscalar Making of Legislation

In the United States, anti-masking legislation has been used since the mid 19th century as a means of impeding Ku Klux Klan activity; however, more recently these laws have been revived and recontextualized in light of political dissent (Fernandez, 2008). Now part of statutory frameworks for the policing of protest, laws concerning the

[67] As various spellings of pre-emptive are used throughout the collected documents I have taken the liberty of standardizing the spelling.

[68] In Canada, the term neoconservatism has been conflated with social conservatism (see Jeffery, 1999). This perhaps is a conscious and deliberate choice by Canadian scholars to politicize and respond to the conservatism displayed in Canada during this period (i.e. the "reform" governments of Mike Harris, Ralph Klein and Preston Manning). For example, in the late 1990s and early 2000s, neoconservatism became a fashionable term applied to a diverse assortment of topics such as employment, feminization of poverty, homelessness and fiscal policy. Outside of this particular Canadian usage, neoconservatism is understood as a foreign policy doctrine based on moralist and Christian centred ideology (Erhman, 1995; Fukuyama, 2007). For example, the invasion and "liberation" of Iraq can be thought of as interventionist policy based on US neoconservatism.

concealment of identity have most recently been employed in response to the American branches of the Occupy Movement (Doll, 2011; Freed, 2012; Robbins, 2012).[69]

Canadian law enforcers and lawmakers, facing criticism for the poor control of protests and riots, namely the 2012 Quebec Student Protests, the 2011 Vancouver Stanley Cup riots, and the 2010 Toronto G20 protests, have turned to other jurisdictions, including France, the UK and the Ukraine for protest control policies (Doc23, 2011; Doc33, 2012; Doc35, June 10, 2011). Bill C-309 was introduced by Conservative MP Blake Richards on October 3rd, 2011 and was given Royal Assent on June 19th, 2013. To date, Bill C-309 has been discussed in terms of its development in the legislative branch; however, these discussions truncate the longstanding interoperability between the various public and private bodies responsible for drafting preliminary articulations of anti-masking legislation. The following section chronologically outlines the making of Bill C-309, and serves as a scaffold for the thematic discussion in the subsequent sections.

5.2.1. Police As Law Makers

The earliest records of Canadian anti-masking legislation can be traced back to the 2002 meeting of the CACP in Quebec (Doc21, June 21, 2011). In 2002 it was tabled for later discussion, and in June 2011 Police Chief Jamie Graham[70] of the Victoria Police Department (VicPD) "dusted [it] off" (Doc21, June 21, 2011). Gauging the current policing climate prior to the August 2011 CACP conference, Chief Graham solicited the endorsement of various police chiefs across Canada – specifically from Vancouver, Toronto, Edmonton and London (Doc20, June 21, 2011; Doc22, June 22-23, 2011). This legislative recommendation was supported unanimously by the contacted chiefs, and

[69]News reports from Occupy Wall Street and Occupy D.C. both state that anti-masking legislation was temporarily used to arrest and detain protestors. Little material has been published on other instances of this pre-emptive control – despite pre-existing bylaws in cities throughout the United States.

[70]With a 34 year long career with the RCMP, Jamie Graham was hired by the VPD in 2002. He served as VPD Chief Constable until 2007, but did not renew his five-year contract and instead transferred to the VicPD in 2009. During his time in Vancouver Chief Constable Graham's conduct was called repeatedly into question. In 2002, the Pivot Legal Society looked into allegations of police abuse by residents of Vancouver's Downtown Eastside, and in 2010 B.C Civil Liberty Association and Victoria Police Board found Graham's conduct surrounding the 2010 Vancouver Olympic discreditable (DeRosa, 2009; Pablo, 2008).

email correspondence with Chief Jim Chu revealed similar policy recommendations underway in Vancouver (Doc20, June 21, 2011; Doc35, June 10 2011). A Summary of Legislative Change Requests from the Vancouver Police Department, dated June 10th, 2011, 5 days before the Stanley Cup riots, suggested policy recommendations to prohibit the wearing of masks (Doc35). Later, citing the 2010 Olympic protests and the outcome of the 2011 Stanley Cup riots, the VPD endorsed anti-masking legislation as a mechanism for controlling unlawful assemblies (Doc35, June 10, 2011; Doc29). Chief Chu forwarded the VPD resolution to Chief Graham, and both departments pooled resources and preliminary research (Doc22, June 22-23, 2011).[71] Specifically, the VicPD incorporated personal testimony into the resolution and made publicly available documents official, including news articles from the United Kingdom, France, and the Ukraine, Wikipedia entries, United Kingdom Hansards, United States case law, the Fordham Law Review, and the Harvard Law Review (Doc23, June 23, 2011; Doc33, April 27, 2012). After two months of redrafting, Chief Graham presented the revised and reorganized resolution to the CACP in late August 2011 (Doc26).[72]

Shortly after the CACP conference, on September 27th, 2011, Conservative MP Blake Richards contacted Chief Graham by phone (Doc27). Phone conversations were used throughout the development of Bill C-309 and were implicitly and explicitly mentioned by the public officials. Larsen (2013) notes that phone conversations obscure transparency, whereas "paper trails" can be partially pieced back together. For example, in a September 27th, 2011 email from Chief Graham to Police Chiefs Chu and Blair, he discusses his correspondence with Richards.

> I have been contacted by Blake Richards, MP in southern Alberta regarding a private member's bill dealing with essentially the same issues that we surfaced earlier in 2011. I spoke to Richards via phone this

[71] These FOI requests highlight the research practices used by the VicPD. While I am unable to make claims about other policing bodies based on this present research, in future work I will use FOI and ATI requests to investigate the research practices of policing agencies contributing to legislative resolutions and policy recommendations. From this initial research, potential questions will examine: How is information collected? Who collects this information? What is considered a reputable source? And by omission, what is not considered a reputable source? What conclusions are drawn from this research? How is research packaged, changed and employed to justify policy changes?

[72] See Appendix C.

> morning and he feels that he will get support from his caucus and this matter could become public quite soon. They are confident that the matter will be fully supported by government, I pointed out some cautions and controversy that we surfaced in my research but he feels that their review of the law supports where they are going. He has fully consulted the Federal Solicitor General and Justice Minister's offices and they have had their lawyers review the issue extensively (Doc28, September 27, 2011).

By claiming to have had a similar federal legislative recommendation underway, MP Richards requested a copy of Graham's resolution and research (Doc27, September 27, 2011).[73] In a matter of days this research was repackaged by MP Richards, but remained almost identical to the earlier CACP draft.

Chief Graham was quick to endorse his own rebranded and revised resolution, and he constructed himself in press releases as a "welcoming" recipient of this legislation (Doc30). Rather than acknowledging his own active role in developing the resolution, Chief Graham quickly took on the role of endorser – "not that it matters, but I will throw whatever support I can behind what [Richards] is doing and what he is proposing" (Doc28, September 27, 2011). With this formal endorsement, Graham once again solicited support from other Police Chiefs – specifically Bill Blair of the Toronto Police Service (TPS) and Jim Chu of the VPD. By alluding to "the fairly recent incidents in [their] two cities," presumably the 2010 Toronto G20 protests and the 2011 Vancouver Stanley Cup riots, Chief Graham recontextualized these events to justify further pre-emptive control (Doc28, September 27, 2011).

Like others contributing to discourses surrounding the criminalization of dissent, Graham conflated and entangled discussions of protests and riots with these initial statements. By claiming that both events brought out the usual suspects and required similar public order policing tactics, Chief Graham purposefully connected protests and riots with lawful and unlawful behaviour. Building on the similar discussion in Chapter Four, the following sections undertake this analysis.

[73]FOI and ATI requests sent to the DOJ, Privy Council and PMOs office did not reveal Richards's early research or correspondence concerning his private member's bill. While private member's bills typically require legislative counsel, the lack of released documentation is troubling and I remain skeptical. However, this material may have been left out due to request parameters, correspondence with incorrect governing bodies, and or redactions.

The early work of Chief Graham, Chief Chu and various police researchers in the making of Bill C-309 problematizes the role of police as solely law enforcers. Lipsky (1970) acknowledges the "increasing" discretionary power of police by conceptualizing them as "street level bureaucrats" and members of the "policy making community." Policy-making and policy implementation, rather than limited to the executive and legislative braches, is ultimately dependent on those who enforce it. However, this classic and conservative conception of policy implementation fails to acknowledge the various scales and "levels" of governance that police are operating on and within.

Anti-security scholars challenge these hegemonic liberal conceptions of contemporary policing. Specifically, they maintain that the terms "crime prevention" and "law-enforcement," which are both rooted in enlightenment thought, erase the power held by police officers (Neocleous, 2011b). Instead of perpetuating these liberal logics, they suggest that "police science" better represents the role of police in the pacification project (Neocleous, 2011). Policing science, as the science of governing, is able to capture the administrative and civilizing powers of police. Furthermore, this conceptualization attempts to destabilize the hegemonic footing of liberal thought.

As shown in the detailed correspondence between these police chiefs, the drafting of legislation is a multiscalar project that troubles the mutually exclusive distinction between law creation and law enforcement. Furthermore, it illuminates a "revival" in policing science and the impact this has on discourses surrounding the criminalization of dissent, and how these discourses were recontextualized throughout parliamentary proceedings.

5.2.2. Private Member's Bills

Private Member's bills have become commonplace in the Canadian parliamentary system. Used frequently during times of minority governments, these bills tend to be met with increased skepticism – especially when they are brought forward by backbenchers of the majority party (Parliament of Canada, 2000). Compared with bills introduced by cabinet ministers on behalf of the executive branch, private member's bills tend to receive less parliamentary discussion (Parliament of Canada, 2000). While rules now prevent filibustering and other "talking out" tactics, the sporadic and non-scheduled

time allotted for private member's bills decreases debate and committee readings for such bills (Parliament of Canada, 2000).

On October 3rd 2011, Blake Richards introduced his private member's Bill 309 to the House of Commons. He introduced the bill stating,

> Mr. Speaker, it is a pleasure to rise today in the House to introduce my private member's bill, the preventing persons from concealing their identity during riots and unlawful assemblies act. This act would amend the Criminal Code to make it an offence to wear a mask or other disguise to conceal one's identity while taking part in a riot or unlawful assembly. This would give the tool to police to first, hopefully prevent these kinds of things from getting out of hand; and, second, if and when they do, it would give them another tool to punish those who were involved in these kinds of things and ensure they do not get too far out of hand (Richards, October 3, 2011).

Richards's curricular and repetitive introduction of Bill C-309 provided key language that remained with the bill through the parliamentary proceedings. After this introduction, all questions, debates and amendments were tabled until the second reading. At the second reading, held throughout November 2011, New Democrat (NDP) MP Françoise Boivin contextualized the Bill.

> Bill 309, more than any other bill, epitomizes the Conservatives' approach to criminal law: a front page and then a bill. It is that simple…This is a private member's bill. The government would never have dared to introduce it directly; therefore it did so indirectly (Boivin, October 29, 2012).

Bovin criticized the covert tactics used to introduce laws, by using a private member's bill to generate media sensationalism and bolster the Conservatives' tough-on-crime mandate.[74] The Conservative party responded with impassioned speeches that recast these criticisms in a positive light by arguing that it served to "protect law abiding citizens and keep communities safe" (Rempel, February 8, 2012). Scraton (1987) remarks, "law

[74]The Conservatives have faced similar criticism over their use of omnibus crime bills, most recently Bill C-10. An omnibus bill is a single document that is passed by a legislature in a single vote, but is comprised of several measures on diverse and unrelated subjects. Various civil rights organizations have challenged these bills, arguing that the covert character, large scope and size of these bills limit the opportunity for discussion and debate (Canadian Civil Liberties Association, 2014).

and order rhetoric, as an expression of deep-seated ideologies, has its strength in its broad appeal as part of the development of popular consent" (Scraton, 1987, p. 61). Like the early critical criminologists, this thesis seeks to problematize this "relationship" between the law, crime, and other processes in society. As well, this thesis attempts to explicate how these processes fit into the ongoing pacification project.

Throughout the second reading, NDP, Bloc Quebecois and Green Party members continued to critique this "privatizing" tactic, and labeled it as ill thought out and redundant. For example NDP MP Jack Harris comments,

> It always worries me when private members start delving into the Criminal Code and looking for new offences, because they do not always read the entire Criminal Code, and I do not expect them to, so they may not know what else is in the Criminal Code. Some lawyers know perhaps little more than some people. However, I need to point out to Hon. Members that there is already an offence to wear a mask with the intent to commit an indictable offence. There is already a substantive section of the Criminal Code that says a person cannot wear a mask with the intent to commit an indictable offence. It is subsection 351(2). What are we doing creating new offences? (Harris, November 17, 2011).

Using a disjunction to pad his criticism, Harris's statement is indicative of criticisms found throughout this parliamentary debate. In May 2012, after passing the second reading, the bill was referred to the Standing Committee on Justice and Human Rights. At this standing committee various stakeholders provided input including police chiefs, academics, private business interests, and civil rights organizations. With majority backing, Bill 309 passed its third reading in the House of Commons and was presented to the Senate in late October 2012. Once again, bringing together the usual stakeholders, it was referred to the Standing Senate Committee on Legal and Constitutional Affairs. This discussion reproduced the longstanding debates around anti-masking legislation, and once again critics took aim at this "privatizing" legislative tactic.

