

Policing Shit, or, Whatever Happened to the Medical Police?

Matthew Wolf-Meyer, Associate Professor of Anthropology, Binghamton University

Summary: In this chapter, I discuss the history of medical police, an early biopolitical institution developed to ensure the health of individuals and the public. The medical police were explicitly tasked to address the eruptions of nature into civilization. I then examine a set of situations – neglect and contamination – in which nature erupts into contemporary society, and which U.S. law has difficulty capturing as unlawful. In conclusion, I argue that these difficulties in the law produce ideas about order and disorder related to the place of nature in society that are congealing into criminal types who serve as threats to civilization.

Keywords: Biopolitics, civilization, the civilizing process, nature, modernity, control societies, power

Introduction: The Promulgation and Failure of an Idea

For seven years, my family and I lived in semi-rural Santa Cruz, California in the San Lorenzo Valley. Our neighbors were referred to in the local newspaper – with pride – and by the inhabitants of seaside, urban Santa Cruz – derisively – as “Valley People.” For decades, the inhabitants of the San Lorenzo Valley were dropouts, lumberjacks, marijuana growers, and other working class people of low aspirations, almost entirely white, who had opted out of the Silicon Valley rat race and been out-priced by the coastal California real estate market. Over the first decade of the 21st century, a slow gentrification started to occur, with professors from the nearby university, families working in Silicon Valley, and retirees moving to the San Lorenzo Valley for cheaper housing, which was also construed as being in the country and closer to nature. Many of these recent Valley dwellers adopted homesteading ideologies, supported by local DIY businesses, and environmentally sensitive practices, particularly related to the care of one’s yard – which, for most people, were not yards at all, since the weather was too dry, and the soil too poor. These environmental attitudes and homesteading practices

dovetailed with the economic precarity many people found themselves in: real estate was expensive, the local job market was small and largely based on the university and tourists, and labor for repairs and construction was expensive. In this matrix of pressures, my family's immediate neighbors' decision to pump their septic tank's contents into their front yard might begin to make some sense.

Enormous redwood trees' root systems had interfered with the septic tank's leech field, leading to the septic system backing up into the house. Repairs would entail a new leech field, the removal of trees, and thousands of dollars. Our neighbors, who were just scraping by, decided, instead, to take matters into their own hands, and set up a system to pump the fluid from their septic tank out into the yard, while leaving the solid shit and toilet paper in the septic tank. Our first hint that something was afoot was during an otherwise idyllic spring day, when I was laying on our hammock with our two-year-old son, and plumes of septic air wafted over our fence, making it immediately unenjoyable to be outside. Not knowing the source or persistence of the odor, we dismissed it at first; the next day, when we were again struck by the miasmatic wind from the south, our suspicions began to grow. Eventually, we realized the source, and attempted to figure out what was to be done about it – what legal remedies did we have? Unfortunately, the answer was none. We contacted the Sheriff and then the local Department of Public Health and were told that our neighbors were breaking no laws, despite what we saw as putting our family at risk to diseases: after all, our modest vegetable garden lay on the opposite side of the fence from where they were pumping their septic waste. Moreover, we lived uphill from a river that wound through a large state park with watering holes, and at least one neighbor pumped water from the river to water his lawn. Weren't these

otherwise affable neighbors threatening public health more generally? Isn't this a problem for legal authorities? No, we were told, any remedy would need to be a negotiation between our neighbors and us – such threats to our health and the health of others were not explicitly legal concerns. If we wanted to seek legal recourse, we would need to make a 'nuisance' claim based on the housing code in Santa Cruz county, and show that there was a threat to public health – bad smell alone was not enough. Additionally, as a nuisance, our neighbors would be fined for pumping their septic water into the yard, but there was no mechanism to force them to end the practice. Moreover, the fines – totaling less than \$1000 over three citations – were not so threatening to act as a deterrent, especially when the alternative was paying thousands of dollars to replace the septic system. If anything, the lack of legal remedy would pit us against our neighbors in an adversarial fashion and offer no fix, either to the bad smells and septic water or strained relationship with our neighbors.

In another time and place, however, these actions would be accepted as falling under the purview of the medical police, legal authorities specifically tasked with ensuring the health of individuals and society, and who, legally, had the power to enforce standards of sanitation, self-care, and “civilization” (Elias 2000 [1939]). Medical police, as they were known, were the epitomes of an early biopolitical interest in separating Civilization from Nature (Latour 1993 [1991]), and producing human life as productive, healthy, and attuned to the risks to the public associated with the eruptions of Nature into Civilization most evident in disease, but also apparent in particular kinds of behaviors that were deemed uncivilized and in need of discipline.¹

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Comment [1]: This is interesting, as in my town this issue would fall squarely in the category of a nuisance, for which there are legal courses of action. Maybe worth an endnote or something here about why there are no nuisance laws that apply? Something unique about Santa Cruz or California?

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In this chapter, I bring together four thinkers – Johann Peter Frank, Norbert Elias, Gilles Deleuze and Felix Guattari – to consider what happened to the medical police in Continental Europe in the 18th century, why they never appeared in the United States, how this affected ideas about public health in the U.S. in the 18th and 19th centuries, and what the legacies are for conceptualizing the relationships between individual behavior, social threats, and the basis of criminality in Nature and opposed to Civilization. In the absence of medical police – police specifically tasked to police Nature and its eruptions into Civilization – American popular representations of criminality traffic in associating particular individuals and behaviors with Nature, and thereby constitute criminals as uncivilized threats to society. I focus herein on the use of human **shit** as a symbolic index of Nature and the uncivilized (Laporte 2000 [1978]). Like the police John Van Maanen followed, who used ‘asshole’ to denote a particular kind of person and set of behaviors (1978), I use ‘shit’ here precisely because of its scatological symbolic power. ‘Excrement,’ ‘feces,’ ‘stool,’ ‘poop,’ and a host of other synonyms, all have their uses in polite and impolite conversations (Lewin 1999), but ‘shit,’ as Laporte notes is unsettling to the very idea of the State and civilization (2000 [1978], 48). In discussing the history of the medical police, shit is important for its structuring function, providing a mechanism for medical police – and society at large – to construct the civilized as separate from Nature. Shit, here, is both the site of particular kinds of human labor and the basis for symbolic distinctions. In the present, I turn to how shit is used to think about criminal behavior in the U.S., particularly as a marker of individual, uncivilized behavior related to the care of children, the elderly, and the public more generally. By way of conclusion, I turn to Deleuze and Guattari’s conceptualization of power – in control