Throughout these dissenting commentaries Bill C-309 was overwhelmingly viewed as redundant and unconstitutional, since it presupposed intent and too easily enabled pre-emptive arrest (Standing Senate Committee on Legal and Constitutional Affairs, 2013b). Michael Spratt, a criminal defense counsel, appeared on behalf of the Criminal Lawyers' Association against Bill C-309. Spratt's commentary echoed previous

comments made by academics, lawyers and civil liberty associations. When discussing the justification and scope of this bill Spratt stated,

> It is very dangerous to let other jurisdictions guide us on criminal law policies. As we have done that over the last 10 years, we can look at some of the disastrous results that have happened in the US. Of course Canada has different legislation and a different framework for evaluating constitutionality. In the US, which is a different criminal set up in that each state is responsible for their own criminal law to some extent, there is a different analysis, I would be wary of letting those jurisdictions drive our policy. What works in France, what works in the US, what is lawful there may not pass muster in our courts here (Standing Senate Committee on Legal and Constitutional Affairs, 2013b).

Michael Spratt's comment inadvertently challenged policy mobility and mutation – specifically the adoption of laws from the American adversarial system. Often promulgated by private interests, policy transfer across municipal, provincial, federal and international levels is a common and intensifying process in Canada (Heroux, 2011; McCann & Ward, 2012; Peck & Theodore, 2012; Temenos & McCann, 2012). Crime control policies, especially, have traversed these geospatial boundaries, thereby blurring scales of governance (see McCann, 2011; Walby, 2005). By haphazardly piecing together ideologically congruent documents from around the world, MP Richards' cooption of the VicPD research served to officialize and politicize this policy mobility and mutation. In doing so, this "privatizing" political tactic erased the poor research-gathering process behind the Bill.[75] Personal testimonies by stakeholders, including Chief Chu and members of the DVBIA,[76] continued to erase and trump these research practices, and in late May 2013, the Senate approved Bill 309. With no redrafting, on June 19th, 2013, Bill 309 was given Royal Assent and became law. In Canada, wearing a mask while participating in unlawful assemblies is now an indictable offence.

[75]Chief Graham's research practices are perhaps informed by, but also serve to inform, a larger neoliberal and neoconservative political process currently occurring in Canada.

[76]These stakeholders included Charles Gauthier, the executive director of the DVBIA, Lincoln Merro, Manager of Security for The Cadillac Fairview and Tony Hunt, General Manager of Loss Prevention for London Drugs Limited (Standing Senate Committee on Legal and Constitutional Affairs, 2013a; Standing Senate Committee on Legal and Constitutional Affairs, 2013b).

5.3. Disjunctions: "Striking a Balance" and Discourses of Violence

Early discussions of anti-masking legislation acknowledged the importance of due process – specifically in terms of free speech, freedom of assembly, civil liberties and the Canadian Charter. However, through policy mobility and mutation, due process was quickly dismissed as a priority, and this development drastically changed the discourses surrounding anti-masking legislation.

As established above, anti-masking legislation in Canada dates back to the 2002 CACP conference (Doc21, June 21, 2011). In this first resolution, masking with intent was initially viewed as a distraction to public demonstrations.[77] A decade later, and days before the Stanley Cup riots, the VPD produced a strikingly similar recommendation, which called for an amendment to the Criminal Code or alternative legislation that would prohibit the wearing of masks (Doc35, June 10, 2011). After a lengthy pre-amble outlining the dangers of unlawful assemblies, VPD Planning and Policy Advisor Kristie McCann used a disjunction to frame dissent as being at odds with "peace officers" and the "community at large."

> The right to freedom of expression, speech, and peaceful assembly is guaranteed under the Charter of Rights and Freedom. However, it has become more frequent that some members of the protest have begun to wear disguises, masks or face covering, which obscures the view of their face and thus makes it difficult to identify them in the case they commit unlawful acts during the protest (Doc35, June 10, 2011).

This VPD policy recommendation constructed "masking" as a political act, as well as a political issue in need of resolution. The VPD anti-masking legislation, while potentially at odds with the Canadian Charter of Rights and Freedoms, was constructed as a means

[77] "Peaceful demonstrations are often marred by the irresponsible acts of a few whose main goals are to commit criminal, often violent acts. To facilitate their cowardly acts and to avoid apprehension and detection, these criminals often wear masks, bandanas or similar disguises. In some cases these individuals have been arrested for similar offences and are out on bail with conditions that they not engage in similar behaviour. The Criminal Code currently provides that anyone who, with intent to commit an indictable offence and has his face masked or coloured, is guilty of an indictable offence [sic]. This resolution calls for the offence of wearing a mask even if the offence is punishable by summary conviction" (Doc21, June 21, 2011).

of identifying people after they have committed a crime.[78] By acknowledging potential Charter challenges to their legislation, this rhetoric dismisses issues of due process. Furthermore, this logic shifts the focus away from due process, thereby turning attention to the need to prevent acts of violence. The threat of violence is used to explain and justify the policy recommendation.

Days after the 2011 Stanley Cup riot, a candid conversation between the Office of the Attorney General and Chief Graham revealed that the latter was aware of this tension. When mentioning his policy recommendation Chief Graham stated,

> We know this is fraught with constitution problems but being attacked by masked anarchists in the middle of the 2011 Stanley Cup riot has left many officers wondering why we haven't tackled this. Protestors with backpacks of water (cleanse peppery spray) and bandanas (hide the identity of thieves and rioters) were not uncommon during the Vancouver riot last week. With the number of officers injured, we are putting together a submission to move this forward (Doc20, June 21, 2011).

In this email, Graham used much of McCann's work to strengthen and legitimize his discussions of violence. In particular, he directly quoted her aforementioned disjunction. Then, in later politically refined statements, Chief Graham continued to repurpose McCann's disjunctive logic to justify increase police powers.

> The police are the first to support the right to freedom of expression, speech and peaceful assembly as guaranteed under the *Canadian Charter of Rights and Freedoms*. But it has become more, that during some protests or demonstrations that sometimes turn violent, people have worn disguises, masks or facial coverings designed to obscure or hide their identity…. With masked offenders mingling with legitimate protestors, crimes can be committed with impunity… Government and police intrusion into peaceful protest has to be balanced against the need for people to be safe (Doc26, August 11, 2011).

[78]This recommendation for anti-masking legislation is predicated on various forms of crowd surveillance not explicitly mentioned by the VPD in this recommendation. In the aftermath of the 2011 Stanley Cup riots, the VPD used footage from closed-circuit television cameras (CCTV) installed for the 2010 Olympics and used various social networking sites to gather images of offenders. The VPD also went to the public to help them identify those in the footage. This reactionary intelligence gathering faced heavy scrutiny.

Like the VPD's resolution, Graham's statements evoke a common and singular understanding of protest and demonstration. Not only were both of these events political, but also they were both inherently fractured and divisive. Chief Graham substantiated this claim by drafting tenuous connections between "violent events" and the wearing of masks. According to Chief Graham, masks were solely a symbol of violence which served to distinguish "legitimate" from "illegitimate" protestors. This string of disjunctions further fuelled an ongoing othering process – protestors, as potential mask wearers, were therefore threats to safety and security.[79]

As established in Chapter 4, this logic of balance between crime control and due process is central to the liberty-security regime. In early parliamentary discussion of Bill C-309, Conservatives, Liberals and New Democrats frequently employed the phrase "striking a balance." Co-opting the power of this phrasing, MP Richards recontextualized Chief Graham's use[80] of the balance discourse when introducing the bill to the House.

> This bill is a measured response to a problem that law enforcement officials have grappled with for years… No one should be able to commit violent destructive crimes against person and property with impunity under a cloak of anonymity…This bill strikes a balance between allowing lawful peaceful protest and suppressing unlawful activities in a disturbance. I would suggest it serves to strengthen legitimate peaceful assemblies by giving people new means to act against those who are intent on using peaceful assemblies as covers for their criminal behaviour (Richards, October 3, 2011).

Once again, by extending his predecessor's use of argumentation, MP Richards dismisses concerns about due process, arguing that this bill "strengthens legitimate assemblies by giving people new [techniques to control them]." This strategic use of "people" purposefully muddies the intentions of this act. Security, implicitly conceived of as the absence of crime, can only be maintained by extending the power of police. Chief Graham and MP Richards continued to reframe anti-masking legislation in the media as

[79]The remainder of analysis builds this semiotic argument, providing the context behind the making of the protestor.

[80]Informed by Police Chief Chu and Police Chief Graham's work, Richards gives little acknowledgment to the officers. Instead he claims authorship, by framing his private member's bill as the solution to the problems faced by police officers. Furthermore, the distinctive and blatant "paraphrasing" committed by Richards throughout this process fuels my aforementioned speculations.

beneficial to the "average Canadian," since it promotes "public safety and better protection of private and public property through deterrence of riots; swifter prosecution and the possibility of longer sentences" (Doc32, April 27, 2012). In doing so, this surveilling and criminalizing tactic became a means of deterring crime, enabling swifter prosecution, and extending sentences.

Bill C-309 and its earlier manifestations were continually framed in terms of preventing violent criminal behaviour. However, these early discussions failed to specify the form of "violence" the police officers sought to address. Chief Graham, writing days after the Stanley Cup riot, conceptualized violence in terms of police safety, and Richards extended "violence" to include property damage.

This discussion of property damage took hold and was repeatedly voiced by stakeholders supporting the bill – in particular, members of the DVBIA.

> I'm presenting today in my capacity as executive director of the association… The DVBIA board of directors voted unanimously at its January 24, 2012 meeting in support of the bill, because it would provide law enforcement officials with an additional tool to arrest individuals who wear a mask or disguise with the intent of committing unlawful acts and seeking to avoid identification. We believe this amendment to the Criminal Code will also serve as a deterrent to would-be rioters. Vancouver has a rich history of peaceful protest, but it also has a dark side: riots that have cost millions of dollars in property damage and traumatized employees, residence and business owners (Standing Committee on Justice and Human Rights, 2012a).

By constructing this legislation as a necessary "tool," he conceived of its value in terms of profit and loss to business. Once again using a disjunction to emphasize the relative importance of (property) crime control over due process, Gauthier continues to frame protestors as "would be rioters." Other DVBIA members expanded Gauthier's testimony by adding vivid detail to discussions of the 2011 Stanley Cup riots (Standing Senate Committee on Legal and Constitutional Affairs, 2013b). These accounts, given by security managers and loss prevention agents, effectively rewrote and recontextualized these events to equate pre-emptive control with economic security.

The DVBIA's involvement in this legislative process highlights social relations and the role of capitalist interests in the creation of law. Unlike other stakeholders (i.e.

civil rights associations) the DVBIA were treated as a legitimate and important stakeholder. This can be seen in the amount of time DVBIA members were given during parliamentary proceedings, as well as the support they received from various MPs and Senators. As established throughout these proceedings, the "word of business" was privileged due to the larger, specifically economic stakes they had in the legislation.

These testimonies shifted legislative discussion, and no longer kept up the pretext of concerns with due process. This practice did not go unquestioned and at first, many MPs and stakeholders challenged Blake Richards's ideological use of balance and due process. While using the rhetoric of balance, Liberal MP Joyce Murray's response at the second reading addressed the intentions of the bill, but also signalled a shift in discussion. She stated,

> Just now, one of the witnesses told us that we have to find a balance between the right to participate in a demonstration and the need for security in our society for individuals and their property. I agree that we all are seeking that balance. However, from what I have heard today, I am concerned that we are not looking for balance, but for a way to make the work of police officers easier, at the expense of the rights of individuals and their right to express themselves (Standing Committee on Justice and Human Rights, 2012b).

The question became: What is more effective at preventing "violent" crime? In a sense, this legislation was no longer about solely preventing violent crime, but rather became a means of adding another tool to the street-level bureaucrat's "tool-kit." This pacifying "tool," shrouded in longstanding debates concerning safety and property, enabled the pre-emptive criminalization of public gatherings by creating an indictable offence.

5.4. Recontextualization: Crime Control vs. Pre-emptive Crime Control

> In the interest of time, I think it also important to note that the words "tool" and "toolkit" have been used a lot in the testimony, that this would give the police a tool. Sure, but some of the examples of what that tool will allow them to do have been worrying (Standing Committee on Justice and Human Rights, 2012b).

NDP MP Craig Scott's comment alludes to the scope of pre-emptive control as a means of covertly and overtly regulating, managing and pacifying dissent. At the time of writing, the power of Bill C-309 has yet to be seen. However, if other manifestations of pre-emptive crime control in Canada, such as the mass arrests during the 2010 Toronto G20 protests, or the emergency measures used during the 2012 Quebec Student Protests serve as indicators, it is more than likely that this law will not remain holstered.

5.4.1. The Policemen's Toolkit: Paramilitary Gear, Rubber Bullets and Pre-emptive Control

As outlined above, the need for "pre-emptive" control was discussed in the House of Commons as an effective tool for addressing violence – specifically destructive property crime.

> Police have long advised that their inability to pre-emptively deal with individuals who were concealing their identities in the middle of such explosive situations is hindering their ability to maintain control and to protect the public… This bill has the potential to deter and de-escalate such unfortunate events in the future to protect persons and property (Richards, October 3, 2011).

After the bill's introduction, Richards repeatedly used the term "pre-emptive" in media lines and releases. When creating both the questions and answers to his Q&A release, Richards framed Bill C-309 as a way for the police to "protect and serve the public" (Doc32, April, 27, 2012).

> It will give police proactive, rather than reactive power to deal with riots and unlawful assemblies. The ability to demand individuals in a riot to unmask, and to detain and charge them if they do not, will allow police to remove masked individuals from the scene and prevent them from instigating criminal acts or engaging in them. It will also enable police to more quickly and efficiently identify rioters to pursue charges against them if these individuals are prevented by law from covering their face. Deterrence is the main objective of the law. Those who are unable to conceal their identity are less likely to engage publically in criminality, for fear of a greater likelihood of being identified and subject to prosecution (Doc32, April 27, 2012).

While invoking the imagery of protests with the Bill's introduction, Richards was careful to speak in particulars, by discussing Bill C-309 as both a deterrent and a pre-emptive

means of curtailing "riots" and "unlawful assemblies." This careful framing discursively distanced Bill C-309 from Chief Graham's earlier emotive statements.[81] Furthermore, this "distance from authorship" enabled Chief Graham to provide a different form of support to MP Richards. At the May 1st, 2012 Standing Committee on Justice and Human Rights, Chief Graham gave expert testimony, which melded his initial work with carefully constructed lines from Richards's legislative assistant.

> I think this is a progressive, measured, and responsible step towards giving law enforcement agencies the legislative tools we need to uphold the law and maintain public safety… In contrast [to existing legislation], Bill 309, by creating a specific offence for wearing a mask while taking part in a riot, could allow for pre-emptive arrest under the "about to commit" sections of the criminal code when an agitator "masks up." This would help provide proactive arrest authority to remove these instigators before things get out of hand (Standing Committee on Justice and Human Rights, 2012a).

Although heavily critiqued, this logic pattern was used ad nauseam by Liberal and Conservative MPs and a slew of stakeholders. This discursive pattern reflects the ways in which liberty was cast at odds with security, and how this distancing process further justified pacification. Richards's final statement where he concluded in discussion in the House of Commons typified this discourse.

> The masked criminals who work the riots arrive at the scene well prepared. They are armed. They are motivated. We equip and train our police to enforce our laws and to keep our streets safe, yet we know that one key tool is missing from their toolkit: a tool that would help police prevent, de-escalate and control riots; a tool that would spell the difference between legal orderly expression and total destruction of a neighbourhood; a tool that would protect our nation's citizens, emergency service workers, private businesses and public property; a tool that would protect lawful demonstrators' ability to put voice to their beliefs; a tool that would prevent violence on Canadian streets. Let us give our police that tool. Let us do it now. Let us do it today (Richards, October 29, 2012).

The combination of these statements created a potent narrative calling for pre-emptive crime control. We are told that crime can be prevented before it even happens – if we

[81]While Bill C-309 and much of the material surrounding it remained uncannily similar, tactical decisions like this fuel speculation about the legislative aid sought by Richards when drafting this private member's bill.

give police the right tools. This "tool" enabled officers to presuppose that wearing a mask is an indicator of a person's intent to commit a violent action. The act of wearing a mask fulfils the legal standards of mens rea and actus reus, whether the person is at an unlawful assembly or riot. But given the conflation of riots, unlawful assemblies, and protests, what is the actual scope of this legislation – when does wearing a mask become illegal?

5.4.2. When is it Criminal? Entangling and Disentangling Protests, Riots and Assemblies

By cloaking this bill in discourses of violence prevention, protests, riots and assemblies were continually presented as interchangeable events which all necessitated anti-masking legislation. While Bill C-309 specifically concerned unlawful assemblies, those providing context and justification for this legislation, as mentioned above, largely overlooked the legal definitions of these events. At the final Senate readings, Chief Chu attempted to disentangle these ideas and appease concerns.

> I will distinguish the different public order events, because there seems to be some discussion about whether a legitimate protest is a hockey riot, and I want to distinguish why we treat them differently…. In Vancouver there are two or three events every week, I know in Ottawa there are several events almost daily, and the vast majority of protests end peacefully. We know that and we cherish the rights of people to protest. Recent examples include the Occupy Movement across Canada, Idle No More, where there have been times the police have been criticized for facilitating the protest too much and not taking action. Sometimes protests become illegal and they happen in one of two ways. First, the legitimate protest is hijacked by a smaller group of people who use the cover of large numbers of people and they will use that event to commit crime. They are the anarchist types or will create an event specifically to shield their anarchist objectives in terms of wanting to commit crimes (Standing Senate Committee on Legal and Constitutional Affairs, 2013c).

With this statement, Chief Chu highlighted instances of protest control to signify his support for social movements and protest. However, by homogenizing the police handling of the Occupy Movement in Canada, he effectively erased practices of multiscalar governance, as well as the roles given to municipal policing bodies. In doing so, like others mentioned above, Chief Chu rewrote and recontextualized events to justify the need for this legislation. This hollow show of support for protests permeated

his discussion of "legitimate" and "illegitimate" protests. While he attempted to distinguish between legitimate and illegitimate protests, the discursive practices he employed once again connected them – by placing them on a linear escalating scale. For instance, he maintained that "sometimes" legitimate protest or "peaceful assemblies" become illegitimate and are "unlawful assemblies"[82] and "riots."[83] With the looming possibility of any protest becoming unlawful, due to the threat of masked anarchists, he further addressed the question of pre-emptive control and discretion. During question period, Chief Chu faced a barrage of questions regarding police discretion and training. For example, Michael Spratt asks,

> Given that one of the most important skills police officers must utilize in their job is obviously discretion, could you share with the committee what type of training your police officers undergo to learn how to properly assess the threat level of specific individuals in a situation such as a riot? Would you personally feel that peaceful demonstrations would be at a real risk of being targeted by overzealous police officers if this bill becomes law? (Standing Senate Committee on Legal and Constitutional Affairs, 2013c).

When responding to this question, Chief Chu spoke at a theoretical level. Rather than contextualizing his response with examples, first he stated that "every police officer is trained[84] to investigate the crime before proceeding with documentation to recommend a charge" (Standing Senate Committee on Legal and Constitutional Affairs, 2013c). Second, Chief Chu cited pre-existing legislation as a means of protecting people – "there is quite a bit of discretion applied in both of those circumstances [road blocks and sit-ins] because the Charter allows people to assemble in a peaceful manner" (Standing Senate Committee on Legal and Constitutional Affairs, 2013c). Third, while stressing this was an

[82]"An assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that they will disrupt the peace tumultuously" (Criminal Code, 1985, s 63).

[83]"An unlawful assembly that has begun to disturb the peace tumultuously" (Criminal Code, 1985, s 64).

[84]Later during the question and answer period Chief Chu responded to questions of training. "We have our public order officers deployed. They know there are certain types of instigators that they will target. When the charges are laid, we will have follow-up and guidelines that clearly state that we facilitate lawful protests. Our issues are not with legitimate protestors, our issues are with the people who turn them into criminal actions" (Standing Senate Committee on Legal and Constitutional Affairs, 2013c).

"unlikely" scenario he cited the courts as the failsafe. He was confident that "defense lawyers [would be] capable of presenting arguments that would convince a judge that the person [had] a legitimate and lawful reason for wearing a mask" (Standing Senate Committee on Legal and Constitutional Affairs, 2013c).

Like so much of this legislative debate, "realities" concerning Canadian criminal justice proceedings were ignored. Chief Chu failed to acknowledge that in instances of large-scale protest such as the 2010 Vancouver Olympic Games, or the 2010 Toronto G20 Summit, police forces from around the province and country were brought together and trained by CSIS and Joint Integrated Task Forces (Lamb 2012; Monaghan & Walby 2012a). These agencies, rather than briefing officers on due process laws, focus on threat assessments and paramilitary crowd control tactics. The addition of anti-masking law to these forms of pacification illuminates the scope and nature of "discretion." Furthermore, by rewriting historical events, Chief Chu failed to address paramilitary crowd control tactics, such as kettling and mass arrests, which have been used increasingly at protests and demonstrations (Canadian Civil Liberties Association 2010). These tactics have been used to criminalize, but also to obstruct and curtail dissenting activities (Fernandez, 2008; Starr & Fernandez, 2009). Similarly these tactics inform court decisions, and the limited power of the courts to protect civil liberties has been well documented in cases of political dissent (Barkan, 2006, Esmonde, 2003; O'Toole, 2011; Yang, 2011).

Bill C-309 can be seen as an effective means of pre-emptive criminalization, but also a means of gathering and surveilling populations. Through these policing mechanisms, populations deemed hostile are met with a multiscalar "toolkit" of pacifying techniques to maintain and secure the status quo.

> If it's a dual offence we have the ability to arrest and nip that issue in the bud early on to prevent all the other crimes from occurring, which we have seen in certain circumstances across our country. We believe that this is a tool that will be very helpful. Also unlawful assembly is a summary offence, but if we create this offence which is dual, which means indictable or summary, we can fingerprint and create a criminal record, which is difficult to do in the summary offence because you cannot fingerprint under the Identification of Criminals Act (Chu, April 24, 2013).

Chief Chu's testimony revealed the scope of this amendment. Masking as an indictable offense would not only expand police powers of discretion, but also enable the targeting of specific and constructed groups – anarchists in particular.

5.5. Semiosis: Making the Criminal, Invoking the Anarchists

As argued above, by focusing discussions on violence, safety, and property, issues of due process were dismissed in favour of pre-emptive crime control. This dismissal was predicated on the construction and homogenization of protestors and rioters based on police perceptions. In an early message to Chief Chu, Chief Graham explained the rationale underlying his support for anti-masking legislation. He stated, "I think a charge would address the pinheads anarchist types that show up for protests, to the B&E artists who smash and grab at night with a mask so the store security doesn't catch up to them" (Doc20, June 21, 2011). This association between anarchists, violence and protest was the strongest, recurring theme throughout legislative discussion by lawmakers and law enforcers.[85]

The "anarchist as security threat" logic intensified after the Bill's introduction[86] to the House of Commons. The following statement from MP Richards's press release was repeatedly recontextualized cementing a potent narrative which justified the targeting of anarchists.

> Anarchist groups are increasingly employing the tactic of concealing their identity by wearing disguises, masks, or other facial covering for the purpose of committing unlawful acts in a riot situation. Police have seen it time and time again, individuals with their faces concealed mixing into a group and then instigating riotous behaviour, such as throwing objects at police, tossing marbles under the legs of police horses to trip them up, or covering up their faces before smashing windows, setting fires, stealing, assaulting people or flipping over vehicles. These individuals then remove

[85]Few people concerned with civil liberties engaged with these highly caricaturized discussions of anarchism. Instead, lawyers, civil right associations, academics, and members of the public questioned the larger scope of this legislation.

[86]"When trouble starts, people intent on criminal activity depend on being able to "mask up" to conceal their faces with bandanas, balaclavas or other means to avoid being identified and being held accountable for their actions" (Richards, October 3, 2011).

> their facial coverings and slip away in the confusion, some never to be apprehended. It is vexing for police and dangerous for the public to see such individuals escape the consequences of their actions (Richards, November 17, 2011).

This account capitalized on sensationalized media images, and in so doing, decontextualized events. Once again, using vivid imagery to justify the legislation, Richards discussed the 2010 Toronto G20 protests. He states that "these thugs began maliciously destroying vehicles and buildings with previously hidden weapons that they brought for just that purpose. Hammers, flagpoles, mailboxes and even chunks of the street were used to cause as much damage as possible" (Richards, October 29, 2012). These accounts were echoed by Chief Graham's and Chief Chu's respective testimonies.

> Civil disturbances happen from time to time and I am sure they will continue to occur. But what is most concerning is when these disturbances become something worse, something more nefarious. Often a disturbance deteriorates into a violent riot because of the actions of a very few people. Indeed over the past few decades a common pattern has emerged relating to how and why riots occur. Typically at a certain point people within protests or assemblies don masks and other facial coverings and begin vandalizing property, hurling objects and sometimes assaulting police officers… This strategy has been adopted on a global basis among like-minded protestors who use the same tactics of concealing their identity, committing unlawful acts, and then shedding masks and facial coverings to blend in with larger group of lawful citizens (Standing Committee on Justice and Human Rights, 2012a).

> These people who travel from city to city wearing the Black Bloc face masks and covering themselves, we can create a track record. We believe that showing the history of someone will help, especially if it is the second or third time (Standing Senate Committee on Legal and Constitutional Affairs, 2013c).

Anarchists, and the political violent ideology they supposedly espouse, became the subjects of a mounting and potent criminalizing narrative. However, this narrative was predicated on a larger existing discourse in Canada and globally. Specifically, mainstream media, and various levels of government have long played an active role in the misrepresentation of anarchist politics and the framing of social problems (Hall et al., 1978; Rosie & Gorringe, 2009). Furthermore, this role has hinged on the multiscalar interoperability of local police, and state security intelligence (Monaghan & Walby,

2012a). Since 2009 CSIS and Joint Intelligence Groups (JIGs) have circulated "definitions" and "ways of identifying them" (Monaghan & Walby, 2012a). Using ATI releases concerning the 2010 Toronto G20 Summit, Monaghan and Walby (2012a) state

> Accordingly, within the category of 'anarchist threat' created by JIG-PIIT, the 'Black Bloc' became the most visible articulation of criminal menace. As one JIG Strategic Intelligence Report stated: 'The "black bloc" refers to black clothing and masks being used to avoid identification by authorities and possibly to create the impression of a menacing presence (p. 661).

Contemporary intelligence practices such as the creation of "threat assessments" are often discussed as a form of "mission creep" (see Deukmedjian and de Lint, 2007) and "threat amplification spiral" (Monaghan & Walby, 2012a). They have increased suspicion and justified sweeping repressive control in the name of order, security, and liberty. With the creation of Bill C-309 these ideas were recontextualized into pre-emptive legislation, thereby giving law enforcers broad discretionary powers to justify the targeting and pacification of supposed anarchists – or whoever else could be constructed as a threat.

5.6. Summary: Tracing the Recontextualization of Criminalizing Discourses

Days after the June 2011 Stanley Cup riots, VicPD Police Chief Graham "dusted" off an anti-masking policy recommendation dating back to 2002. Co-opting the violent imagery (re)produced by the media at the time, he attributed the property destruction occurring at protests, riots, and assemblies to "pinhead anarchists" and "travelling-criminals". This labelling and homogenizing process was made possible by a pre-existing discourse which caricaturized anarchists as violent thugs who employ Black Bloc tactics.

Months later, this policy recommendation was recontextualized and made into an official Private Member's Bill by Conservative MP Blake Richards. The similarities between the police recommendations and Bill C-309, as well as the continual input by Western police Chiefs highlight the multiscalar making of legislation. In addition, these practices highlight the role of law enforcers as lawmakers – specifically, Chief Graham's

involvement throughout this process demonstrates the various “levels” on which police power is operating.

While critics initially raised issues of due process, these were quickly dismissed throughout legislative debates, by constructing masking as being at odds with safety and private property. Anti-masking legislation was instead introduced as means of protecting the properly behaving protestors, as well as property. With the fixation on property, the question quickly became: How do we prevent violent crimes during these “events”? The solution was simple – stop the anarchists and you will be able to prevent unlawful assemblies. This statement repeated throughout the legislative proceedings was predicated on existing discourses. These discourses conflated anarchy with violence, and entangled protests and riots. In doing so, masks became a signifier of violence and a way of targeting the populations supposedly responsible for the violent crimes at public demonstrations. By criminalizing masks and giving police a tool to justify the surveilling and biometric collection of specific populations, Bill C-309 promised to prevent events like the 2010 G20 Summit protests and the 2011 Stanley Cup riots.

While the full power of Bill C-309 has not been actualized, Chief Chu’s final discussions in the Senate, referenced in the introduction to this thesis, allude to the far-reaching powers of this legislation to surveil, target and criminalize populations. The making of Bill C-309 highlights how discourses are employed and recontextualized to criminalize dissent. Rather than criminalizing an action – that is, the wearing of a mask – more nefariously, this law targets those people government and business view as challenging the current social order.

Chapter 6. Conclusion

This final chapter includes a summary and discussion of research findings from the two "cases" of OV and the Making of Bill C-309. Using these two "cases," this thesis investigates the criminalization of political dissent in Canada between 2011 and 2013. Discourse, understood as a constructive social process, is a key concept that has guided all stages of research. Specifically, this project examines discursive elements such as recontextualization, intertextuality and interdiscursivity. This chapter concludes with a discussion of research limitations and the significance of the study.

Central to this analysis is a discussion of contemporary literature that examines the criminalization of dissent as state repression, protest control, the governance of space, and securitization. This chronologic and thematic overview highlights points of critique, agreement, and areas for further research. By heeding the calls of scholars working in the aforementioned areas, this thesis builds on understandings of protest control, the governance of space, and responses to securitization. To engage with these ongoing discussions, this project employs a Marxian approach to law, the political economy of scale, and anti-security literature, as well as a dialectical relational approach to critical discourse analysis.

Guided by this theoretical and methodological orientation, this thesis utilizes Access to Information releases and Freedom of Information releases to investigate: How is dissent criminalized discursively and through what processes? How do these processes elucidate relationships between government bodies? Using a case study approach to critical discourse analysis, these questions are investigated in terms of OV and the making of Bill C-309. While these are two distinct "cases", not to be overly simplified or conflated, both serve as points of entry into this discussion of the operationalization of discourse.

This final chapter begins with a summary and discussion of research findings from these two "cases". It concludes with a discussion of research limitations and the significance of the study.

6.1. Findings

Research findings are organized and discussed in Chapters 4 and 5. In Chapter 4, *Occupy Vancouver and Recontextualization of State Space*, I argue that state power and space came together during OV to create a potent discourse of illegality. The creation of this discourse was a multiscalar pacification project that invoked various pre-existing discourses to construct dissenters as unsafe, unlawful and illegitimate.

Central to this project are understandings of "the public" and "public space." While OV was initially seen as representing "the public", and thereby deserving of access to public space, its claim to public space was quickly revoked. By challenging property relations, obstructing downtown business, and including homeless populations, OV temporarily disrupted the spatial, social and legal boundaries of Downtown Vancouver. This challenge, specifically the occupation of state property, to the State's representation of space, was met with a statutory and regulatory frame that privileged the (property) crime control mandate. The City and law enforcers unevenly applied bylaws and acts that were used to redefine state property as state private property, which reserved "public space" for legitimate, propertied, and gentrified members of the public.

The creation of this statutory and regulatory framework was a multiscalar project involving numerous levels and forms of governance. The interoperability between governing bodies across Canada recontextualized discussions of protest, occupation, riots and illegality. OV, held months after the June 2011 Stanley Cup riots, was understood as a potential riot and site of property crime. The increased trepidation from stakeholders in Downtown Vancouver, including the City, the VPD and the DVBIA resulted in increased surveillance, securitization, and the establishment of information sharing networks. The interoperability between "public" and "private" security illuminates the multiscalar enactment and administration of the (property) crime control mandate.

The City and its partners used a potent regulatory framework that criminalized both political dissent and the inequality OV critiqued. As such, OV and the various populations it housed were understood to be in opposition to public health, safety and security. By shrouding OV in longstanding discourses of homelessness, drug-use, and poverty, the City and law enforcers secured spaces of/for the gentrified, orderly, propertied and consuming public. In doing so, the City protected the representations of space which promote profit.

In Chapter 5, *The Making of Anti-Masking Legislation Bill C-309*, I argue that the making of legislation is a multiscalar and multifaceted process involving numerous levels and forms of governance. Specifically I explicate the role of law enforcers and business in this process.

Unlike most discussions of Bill C-309, this thesis traces the bill's development back to a policing conference in 2002 and its re-emergence in 2011. Chief Graham's and Chief Chu's involvement throughout this process – from the drafting of early policy recommendations to their personal testimonies in Parliament – troubles a liberal conception of police as solely law enforcers. The making of this legislation highlights the scope of police powers, not only in the executive and legislative branches, but also in their increased discretionary powers on the street. Anti-masking legislation was discursively produced as a necessary addition to the "policemen's tool kit."

Law enforcers from BC and the DVBIA came out in support of this "tool." By recontextualizing violent imagery from the 2010 Toronto G20 Summit and the 2011 Vancouver Stanley Cup riots, discussions of protests and unlawful assemblies were purposefully conflated. Ideas of due process were cast aside, and anti-masking legislation was constructed as a rubberized silver bullet to protect people and property. Masks, as a signifier of violence, became a means of distinguishing legitimate and illegitimate protestors, but also a means of targeting those deemed responsible for violent crimes at public demonstrations – specifically, the anarchists.

Through threat assessments, internal correspondence, and legislative debates, anarchists were homogenized, depoliticized and constructed as violent thugs. This highly caricaturized understanding of anarchy justified the legislation. This legislation

nefariously enables the surveilling, tracking, and collection of biometric material from those constructed or identified as “anarchists” by law enforcers.

The cases in Chapters 4 and 5 cannot be conflated or directly compared. While I have limited the scope of this project in terms of time frame, social actors, and geospatial context, each case brings with it its own context. Using concepts such as recontextualization, I argue that similarities can be seen between the two cases. I attempt to map the intertextuality of discourse through chapter organization. Each chapter explicates how disjunctions, the privileging of the (property) crime control mandate and multiscalar interoperability serve to construct the unlawful protestor.

6.2. Research Limitations

As maintained throughout the preceding chapters, discourses are ongoing, dynamic, intertextual, and contextual. While I argue 1) that there are similar themes present in these discussions and 2) that these discourses are recontextualized, these findings are not generalizable or representative of a singular discourse surrounding the criminalization of political dissent in Canada. Rather these findings are limited to the specific time period and geospatial contexts analyzed in this thesis.

Although I employ understandings of scale and multiscalar interoperability to draw connections between various levels and forms of governance in each case, these findings cannot be decontextualized or applied to other instances of this process. Arguably, increasing interoperability between governing bodies has resulted in the implementation of similar statutory and regulatory frameworks across Canada and beyond national borders. However, drawing substantive conclusions about policy mobility and mutation is beyond the scope of this project. Rather this thesis serves as anentry point into ongoing analysis. With this objective in mind section 6.3 expands on future points of inquiry.

This thesis focuses solely on the criminalizing discourses employed by law enforcers, lawmakers, and private businesses in Western Canada. By limiting the scope of research, dissenting voices are not discussed in this project. This epistemological

position and research protocol is based on data collection practices, language barriers, previous research experiences, as well as current trends in literature. My project does not seek to dismiss social movement research, but rather it provides a different vantage point from which to understand the criminalization of political dissent in Canada. Invaluable research insights are to be gained from interviews and participant observation; however, this approach is beyond the scope of my research. This thesis offers one perspective on the criminalization of dissent in Canada, which can work with other modes of research to jointly provide rich and nuanced understands of events such as OV and the making of Bill C-309.

Data collection practices – specifically the use of ATI and FOI releases – pose limitations to research. While steps were taken to ensure a broad collection of data from all governing bodies potentially involved, research time, costs, and lack of transparency precluded the collection and analysis of all possible documentation. Furthermore, as noted throughout the chapters, this form of data collection is not transparent and leaves much for the researcher to piece together.

6.3. Research Significance

As “law and order” legislation is created in the name of safety and security, the invoking of these discourses must be critically interrogated. While liberalism is cast as a critical yet pragmatic approach, this CDA demonstrates how liberal thought promulgates the crime control mandate. This research seeks to destabilize the liberty-security regime, liberal intellectualism, and the prevailing discourses surrounding the criminalization of political dissent in Canada. Specifically, my research adds to the growing areas of pre-emptive control and anti-security literature which examine the operationalization of discourse. While a “case”-based approach, this research attempts to move past discussions of “moments of protest” by focusing on the longitudinal implementation of discourses. How are these events connected, and how do they fit into the larger pacification?

Like other projects employing ATI and FOI as methodology the research project “made public” a small collection of documents. Stemming from these limited findings, I

suggest that future research in these substantive areas should investigate: the research practices of governing bodies, the role of Business Improvement Areas/Districts in surveillance and securitizing projects, and the multiscalar interoperability of governing bodies beyond national borders.

References

Access to Information Act. (1985, c. A-1). Retrieved from Department of Canada website: http://laws-lois.justice.gc.ca/PDF/A-1.pdf

Agamben, G. (2005) *State of exception.* (Trans.) K. Attell. Chicago, IL: The University of Chicago Press.

Agnew, J. (1994). The territorial trap: the geographical assumptions of international relations theory. *Review of International Political Economy, 1*(1), 53-80.

Agnew, J. (1997) The dramaturgy of horizons: geographical scale in the 'reconstruction of Italy' by the new Italian political parties, 1992-1995. *Political Geography, 16*(2) 99-121.

Amin, A. (2002). Spatialities of globalisation. *Environment and Planning A. 34*, 385-99.

Anthony, M., Emmers, R., & Acharya, A. (2006*). Non-traditional security in Asia: Dilemmas in securitization*. London, UK: Ashgate Publishing.

Arendt, H. (1951). *The origins of totalitarianism*. New York, NY: Harcourt, Brace and Company.

Balsely, T. (2012). POPS out of the shadows: A designer's perspective (2012). In R. Shiffman, R. Bell, J. Brown, L, Elizabeth, A. Fisyak, & A. Venkataraman (Eds.), *Beyond Zuccotti Park: Freedom of assembly and the occupation of public space* (pp. 351-363). Oakland, CA: New Village Press.

Barkan, S. (2006). Criminal Prosecution and the Legal Control of Protest. *Mobilization, 11*(1), 181-194.

Berger, T. R. (1981). *Fragile freedoms: Human rights and dissent in Canada*. Toronto, ON: Clarke, Irwin & Company Limited.

Bienefeld, M. (2002). Development theory: A new hegemonic ideology? In A. Bakan & E. MacDonald (Eds.), *Critical Political Studies: Debates and Dialogues from the Left* (pp. 208-231). Montreal, QC: McGill-Queen's University Press.

Bill C-309: Preventing Persons from Concealing Their Identity during Riots and unlawful Assemblies Act. (2011). 1st Reading Oct. 3, 2011, 41st Parliament, 1st session. Retrieved from parliament of Canada website: http://www.parl.gc.ca/LEGISinfo/BillDetails.aspx?billId=5136691&Language=E&Mode=1

Blomley, N (1994). *Law, space, and the geographies of power*. New York, NY: Guilford Press.

Blomely, N. (2003). *Unsettling the city: Urban land and the politics of property*, New York, NY: Routledge.

Boivin, F. (2012, October, 29). "Bill C-309, An Act to amend the Criminal Code". Canada. Parliament. House of Commons. *Edited Hansard 146(171).* 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=Hansard&Doc=171&Parl=41&Ses=1&Language=E&Mode=1

Booth, K. (1997). Security and self: Reflections of a fallen realist. In K. Krause & M Williams (Eds.), *Critical security studies: Concepts and cases* (pp. 83-120). Minneapolis, MN: University of Minnesota Press.

Booth, K. (2005). *Critical security studies and world politics.* London, UK: Lynne Rienner Publishers.

Bowles, S. & Gintis, H. (1987) *Democracy and capitalism: Property, community, and the contradictions of social thoug*ht. New York, NY: Basic Books.

Boyd, S. (1997). *Challenging the public/private divide: Feminism, law, and public policy*. Toronto, ON: University of Toronto Press.

Boykoff, J. (2007). *Beyond bullets: The suppression of dissent in the United States*. Oakland, CA: AK Press.

Boyle, M. (2011). The criminalization of dissent: protest violence, activist performance, and the curious case of the Volx Theater Karawane in Genoa. *The Drama Review, 55*(4), 113-127.

Box, S. (1983). *Power, crime, and mystification*. London, UK: Tavistock Publications.

Bula, F. (2011, Nov 11). How the Occupy protest became a defining issue in Vancouver election. *The Globe and Mail*. Retrieved from http://www.theglobeandmail.com/news/british-columbia/how-the-occupy-protest-became-the-defining-issue-in-vancouver-election/article4098988/

Brabazon, H. (2006). *Protecting whose security? Anti-terrorism legislation and the criminalization of dissent (*Unpublished doctorial dissertation). Osgoode Hall Law School York University, Toronto.

Braedley, S., & Luxton, M. (2010). Competing philosophies: Neoliberalism and the challenges of everyday life. In S. Braedley & M. Luxton (Eds.), *Neoliberalism an everyday life* (pp. 3-21). Montreal, QU: McGill University Press.

Brenner, N. (1997). Global, fragmented, hierarchical: Henri Lefebvre's geographies of the globalization. *Political Culture, 10*(1), 137-169.

Brenner, N. (1998a). Global cities, global states: Global formation and state territorial restructuring in contemporary Europe. *Review of International Political Economy, 5*(1)*,* 1-37.

Brenner, N. (1998b). Between fixity and motion: Accumulation, territorial organization, and the historical geography of spatial scales. *Environment and Planning D: Society and Space 16*(5), 459-481.

Brenner, N. (2001). The limits to scale? Methodological reflections on scalar structuration. *Progress in Human Geography, 15*(4), 525-548.

Brenner, N., Peck, J., & Theodore, N. (2010). Variegated neoliberalization: Geographies, modalities, pathways. *Global networks*, *10*(2), 182-222.

Buzan, B. (1983). *People, states, and fear: The national security problem in international relations.* Boulder, CO: Lynne Rienner Publishers.

Buzan, B., Waever, O., & de Wilde, J. (1998). *Security: A new framework for analysis*. Boulder, CO: Lynn Rienner Publishers.

Cain, M., & Hunt, A. (1979). *Marx and Engels on law*. London, UK: Academic Press.

Calderia, T. (2000). *City of walls: Crime, segregation and citizenship in Sao Paulo*. Berkeley, CA: University of California Press.

Canada. Parliament. House of Commons. Standing Committee on Justice and Human Rights (2012a). *Evidence.* Meeting 33, May 1. 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5538786&Language=E&Mode=1&Parl=41&Ses=1

Canada. Parliament. House of Commons. Standing Committee on Justice and Human Rights (2012b). *Evidence.* Meeting 35, May 8. 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5563117&Language=E&Mode=1&Parl=41&Ses=1

Canada, Parliament, Standing Senate Committee on Legal and Constitutional Affairs (2013a). *Evidence.* Meeting 79, April 17. 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/Content/SEN/Committee/411/lcjc/34ev-50068-e.htm?Language=E&Parl=41&Ses=1&comm_id=11

Canada, Parliament, Standing Senate Committee on Legal and Constitutional Affairs (2013b). *Evidence.* Meeting 80, April 18. 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/Content/SEN/Committee/411/lcjc/34ev-50076-e.htm?Language=E&Parl=41&Ses=1&comm_id=11

Canada, Parliament, Standing Senate Committee on Legal and Constitutional Affairs (2013c). *Evidence.* Meeting 81, April 24. 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/Content/SEN/Committee/411/lcjc/34ev-50091-e.htm?Language=E&Parl=41&Ses=1&comm_id=11

Canadian Broadcast Company. (2009, July 24). Vancouver passes temporary Olympic bylaws. *CBC*. Retrieved from http://www.cbc.ca/news/canada/british-columbia/vancouver-passes-temporary-olympics-bylaws-1.786960

Canadian Civil Liberties Association. (2010, June 29). *Breach of the peace: A preliminary report of observations during the 2010 G20 summit.* Retrieved July 9, 2010, from http://ccla.org/wordpress/wp-content/uploads/2010/06/CCLA-G-20-INTERIM-REPORT-A-Breach-of-the-Peace-June-29-2010.pdf

Canadian Civil Liberties Association. (2014). Bill C-10, The omnibus crime bill: Unwise, unjust, unconstitutional. Retrieved from http://ccla.org/omnibus-crime-bill-c-10/

Carr, J., Brown, E., & Herbert, S (2009). Inclusion under the law as exclusion from the city: Negotiating the spatial limitation of citizenship in Seattle. *Environment and Planning A, 41*, 1962-1978.

City of Vancouver (2013). Your government, Mayor Gregor Robertson. Retrieved from http://vancouver.ca/your-government/mayor-gregor-robertson.aspx

City of Vancouver. By-law No 8191. Fire By-law. (2000, May 8). Retrieved from http://former.vancouver.ca/blStorage/8191.pdf

City of Vancouver. By law No 2849. Street and Traffic By-law (2014, June 24). Retrieved from http://former.vancouver.ca/bylaws/2849c.pdf

Clarke, T. (2002). The recriminalization of dissent. *Policy Options,* 49-50.

Clément, D. (2005). *Rights in the age of protest: A history of the human rights and civil liberties movement in Canada, 1962-1982*. (Unpublished doctoral dissertation). Memorial University of Newfoundland, St. Johns.

Clément, D. (2008). The October Crisis of 1970: Human rights abuses under the War Measures Act. *Journal of Canadian Studies, 42*(2), 160-186.

Clough, N. (2011). *Constituted space: Re-thinking the geographies of contestation and control.* (Unpublished dissertation). University of Minnesota, Minnesota.

Collins, A. (2010). *Contemporary security studies*. Oxford, UK: Oxford University Press.

Cotterrell, R. (1996). Law's community: Legal theory in sociological perspective. Oxford, UK: Clarendon Press.

Crilley, D. (1993). Megastructures and urban change: Aesthetics, ideology and design. In P. Knox (Ed.), *In the restless urban landscape* (pp. 127-164). Englewood Cliffs, NJ: Prentice Hall.

Criminal Code, RSC 1985, c C-46.

Cox K. (1990). Territorial structures of the state: Some conceptual issues" *Tijdschrift voor Economische en Sociale Geografie, 81*(4), 251-266.

Cox, K. (1997). *Space of globalization: Reasserting the power of the local*. New York, NY: Guilford.

Cox K., & Jonas, A. (1993). Urban development, collective consumption and the politics of metropolitan fragmentation. *Political Geography, 12*(1), 8-37.

Cox, E. (2013). 'There is no right to protest': Montreal police deny Charter rights. *Rabble.* Retrieved from http://rabble.ca/blogs/bloggers/ethancox/2013/03/there-no-right-protest-montreal-police-deny-charter-rights

Cynic, A. (2012). *The increased criminalization of dissent*. *Disinformation.* Retrieved from www.diatribemedia.com/2012/07/09/the-increase-criminalization-of-dissent/

D'Arcus, B (2003). Protest, scale and publicity: The FBI and the H Rap Brown Act. *Antipode, 35*(4) 718-741.

D'Arcus, B. (2004). Dissent, public space and the politics of citizenship: Riots and the outside agitator. *Space and Polity, 8*(3), 355-370.

D'Arcus, B. (2006). Boundaries of dissent: Protest and state power in the media age. New York, NY: Routledge.

Damon, A. (2011, November 15). *The crackdown on Occupy protests and the criminalization of dissent*. Retrieved from http://www.wsws.org/en/articles/2011/11/pers-n15.html

Dalton, R. (2008). Citizenship norms and the expansion of political participation. *Political Studies, 56*(1) 76-98.

Davenport, C. (2000) Introduction. In C. Davenport (Ed), *Paths to state repression: Human rights violations and contentious politics.* Lanham, MD: Rowman & Littlefield Publishers.

Davenport, C., & Eads, M. (2001). Cued to coerce or coercing cues? An exploration of dissident rhetoric and its relationship to political repression. *Mobilization: An International Quarterly, 6*(2), 151-171.

Davenport, C., Johnston, H., & Mueller, C. (2005). *Repression and mobilization*. Minneapolis, MN: University of Minnesota Press.

Davenport, C. (2007). State repression and political order. *Annual Review of Political Science, 10(*1), 1-23.

Davis, M. (1990). *City of quartz: Excavating the future in Los Angeles*. London: Verso.

Davis, M. (1992). Fortress Los Angeles: The militarization of urban space. In M Sorkin (Ed.), *Variations on a theme park: The new American city and the end of public space,* (pp. 154-180). New York, NY: Hill and Wang.

della Porta, D. (1995). *Social movements, political violence and the state: A comparative analysis of Italy and Germany*. Cambridge, UK: Cambridge University Press.

della Porta, D. & Reiter, H. (1998). *Policing of protest: The control of the mass demonstration in western democracies*. Minneapolis, MN: University of Minnesota Press.

Dembicki, G. (2009, July 23). City manager to lead Vancouver during Olympics. Retrieved from http://thetyee.ca/Blogs/TheHook/Olympics2010/2009/07/23/city-manager-olympics-bylaw/

DeNardo, J. (1985). *Power in numbers*. Princeton, NJ: Princeton University Press.

DeRosa, K. (2009, Dec 7). Jamie Graham disclosed Olympic undercover operation. BC Police Complaints. Retrieved from http://www.bcpolicecomplaints.org/jamie_graham2.html

Deukmedjian, J., & de Lint, W. (2007). Community into intelligence: Resolving information uptake in the RCMP. *Policing and Society, 17*(3), 239-256.

Doll, J. (2011, Sept 21). 150-year-old law against wearing masks used to arrest Wall Street demonstrators. *The Village Voice.* Retrieved from http://blogs.villagevoice.com/runninscared/2011/09/occupy_wall_str_2.php

Downtown Vancouver Business Improvement Association. (2012). Communications network helps members manage Occupy Vancouver protest. *Downtown Matters*, 40110389. Retrieved from http://www.downtownvancouver.net/files/newsletters/2012WinterNewsletter.pdf

Drainville, A. (2011). Global discipline and dissent in the longue durée. *Globalizations, 8*(4), 411-423.

Dworkin, R. (1985). *A matter of principle.* Cambridge, MA: Harvard University Press.

Earl, J. (2003). Tanks, tear gas, and taxes: Toward a theory of movement repression. *Sociological Theory, 21*(1), 44-68.

Earl, J. (2004), Controlling protest: New directions for research on the social control of protest. *Research in Social Movements, Conflicts and Change, 25*(1), 55-83.

Earl, J. (2006). Introduction: Repression and the social control of protest. *Mobilization: An International Quarterly, 11*(2), 129-143.

Earl, J., & Soule, S. (2006). Seeing blue: A police-centered explanation of protest policing. *Mobilization: An International Quarterly 11*(2), 145-164.

Earl, J., Soule, S., & McCarthy J. (2003). Protest under fire? Explaining the policing of protest. *American Sociological Review, 68*(4)*,* 581-606.

Egelko, B. (2012). FBI: Monitoring Occupy was within rules. *San Francisco Chronicle*. Revived from www.sfgate.com/bayarea/article/FBI-Monitoring-Occupy-was-within-rules-3872525.php

Ehrman, J. (1995). The rise of neoconservatism: *Intellectuals and foreign affairs*, 1945-1994. New Haven, CT: Yale University Press.

Episten, K., & Iveson, K. (2009). Locking down the city (well, not quite): APEC 2007 and urban citizenship in Sydney. *Australian Geographer, 40*(3), 271-295.

Esmonde, J. (2003). Bail, global justice, and the limits of dissent. *Osgoode Hall Law Journal 41*(3), 323-361.

Esmonde, J. (2010, November 9). The G20 demonstrations and the criminalization of dissent. Retrieved from http://www.newsocialist.org/webzine/analysis/304-the-g20-demonstrations-and-the-criminalization-of-dissent

Fairclough, N. (1992). Discourse and text: Linguistic and intertextual analysis within discourse analysis. *Discourse and Society, 3*(2), 193-217.

Fairclough, N. (1997). *Discourse across disciplines: Discourse analysis in researching social change*. *AILA Review, 12*(1), 3-17.

Fairclough, N. (2003). *Analyzing discourse: Textual analysis for social research.* New York, NY: Routledge.

Fairclough, N. (2009). A dialectical-relational approach to critical discourse analysis in social research. In R. Wodak & M. Meyer (Eds.), *Methods of critical discourse analysis* (pp. 162-200). Thousand Oaks, CA: Sage.

Fairclough, N., & Wodak, R. (1997) Critical discourse analysis. In T. Van Dijk (Ed.), *Discourse studies: A multidisciplinary introduction* (pp. 258-284). Vol. 2. London, UK: Sage.

Feierabend, I., Gurr, T., & Feierabend, R. (1972). *Anger, violence, and politics.* Englewood Cliffs, NJ: Prentice-Hall.

Fernandez, L. (2008). *Policing dissent: Social control and the anti-globalization movement*. London, UK: Rutgers University Press.

Fitzpatrick, M. (2013, June 19). Wearing a mask at a riot is now a crime. *CBC News*. Retrieved from http://www.cbc.ca/news/politics/story/2013/06/19/pol-mask-bill-royal-assent.html

Fraser, N. (1990). Rethinking the public sphere: A contribution to the critique of actually existing democracy. *Social Text, 25/26*, 56-80.

Freed, B. (2012, Oct 5). Occupy's Halloween party might break D.C. law. *DCist.* Retrieved from http://dcist.com/2012/10/occupys_halloween_party_might_break.php

Freedom of Information and Protection of Privacy. (1996 RSBC) Retrieved from BC Laws website: http://www.bclaws.ca/civix/document/LOC/complete/statreg/--%20F%20--/Freedom%20of%20Information%20and%20Protection%20of%20Privacy%20Act%20[RSBC%201996]%20c.%20165/00_Act/96165_01.xml#section2

Freeze, C. (2013, June 12). Head of senate anti-terror committee unaware of metadata spying program. *The Globe and Mail*. Retrieved from http://www.theglobeandmail.com/news/politics/head-of-canadas-anti-terror-committee-unaware-of-metadata-spying-program/article12506212/

Froschauer, K. (2002). Preface. In A. Netherton, A. Seager, & K. Froschauer (Eds.), *In/Security: Canada in the post 9/11 world*. Burnaby, BC: SFU Centre for Canadian Studies Publication.

Fukuyama, F. (2007). *America at the crossroads: Democracy, power, and the neoconservative legacy*. New Haven, CT: Yale University Press.

Gabel, P., & Feinman, J. (1982). Contract law as ideology. In D. Kairys, *The politics of law* (pp. 172-184). New York, NY: Pantheon Books.

Gaus, G. (Ed.). (2010). *The Stanford encyclopedia of philosophy*. Retrieved from http://plato.stanford.edu/

Giddens, A. (1985). *The nation-state and violence: Volume two of a contemporary critique of historical materialism.* Cambridge, UK: Polity Press.

Gill, S. (2010). Preface: Protest in the age of neoliberal austerity. In F. Hessdörfer, A. Pabst & P. Ullrich (Eds.), *Prevent and tame. Protest under (self)control*. Berlin: Druck & Verarbeitung.

Gilham, P., & Noakes, J. (2007). More than a march in a circle: Transgressive protests and the limits of negotiated management. *Mobilization, 12*(4), 341–57.

Giroux, H. A. (2013). The Occupy Movement meets the suicidal state: Neoliberalism and the punishing of dissent. *Situations: Project of the Radical Imagination*, *5*(1).

Giugni, M., McAdam, D., & Tilly, C. (Eds.). (1999). *How social movements matter* (Vol. 10). Minneapolis, MN: University of Minnesota Press.

Glazer, N. (1992). Subverting the context: Public and space and public design. *Public Interest, 109*(1), 3-21.

Goldstone, J., & Tilly, C. (2001). Threat (and opportunity): Popular action in state response in the dynamics of contentious action. In R. Aminzade, J. Goldstone, D McAdam, E. Perry, W. Sewell, S. Tarrow, and C. Tilly (Eds.), *Silence and voice in the study of contentious politics*. New York: Cambridge University Press.

Gramsci, A. (1971). *Selections from the prison notebooks*. (Trans.) G. Nowell Smith. London, UK: Lawrence and Wishart.

Habermas, J. (1989). *The theory of communicative action* (Vol. 2). Boston, MA: Beacon Press.

Hall, S., Critcher, C., Jefferson, T., Clarke, J., & Roberts, B. (1978). *Policing the crisis: Mugging, the state and law and order.* Basingstoke: Palgrave Macmillan.

Hall S., & Scraton, P. (1981). Law, class and control. In M. Fitzgerald, G. McLennan, and J. Pawson (Eds.), *Crime and society: Readings in history and theory* (pp.460-497). London, UK: Routledge and Keegan Paul.

Harris, J. (2011, November, 17). “Bill C-309, An Act to amend the Criminal Code”. Canada. Parliament. House of Commons. *Edited Hansard 146(48).* 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=Hansard&Doc=48&Parl=41&Ses=1&Language=E&Mode=1

Harvey, D. (1982). The limits to capital. Oxford, UK: Basil Blackwell.

Harvey, D. (1996). *Justice, nature and the geography of difference.* Oxford, UK: Blackwell Publishing Ltd.

Harvey, D. (1999). The condition of post modernity: An enquiry into the origins of cultural change. Oxford, UK: Blackwell Publishing Ltd.

Harvey, D. (2008). *A brief history of neoliberalism.* Oxford, UK: Oxford University Press.

Hay, C. (1992). Housing policy in transition: From the Keynesian welfare state towards a Thatcherite settlement. *Capital and Class, 46*(1), 25-64.

Henderson, C. (1991). Conditions affecting the use of political repression. *Journal of Conflict Resolution*, 35(1), 120-142.

Herbert, S. (2007) The ‘‘Battle of Seattle’’ revisited: or seven views of a protest-zoning state. *Political Geography, 26*(1), 601-619.

Hermer, J., & Mosher, J. (Eds.). (2004). *Disorderly people: Law and the politics of exclusion in Ontario*. Black Point, NS: Fernwood Publishing.

Herod, A. (1997). *Labor as an agent of globalization and as a global agent* (Vol. 185). New York, NY: The Guilford Press.

Heroux, G. (2011). War on the poor: Urban poverty, target policing and social control. In M. Neocleous & N. Rigakos (Eds.), *Anti-Security* (pp.107-134). Ottawa, ON: Red Quill Books.

Hibbs, D. (1973). *Mass political violence.* New York, NY: Wiley.

Hirsch, E. (1990). Sacrifice for the cause: Group processes, recruitment, and commitment in a student social movement. *American Sociological Review, 55*(1), 243-254.

Ignatieff, M. (2004). T*he lesser evil: Political ethics in an age of terror.* Edinburgh, UK: University of Edinburgh Press.

Jackson, W. (2011). Liberal intellectuals and the politics of insecurity. In M. Neocleous & N. Rigakos (Eds.), *Anti-Security* (pp.165-190). Ottawa: Red Quill Books.

Jeffrey, B. (1999). *Hard right turn: The new face of neo-conservatism in Canada*. Toronto, ON: HarperCollins.

Jessop, B. (1982). *The capitalist state: Marxist theories and methods*: New York, NY: New York University Press.

Jessop, B. (1999). The illogic of globalization. In K. Olds, P. Dicken, P.F Kelly, L. Kong, H Yeung (Eds.), *Globalization and the Asia pacific contested territories* (pp. 19-38). London, UK: Routledge.

Jessop, B. (2002). *The future of the capitalist state.* Cambridge, UK: Polity Press.

Jessop, B. (2004). Critical semiotic analysis and cultural political economy. *Critical discourse studies*, *1*(2), 159-174.

Jessop, B. (2007). *State power: A strategic-relational approach.* Cambridge, MA: Polity Press.

Kaminski, M. (2013). Real masks and real name policies: Applying anti-mask case law to anonymous online speech. *Fordham Intellectual Property, Media & Entertainment Law Journal, 23*, 815-896.

Katz, K (2011, July 21). One year later: An update on G20 cases. *Torontoist*. http://torontoist.com/2011/06/g20_legal_updates/

Keil, R. (2002). “Common-sense” neoliberalism: Progressive conservative urbanism in Toronto, Canada. *Antipode, 34*(3), 578-601.

Kempa, M. (2011). Public policing, private security, pacifying populations. In M. Neocleous & N. Rigakos (Eds.), *Anti-Security* (pp. 85-106). Ottawa, ON: Red Quill Books.

Kennelly, J. (2011). *Citizen youth: Culture, activism and agency in a neoliberal age*. New York, NY: Palgrave Macmillan.

King, M. (1997). Policing and public order issues in Canada: Trend for change. *Policing and Society, 8*(1), 24-96.

King, M. (2005). Flashpoint revisited: A critical application to the policing of the anti-globalization protest. *Policing and Society, 15(*2), 255-282.

King, M. (2013). Disruption is not permitted: The policing and social control of Occupy Oakland. *Critical Criminology*, *21*(4), 463-475.

King, M., & Waddington, D. (2004). Coping with disorder? The changing relationship between police public order strategy and practice: A critical analysis of the Burnley riot. *Policing and Society, 14*(2), 118-137.

Koopmans, R. (2005). Repression and the public sphere: Discursive opportunities for repression against the extreme right in Germany in the 1990s. In C. Davenport, H. Johnston, & C. Mueller (Eds.), *Repression and Mobilization*. Minneapolis, MN: University of Minnesota Press.

Kraus, K. (2010, August 9). Leah Henderson and the G20 arrests: A study in the criminalization of dissent. *Rabble.* http://rabble.ca/news/2010/08/leah-henderson-and-g20-arrests-study-criminalization-dissent

Krause, K. (1996). Critical theory and security studies. *York Centre for International Security Studies, 33*. Retrieved from http://yciss.info.yorku.ca/files/2012/06/OP33-Krause.pdf

Lamb, N. (2012). The pacification of radial dissent: An anti-security analysis of the Toronto G20 Joint Intelligence Group. (Unpublished master's thesis). Carleton University Ottawa, Ontario.

Larsen, M., & Walby, K. (Eds.). (2012). *Brokering access: Power, politics, and freedom of information process in Canada*. Vancouver, BC: UBC Press.

Larsen, M. (2013) *Access in the academy: Bringing ATI and FOI to academic research*. Vancouver, BC: The British Columbia Freedom of Information and Privacy Association.

Lefebvre, H. (1991). *The production of space*. (Trans.) D. Nicholson-Smith. Oxford, UK: Basil Blackwell.

Lefebvre, H. (1996). *Writings on cities*. Oxford and Cambridge, MA: Blackwell.

Leitner, H., Sheppard, E., Sziarto, K., & Maringanti, A. (2007). Contesting urban futures: Decentring neoliberalism. In H. Leitner, J. Peck, & E. Sheppard (Eds.), *Contesting neoliberalism: urban frontiers.* New York: Guilford Press.

Lichbach, M., & Gurr, T., (1981). The conflict process a formal model. *Journal of Conflict Resolution, 25*(1), 3-29.

Lipsky, M. (1970). Introduction. In M Lipsky (Ed.), *Law and order: Police encounters*, (pp. 1-7). New York, NY: Aldine Publishing Company.

Mahon, R., & Keil, R. (2009). Introduction. In R Keil & R Mahon (Eds*.) Leviathan undone? Towards a political economy of scale*. Vancouver: UBC Press.

Mann, M. (1993). *The sources of social power, vol. II: The rise of classes and nation states 1760-1914*. Cambridge, UK: Cambridge University Press.

Marchak, P. (1989). What happens when common property becomes uncommon? *BC Studies 80*(4), 3-23.

Marx, G. (1979). External efforts to damage or facilitate social movements: Some patterns, explanations, outcomes and complications. In M. Zald and J. McCarthy, (Eds.), *The dynamics of social movements: Resource mobilization, social control, and tactics*. Cambridge, UK: Winthrop.

Marx, G. (1984). Notes on the discovery, collection, and assessment of hidden and dirty data. In J. Schneider & J. Kitsuse (Eds.), *Studies in the Sociology of Social Problems.* Norwood, NJ: Ablex.

Marx, K. (1976). *Capital volume 1*. (Trans.) B. Fowkes. Toronto, ON: Vintage Books Random House.

Marx, K. (1978). *The Marx-Engels reader.* (Trans.) M. Tucker. New York, NY: W.M Norton & Company.

Mason, J. (2002). *Qualitative researching*. London, UK: Sage.

McAdam, D., Tarrow, S., & Tilly, C. (2001). *Dynamics of contention*. Cambridge, UK: Cambridge University Press.

McCann, E. (2011). Points of reference: Knowledge of elsewhere in the politics of urban drug policy. In E. McCann, E & K. Ward (Eds.), *Assembling urbanism: Mobilizing knowledge & shaping cities in a global context*. Minneapolis, MN: University of Minnesota Press.

McCann, E., & Ward, K. (2012). Assembling urbanism: Following policies & "studying through" the sites and situations of policy-making. *Environment & Planning A, 44*(1), 42-51.

McPhail, C., Schweingruber, D., & McCarthy, J. (1998). Policing protest in the United States: 1960-1995. In D. della Porta, & H. Reiter (Eds.), *Policing protest: The control of mass demonstrations in Western democracies*. Minneapolis, MN: University of Minnesota Press.

Mead, D. (2011). Kettling comes to the boil before the Strasbourg court: Is it a deprivation of liberty to contain protestors en masse? *The Cambridge Law Journal, 71*(3), 472-475.

Mitchell, D. (1992). Iconography and locational conflict from the underside: Free speech, People's Park and the politics of homelessness in Berkeley, California. *Political Geography 11(1),* 152-169.

Mitchell, D. (1995). The end of public space? People's park, Definitions of the public and democracy. *Annals of the Association of American Geographers, 85*(1), 108-133.

Mitchell, D. (2003). The right to the city: Social justice and the fight for public space. New York, NY: Guilford Press.

Mitchell, D., & Staeheli, L. (2005). Permitting protests: Parsing the fine geography of dissent in America. *International Journal of Urban and Regional Research, 29*(4), 796-813.

Monaghan, J., & Walby, K. (2012a). 'They attacked the city': security intelligence, the sociology of policing and the anarchist threat at the 2010 Toronto G20 summit. *Current Sociology, 22*(2), 133-151.

Monaghan, J., & Walby, K. (2012b). Making up 'terror identities': security intelligence, Canada's Integrated Threat Assessment Centre and social movement suppression. *Policing and Society, 60*(5), 653-671.

Morgan, P. (2007) Security in international politics: Traditional approaches. In A. Collins (Ed.), *Contemporary security studies*. Oxford, UK: Oxford University Press.

Mudge, S (2008). What is neo-liberalism? *Socio-Economic Review*, *6*(4), 703-731.

Muller, E., & Weede, E. (1990). Cross-national variation in political violence. *Journal of Conflict Resolution, 34(4)*, 624-651.

Mutimer, D. (2010). Critical security studies: A schismatic history. In A Collins (Ed.), *Contemporary security studies*. Oxford, UK: Oxford University Press.

Nemeth, J. (2009). Defining a public: The management of privately owned public space. *Urban Studies, 46*(11), 2463-2490.

Neocleous, M. (2011a). Security as pacification. In M. Neocleous & N. Rigakos (Eds.), *Anti-security* (pp. 23-56). Ottawa, ON: Red Quill Books.

Neocleous, M. (2011b). The policing of civilization: The war on terror as civilizing offensive. *International Political Sociology, 5*(1), 144-159.

Neocleous, M., & Rigakos, G. (Eds.). (2011). *Anti-security*. Ottawa, ON: Red Quill Books.

Olin Wright, E. (1998). A general framework for the analysis of class structure. In E. Olin Wright (Ed.). *The debate on classes.* New York, NY: Verso.

Opp, K., & Roehl, W. (1990). Repression, micromobilization, and political protest. *Social Forces, 69*(2), 521-547.

O'Toole M (2011, Dec 21) Advocating vandalism nets woman 10 months. *National Post*. Retrieved from http://www.nationalpost.com/

Pablo, C. (2008, Oct 22). Ex-police chief Jamie Graham guilty of misconduct. *Georgia Straight.* Retrieved from http://www.straight.com/news/ex-police-chief-jamie-graham-guilty-misconduct

Parliament of Canada. (2000). Parliamentary business: 21 private members' bills. Retrieved from http://www.parl.gc.ca/MarleauMontpetit/DocumentViewer.aspx?Sec=Ch21&Seq=3&Language=E

Parks, D., & Daniel, M. (2010). Political protest, mass arrest, and mass detention. *Journal of Prisoners on Prisons, 20*(2), 155-170.

Pashukanis, E. (1989). *Law and Marxism: A general theory towards a critique of the fundamental juridical concepts*. Worchester, UK: Pluto Publishing.

Pechlaner, G., & Otero, G. (2010). The Neoliberal food regime: Neoregulation and the new division of labour in North America. *Rural Sociology, 75*(2), 179-208.

Peck, J. (2001). Neoliberalizing states: Thin policies/hard outcomes. *Progress in human geography*, *25*(3), 445-455.

Peck, J., & Theodore, N. (2012). Follow the policy: A distended case approach. *Environment & Planning A, 44*(1), 21–30.

Plaw, A. (2002). Why we would be better off without anti-terrorism legislation. In A. Netherton, A. Seager, & K. Froschauer (Eds.), *In/Security: Canada in the post 9/11 world* (pp. 231-262). Burnaby: SFU Centre for Canadian Studies Publication.

Potter, W. (2012). *7 ways Canadian environmental groups are being attacked as terrorists.* Retrieved from: http://www.greenisthenewred.com/blog/7-ways-canada-environmental-groups-labeled-terrorists/6374/

Public Health Act, SBC 2001 c-28. Retrieved from http://www.bclaws.ca/civix/document/id/complete/statreg/08028_01

Rasler, K. (1996). Concessions, repression, and political protest. *American Sociological Review, 61*(1), 132-152.

Ratner, M., & Kunstler, M. (2011). *Hell no: Your right to dissent in twenty-first-century America.* New York, NY: The New Press.

Reisigl, M. (2008). Analyzing political rhetoric. In W. Krzyzanowski (Ed.), *Qualitative discourse analysis in the social sciences*. New York, NY: Palgrave MacMillan.

Rempel, M. (2012, February, 8). "Bill C-309, An Act to amend the Criminal Code". Canada. Parliament. House of Commons. *Edited Hansard 146(76).* 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=Hansard&Doc=76&Parl=41&Ses=1&Language=E&Mode=1

Richards, B. (2011, October, 3). “Bill C-309, An Act to amend the Criminal Code”. Canada. Parliament. House of Commons. *Edited Hansard 146(25).* 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=Hansard&Doc=25&Parl=41&Ses=1&Language=E&Mode=1

Richards, B. (2011, November, 17). “Bill C-309, An Act to amend the Criminal Code”. Canada. Parliament. House of Commons. *Edited Hansard 146(48).* 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=Hansard&Doc=48&Parl=41&Ses=1&Language=E&Mode=1

Richards, B. (2012, February, 8). “Bill C-309, An Act to amend the Criminal Code”. Canada. Parliament. House of Commons. *Edited Hansard 146(76).* 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=Hansard&Doc=76&Parl=41&Ses=1&Language=E&Mode=1

Richards, B. (2012, October, 29). “Bill C-309, An Act to amend the Criminal Code”. Canada. Parliament. House of Commons. *Edited Hansard 146(171).* 41st Parliament, 1st session. Retrieved from http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=Hansard&Doc=171&Parl=41&Ses=1&Language=E&Mode=1

Rigakos, N. (2011). To extend the scope of productive labour: Pacification as a police project. In M. Neocleous & N. Rigakos (Eds.), *Anti-Security* (pp. 57-84) Ottawa, ON: Red Quill Books.

Rimke, H. (2011).Security: Resistance. In M. Neocleous & N. Rigakos (Eds.), *Anti-Security*. (pp. 191-216) Ottawa, ON: Red Quill Books.

Robbins, C. (2012, Dec 12). City dodges legal challenge to 1845 anti-mask law. *Gothamist.* Retrieved from http://gothamist.com/2012/12/12/city_dodges_challenge_to_anti-mask.php#

Robinson, D. (2010). *Analysis and opinion on the global and local: Critical security studies*. Retrieved from http://lfort.wordpress.com/2010/09/16/critical-security-studies/

Rorty, R. (2005). *An ethics for today: Finding common ground between philosophy and religion*. New York, NY: Columbia University Press.

Rosie, M., & Gorringe, H. (2009) ‘The anarchists’ world cup’: Respectable protest and media panics. *Social Movement Studies, 8*(1), 35-53.

Ruddick, S. (1996). Constructing difference in public spaces: Race, class, and gender as interlocking systems. *Urban Geography*, *17*(2), 132-151.

Salter, M. (2008). When the exception becomes the rule: Borders, sovereignty, and citizenship. *Citizenship studies, 12*(4), 365-380.

Santos, B. (1979). Popular justice, dual power and socialist strategy. In B. Fine, R. Kinsey, J. Lea, S. Picciotto, and J. Young (Eds.). *Capitalism and the rule of law: from deviancy to Marxism (*p. 151-163). London, UK: Hutchinson.

Sassen S. (2001). Global cities and developmentalist states: How to derail what could be an interesting debate: a response to Hill and Kim. *Urban Studies*, *38*(13), 2537-2540.

Sassen, S. (2004). The global city. In D. Nuget & J. Vincent (Eds.), *A companion to the anthropology of politics* (pp. 168-178). Hoboken, NJ: John Wiley & Sons.

Scraton, P. (1987). Law, order and the authoritarian state: Readings in critical criminology. Bristol, UK: Open University Press.

Seager, A., & Netherton, N. (2002). Framing insecurity. In A. Netherton, A. Seager, & K. Froschauer (Eds.), *In/Security Canada in the post 9/11 world* (pp.1-24). Burnaby, BC: SFU Centre for Canadian Studies Publication.

Shields, R. (1991). *Places on the margin: Alternative geographies of modernity*. New York, NY: Routledge.

Siegel, L. J., & McCormick, C. (2010). *Criminology in Canada: Theory, patterns, and typologies* (4th ed.). Ontario, ON: Nelson Education.

Simoni, S. J. (1992). Who goes there – proposing a model anti-mask act. *Fordham Law Review*, *61*(1), 241-272.

Singer, J. (2000). *Entitlement: The paradoxes of property*. New Haven, CT: Yale University Press.

Smith, N. (1984). *Uneven development: Nature, capital and the production of space.* Oxford, UK: Blackwell.

Smith, N. (1992a). Contours of a spatialized politics: Homeless vehicles and the production of geo-graphical scale*. Social Text, 33(1)*, 55-81.

Smith, N. (1992b). Geography, difference and the politics of scale. In J. Doherty, E. Graham, & M. Malek (Eds.), *Postmodernism and the Social Sciences* (pp. 57 79). New York, NY: St Martin's Press.

Smith, N. (1993). Homeless/global: scaling places. In J. Bird, B. Curtis, T. Putnam, G. Robertson, & L. Tickner (Eds.), *Mapping the futures* (pp. 87-111). London, UK: Routledge.

Smith, N. (1996). *The new urban frontier: Gentrification and the revanchist city*. London, UK: Routledge.

Smith, N., & Cowen, D. (2010). “Martial law in the streets of Toronto:” G20 security and state violence. *Human Geography, 3*(3), 29-46.

Smith, P. (2002). Anti-terrorism and rights in Canada: Policy discourse on the “delicate balance”. In A. Netherton, A. Seager, & K. Froschauer (Eds.), *In/Security: Canada in the post 9/11 world* (pp. 169-204). Burnaby, BC: SFU Centre for Canadian Studies Publication.

Snow, D. A., Soule, S. A., & Kriesi, H. (Eds.). (2008). *The Blackwell companion to social movements*. New York: John Wiley & Sons.

Soule S., & Van Dyke, N. (1999). Black church arson, 1989-1996. *Ethnic and Racial Studies, 22*(4), 724-742.

Sparks, H. (1997). Dissident citizenship: Democratic theory, political courage, and activist women. *Hypatia*, *12*(4), 74-110.

Starr, A., & Fernandez, L. (2009). Legal control and resistance post-Seattle. *Social Justice, 36*(1), 41-60.

Stohl, M. & Lopez, G. (1984). *The state as terrorist: The dynamics of governmental violence and repression*. Westport, CT: Greenwood Press.

Swyngedouw, E. (1997). Neither global nor local: Glocalisation and the politics of scale, In K. Cox (Ed.), *Spaces of globalization* (pp. 137-166). New York, NY: Guilford Press.

Temenos, C., & McCann, E. (2012). The local politics of policy mobility: Learning, persuasion, and the production of a municipal sustainability fix. *Environment and Planning-Part A*, *44*(6), 1389-1406.

The Trespass Act, RSBC 1996 c-462. Retrieved from http://www.bclaws.ca/civix/document/id/complete/statreg/96462_01

Tilly, C. (1978). *From mobilization to revolution*. Reading, MA: Addison-Wesley.

Tilly, C. (2004). Social movements, 1768-2004. Boulder, CO: Paradigm Publishers.

Tilly, C., & Tarrow, S. (2007). *Contentious politics*. Oxford, UK: Oxford University Press.

Tilly, C., & Wood, L. (2013). *Social movements, 1768-2012*. Boulder, CO: Paradigm Publishers.

Valverde, M (2012). *Everyday law on the street: City governance in an age of diversity*. Chicago, IL: University of Chicago Press.

Vancouver Charter, SBC 1953 C-55. Retrieved from http://www.bclaws.ca/Recon/document/ID/freeside/vanch_00

Vancouver (City) v. O'Flynn Magee. [2011] BCSC 1647.

Vancouver Police Department. (2012). *Public Demonstration Guidelines.* Retrieved from http://vancouver.ca/police/assets/pdf/reports-policies/public-demonstration-guidelines.pdf

Waddington, D., Jones, K., & Critcher, C. (1989). *Flashpoints: Studies in public disorder.* London, UK: Routledge.

Waddington, D., & King, M. (2007) The impact of the local: Police public-order strategies during the G8 Justice and Home Affairs ministerial meetings. *Mobilization 12*(4): 417–430.

Waddington, P.A.J. (1998). Controlling protest in contemporary historical and comparative perspective. In D. della Porta & H. Reiter (Eds.), *Policing of protest: The control of the mass demonstration in Western democracies* (pp. 117-140). Minneapolis, MN: University of Minnesota Press.

Wainwright, J. (2006). The battles in Miami: The fall of the FTAA/ALCA and the promise of transnational movements. *Environment and Planning D: Society and Space, 24*(1), 349-366.

Wainwright, J. (2007). Spaces of resistance in Seattle and Cancun. In H. Leitner, J. Peck, & E. Sheppard (Eds.), *Contesting neoliberalism: Urban frontiers*. New York, NY: Guilford Press.

Walby, K. (2005). How closed-circuit television surveillance organizes the social: An institutional ethnography. *The Canadian Journal of Sociology, 30*(2), 189-214.

Walt, S. (1991). The renaissance of security studies. *International Studies Quarterly, 35*(2), 211-239.

Walzer, M (1977). *Just and unjust wars: A moral argument with historical illustrations*. New York, NY: Basic Books.

Williams, P. (2008). *Security studies: An introduction.* New York: Routledge.

Wodak, R. (Ed.). (1989). *Language, power and ideology: Studies in political discourse* (Vol. 7). Philadelphia, PA: John Benjamins Publishing.

Wodak, R. (2008). Introduction: Discourse studies-important concepts and terms. In W. Krzyzanowski (Ed.), *Qualitative discourse analysis in the social sciences*. New York, NY: Palgrave MacMillan.

Wodak, R., & Meyer, M. (2009). Critical discourse analysis: History, agenda, theory and methodology. In R. Wodak & M. Meyer (Eds*.), Methods of critical discourse analysis* (pp. 1-33). Thousand Oaks, CA: Sage.

Wolf, N. (2012, Dec 29). Revealed: How the FBI coordinated the crackdown on Occupy. *The Guardian*. Retrieved from http://www.theguardian.com/commentisfree/2012/dec/29/fbi-coordinated-crackdown-occupy

Wyn Jones, R. (2005). On emancipation: Necessity, capacity and concrete utopias. In K. Booth (Ed.), *Critical security studies and world politics.* London, UK: Lynne Rienner Publishers.

Yang, J. (2011, June 23). Accused G20 ringleaders challenge bail conditions. *Toronto Star.* Retrieved from: http://www.thestar.com/news/gta/g20/2011/06/23/accused_g20_ringleaders_challenge_bail_conditions.html

Yoder, T., & Tempy, N. (2013). *Development in the policing of national special security events: An analysis of the 2012 RNC and DNC*. National Lawyers Guild.

Zajko M., & Béland, D. (2008). Space and protest policing at international summits. *Environment and Planning D: Society and Space, 26*(4), 719-735.

Appendix A.

Access to Information Act

2. Purpose

(1) The purpose of this Act is to extend the present laws of Canada to provide a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific and that decisions on the disclosure of government information should be reviewed independently of government.

(2) This Act is intended to complement and not replace existing procedures for access to government information and is not intended to limit in any way access to the type of government information that is normally available to the general public

20. Disclosure authorized if in public interest

(6) The head of a government institution may disclose all or part of a record requested under this Act that contains information described in any of paragraphs (1)(*b*) to (*d*) if

> (*a*) the disclosure would be in the public interest as it relates to public health, public safety or protection of the environment; and
>
> (*b*) the public interest in disclosure clearly outweighs in importance any financial loss or gain to a third party, any prejudice to the security of its structures, networks or systems, any prejudice to its competitive position or any interference with its contractual or other negotiations.

Freedom of Information and Protection of Privacy Act

(1) The purposes of this Act are to make public bodies more accountable to the public and to protect personal privacy by

> (a) giving the public a right of access to records,
>
> (b) giving individuals a right of access to, and a right to request correction of, personal information about themselves,
>
> (c) specifying limited exceptions to the rights of access,
>
> (d) preventing the unauthorized collection, use or disclosure of personal information by public bodies, and
>
> (e) providing for an independent review of decisions made under this Act.

(2) This Act does not replace other procedures for access to information or limit in any way access to information that is not personal information and is available to the public.

Appendix B.

Request Logs

Agency	File Number	Details	Clarifications	Sent	Received	Doc
Previous Requests						
CSIS	A-2011-151 117-2013-312	All ITAC threat assessments regarding the Occupy movement and any domestic extremism associated in the movement for the period from August 2011 to January 2012.	email: 07-10-13	04-10-13	30-10-13	1
CSIS	A-2011-184 117-2013-313	All ITAC documents regarding Occupy movements and events in Toronto and elsewhere in Canada.	email: 07-10-13	04-10-12	30-10-13	2
CSIS	A-2011-058 117-2013-313	Analytical material produce regarding the Occupy Movement.	email: 07-10-13	04-10-12	30-10-13	
CSIS	A-2013-079 117-2013-320	All ITAC threat assessments from January 1, 2008 to June 2010 related to the G8 Summit in Huntsville and the G20 Summit in Toronto in 2010.		11-10-13	06-11-13	
Foreign Affairs, Trade and Develo-pment Canada	AI-2013-01869 AI 2013-01871	Informal request of documents A-2011-00786, A-2011-02062, A-2011-02063 (all documents concerning G20).		04-10-13	24-10-13	
Ministry of Labour, Citizens' Services	ATG-2011-00284	All briefing notes, issue notes, memos and situation reports generated or held by Premier Christy Clarke and Office of the Premier, Citizens Service Minister Margaret MacDiarmid and Solicitor General/Attorney General Shirley Bond and their deputies and assistants regarding the Occupy Vancouver protest and protestors and the Vancouver Art Gallery and Robson Square	online: originally released 05-01-12			3

		for the period of Nov. 20, 2011-Nov 23 2011.				
Ministry of Labour, Citizens' Services	PSS-2011-01884	All records including e-mails, reports and position papers mentioning the Occupy Movement in British Columbia over the last two months with particular, but no exclusive focus on the protest camps in Vancouver and Victoria.	online: originally released 07-02-12			4-5
Ministry of Labour, Citizens' Services	LCO-2011-00032	All correspondence between the offices of the Premier Christy Clark, Solicitor General Shirley Bond and Citizen's Service Minister Margret MacDiarmid (and their deputies and assistants) and the Mayor of the City of Vancouver and the City Manager of the City of Vancouver and their assistants and deputies) regarding the Occupy Vancouver Protest. Timeframe is from October 10, 2011 and present day (November 9, 2011).	online: originally released 07-02-12			
PSC	A-2011-00183	Briefing notes and memoranda to the Minister of Public Safety Canada on the G20 summit in Toronto, on the subject of security in relation to the safety of the general public and public order, as well as the subject of complaints regarding actions of the police from June 25, 2010 to November 30, 2010.		04-10-13	24-10-13	
RCMP	A-2011-06569 A-2011-5499	A list of all ATI requests received by the RCMP from September 1, 2011 to the present that contain the word Occupy or relate to the Occupy Movement.	backlog 60d delay	04-10-13	05-01-14	
RCMP	A-2011-06571	A list of all ATI requests received by the RCMP from June 1, 2011 to the present relating to the G8 and G20 Summits held in Huntsville and Toronto respectively between June 25 and 27, 2010.	backlog 60d delay	04-10-13	Cancelled	

Filed Requests						
City of Montréal	30-2013-0198-00	I am writing to request all records from January 1, 2008, to the present (October 17 2013) concerning the City of Montréal (including but not limited to Gerald Tremblay) and its/his involvement with Bill 309 An Act to amend the Criminal Code (concealment of identity). I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks, photograph/videos/diagrams/maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts, and written notes) prepared by or presented to the City of Montréal.	email: 24-10-13 letter: 25-10-13	17-10-13	18-11-13	
City of Vancou-ver	04-1000-20-2013-312	All records concerning the City of Vancouver's involvement. I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks, photograph/ videos/ diagrams/ maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts, and written notes) prepared by or presented to the City of Vancouver. January 1, 2008 to the present (October 28 2013).		28-10-13	27-11-13	6-15
CSIS	117-2013-391	Records from January 1, 2008, to the present (October 16 2013) concerning Bill 309 An Act to amend the Criminal Code	letter: 06-11-13 letter: 28-11-13 extend 30d;	17-10-13	18-02-14	

		(concealment of identity). I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks, photograph/videos/diagrams/maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts, and written notes) prepared by or presented to the Canadian Security Intelligence Service.	extended 180d			
DOJ	A-2013-01302	Records from August 1, 2011, to the present (October 28, 2013) concerning the Department of Justice, the Occupy Movement and Occupy Vancouver. I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks, photograph/videos/diagrams/maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts, and written notes) prepared by or presented to the Department of Justice.	letter: 08-11-13	28-10-13	02-12-13	16-17
DOJ	A-2013-01202	Records from January 1, 2008, to the present (October 16 2013) concerning Bill 309 An Act to amend the Criminal Code (concealment of identity). I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks,	letter: 25-10-13 letter: 14-11-13 revised: 05-05-14: fax sent new agreed deadline 02/01/14	21-10-13	06-11-14	

		photograph/videos/diagrams/maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts, and written notes) prepared by or presented to the Department of Justice and its committees (e.g. the Standing Committee on Justice and Human Rights, Criminal Law Policy Section, etc.).				
Foreign Affairs, Trade and Develo-pment Canada	A-2013-01831	Records from January 1, 2008, to the present (October 16 2013) concerning Bill 309 An Act to amend the Criminal Code (concealment of identity). I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks, photograph/videos/diagrams/maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts, and written notes) prepared by or presented to the Foreign Affairs, Trade and Development Canada.	letter: 29-10-13 call: 22-11-13 discussed: lack of documents 3 pages worth of consultation emails.	17-10-13	28-11-13	
Montréal Police Services	13-2089	I am writing to request all records from January 1, 2008, to the present (October 17 2013) concerning the Montreal Police Services' involvement with Bill 309 An Act to amend the Criminal Code (concealment of identity).	letter: 25-10-13 requested copy of original letter with signature No Documents	17-10-13	07-11-13	
Privy Council Office	A-2013-00453	Records from January 1, 2008, to the present (October 16 2013) concerning Bill 309 An Act to amend the Criminal Code	letter: 25-10-13 letter: 22-11-13 call: 28-10-11 email: clarifying	22-10-13	23-12-13	

		(concealment of identity). I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks, photograph/videos/diagrams/maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts, and written notes) prepared by or presented to the Privy Council.	changes to request: exclude emails from the public and draft materials from the request; include processing of possible s.69 information			
Privy Council Office	A-2013-00501	Records from January 1, 2008, to the present (October 28 2013) concerning Bill 309 An Act to amend the Criminal Code (concealment of identity). I am interested specifically in emails from the public and draft materials prepared by or presented to the Privy Council.	letter: 08-11-13	28-10-13	28-11-13	
PSC	A-2013-00038	Records from January 1, 2008, to the present (October 16 2013) concerning Bill 309 An Act to amend the Criminal Code (concealment of identity). I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks, photograph/videos/diagrams/maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts, and written notes) prepared by or presented to Public Safety Canada.	letter: 29-10-13 call: 24-10-13: unclear why request filed with PSC. follow up with agencies	17-10-13	04/04/14	
RCMP	A-2013-06171	Records from January 1, 2010, to the present (October 16	Backlog 60d letter: 29-10-13	16-10-13	16-12-13	

		2013) concerning Bill 309 An Act to amend the Criminal Code (concealment of identity). I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks, photograph/videos/diagrams/maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts and written notes) prepared by or presented to the RCMP.				
RCMP	A-2013-06477	Records from August 1, 2011, to the present (October 28, 2013) concerning the RCMP, the Occupy Movement and Occupy Vancouver. I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks, photograph/videos/diagrams/maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts, and written notes) prepared by or presented to the RCMP.	letter: 07-11-13 resend correctly dated cheque call: 02-11-13 letter: 03-12-13	28-10-13	03-26-14 Cancelled	
Security Intelligence Review Committee	1463-02/13-23	Records from January 1, 2008, to the present (October 16 2013) concerning Bill 309 An Act to amend the Criminal Code (concealment of identity). I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks,	letter: 07-11-13 No documents	16-10-13	07-11-13	

		photograph/videos/diagrams/maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts, and written notes) prepared by or presented to the Security Intelligence Review Committee.				
TPS	134677	I am writing to request all records from January 1, 2008, to the present (October 17 2013) concerning the Toronto Police Services' involvement with Bill 309 An Act to amend the Criminal Code (concealment of identity). I am interested in all documents including but not limited to (briefing notes and memorandum, executive summaries, background papers and reports, decks, photograph/videos/diagrams/maps, incident reports, memorandums of understanding, media lines, emails/texts, financial documents, meeting agendas/minutes/handouts, and written notes) prepared by or presented to the Toronto Police Service	letter: 30-10-13 resent certified cheque No documents	18-10-13	04-30-14	
VicPD	2013-0496	All records from January 1, 2008, to the present (October 17 2013) concerning the Victoria Police Department's (including but not limited to Police Chief Jamie Graham's) involvement with Bill 309 An Act to amend the Criminal Code (concealment of Identity)	letter: 03-12-13 call: 04-12-13 verbal confirmation given for moving forward, brokered deal	17-10-2013	01-02-2014	20-34
VPD	13-2947	All *documents* concerning the VPD, the Occupy Movement and Occupy Vancouver from August 1st 2011 onwards.	call: 28-10-13 call: 21-10-13	04-10-13	Revised	
VPD	13-	Documents between the	call: 04/12/13		01-05-14	18-

	2947A	Vancouver Police Department (VPD) and the City of Vancouver, the BC Provincial Courts, the Ministry of Justice, Vancouver Business Associations and other bodies, which discuss land usage, city ordinances/bylaws the shutdown of Occupy Vancouver				19
VPD	13-3092A	All records from January 1, 2008, to the present (October 17 2013) concerning the Vancouver Police Department's (including but not limited to Police Chief Jim Chu's and Inspector Steve Rai's) involvement with Bill 309 An Act to amend the Criminal Code (concealment of Identity)	call: 28-10-13 call: 21-10-13	17-10-13	01-02-14	35

Appendix C.

CACP DRAFT

WHEREAS it is recognised that the Canadian Charter of Rights and Freedoms guarantees the freedom of thought, belief, opinion, expression and peaceful assembly and that peaceful assembly also refers to peaceful protest;
WHEREAS it has become evident that a relatively small portion of people that take part in peaceful assemblies/protest employ a tactic of concealing their identity, by wearing disguises, masks or other facial coverings, for the purpose of committing unlawful acts;
WHEREAS wearing facial covering allows an offender to blend in and mix with a larger lawful group of peaceful individuals protestors without being identified. There an offender may commit unlawful acts under disguise, then remove their masks or facial coverings and blend in with peaceful protestors. This endangers peaceful assemblers and lawful protestors;
WHEREAS with the advent and increase of social media the identification of non peaceful protestors has added consequences, thus the obvious increase of people wanting to disguise their identity;
WHEREAS other democratic governments such as the United Kingdom, France and the US state of New York have developed legislation that would either limit of prohibit the wearing of disguises, masks or facial coverings during peaceful assemblies/protests. Our proposed change would regulate conduct, not speech;
WHEREAS wearing a disguise, masks or other facial covering allows a person to conceal their identity whose intent is to commit an unlawful act prior to, during or immediately after lawful assembly or protest.
THERFORE BE IT RESOLVED, THAT the Canadian Association of Chiefs of Police request the Minister of Justice to review and strengthen legislation in the Criminal Code of Canada dealing with persons wearing disguises or other facial coverings during assemblies or protests.