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societies and as a territorializing force (1987 [1980], 40) – to argue that the absence of the medical police provides for a particularly U.S. elaboration of criminality and Nature.

Central throughout this discussion is Johann Peter Frank’s multi-volume set of monographs considering the need for *A System of Complete Medical Police* (1976 [1786]), which create the figure of the medical policeman. The medical policeman – and I use the gendered term here to flag the historicity of the term as defined and promulgated by Frank – was specifically intended to enforce emerging standards of civilization, particularly in the booming urban centers of industrializing Germany and Austria in the 18th and 19th centuries, as part of the Cameralist interest in *Polizei* (Carroll 2002, Porter 1999, Rosen 1993 [1958]). Rather than focus on legal statutes per se, the medical police were intended to enforce scientific and medical best practices later codified as hygiene (Elias 2000 [1939], 98) – some of which would become foundational in determining what legal statutes should look like, particularly related to the care of waste (Laporte 2000 [1978], 28). Frank’s concept of the medical police ultimately fails on two fronts: first, it fails to become a common aspect of governance throughout the North Atlantic, let alone the colonial South; and, second, the *Polizei* become the legally-focused police, rather than the hygienically-focused public health worker. *Polizei*, eventually rendered *policy*, comes to stand for the law, associated most strongly with the emergent institutions of modernity in the North Atlantic, to which Nature is portrayed as oppositional and in need of taming not through the law, but through medicine and science. By attending to the failures of the medical police as a concept and set of practices, the role of the human body and its care in contemporary U.S. law and public opinion come into relief, particularly as informed by emerging ideas of corporeality, disease, and individuality in

the context of North Atlantic modernity founded in no small part on ideas about the body and disease (Armstrong 2002).

In considering the relationship between medicine, public health, the law, and Nature, I draw on Norbert Elias' *The Civilizing Process* (2000 [1939]) to elucidate how social standards influence medical and scientific knowledge, which, in turn, legitimate emergent laws, particularly as they relate to the body and its products, including, especially, human shit (2000 [1978], 114). In the third section of this chapter, I turn to the recent history of the United States where attention to the shit of others indexes the need for legal enforcement of social standards of care, individually and for society more generally. Although the medical police as such have disappeared, the basic assumption that society should be clean still motivates public health practices in the U. S. – which are largely extra-legal efforts; more importantly, the need for social sanitation is reflected in U.S. attitudes toward the care for others and how the prevalence of “matter out of place” (Douglas 2002 [1966]) indexes moral failure on the part of bad actors who are tied to Nature and threats to Civilization.

Diffuse Threats Call for Direct Policing

As formulated by Frank in the late 18th century, the medical police were the epitome of a biopolitical institution (Foucault 1990 [1976]), concerned with the promulgation of health, which led them to environmental interventions – making sure that people tended to animal and human waste, the draining of swamps, and other miasmatic threats – as well as the monitoring of agricultural production and the storage of foodstuffs. The Austro-German institution of medical police succeeded Swedish efforts to promote

vitality and fertility (Johannisson 1994), and paralleled other paternalistic biopolitical efforts to promote health and life throughout Western and Central Europe, as well as Great Britain. But in the U.S., there were no medical police, despite the medical police's integral function in the development of an industrial working class and its livelihood in Europe. Instead, in the U.S. throughout the late 18th century and 19th century, Boards of Health (and similarly titled institutions) were convened only in response to epidemic disease and other explicit, widespread threats – often coming from Europe by ship – at which point citizens and civil servants together adopted the mandate to clean cities, quarantine the sick, and otherwise maintain a sanitary society (Rosenberg 1987 [1968], Fee 1994). After the proximate threat had passed, these civic-governmental structures and their activities decayed, leading to a lapse in the individual and environmental oversight needed to avoid another epidemic – which would, inevitably, help ensure another wave of epidemic disease, including Yellow Fever in the 1790s, and waves of cholera throughout the 1800s.

Only by the end of the 19th century would these organizational forms become durable, leading to the eventual development of “public health” as a non-legal, societal necessity (Rosen 1993 [1958]). By ‘non-legal,’ I mean to flag the ways that particular kinds of behaviors and social concerns escape codification in the law. With the rise of criminal types in U.S. law and policing, those who threatened public health seem to have been relegated to a minor position relative to those who behaved in ways that directly threatened individuals or property. Public health -- relative to discrete individuals and property -- is more diffuse and threats to it are difficult to directly trace, which may be the basis for its elision in some U.S. legal contexts. For example, that my neighbors could

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create what I perceived as a threat to the health of my family, but was merely a ‘nuisance’ in the codified law of our county meant that their actions could continue unabated in the face of a few fines. By way of comparison, one might consider how California addresses reckless driving, an offense that is marked by its endangerment of others and codified in State – rather than county – legal standards. One reckless driving offense results in a fine greater than a nuisance fine in Santa Cruz county and can also result in a jail conviction. A second offense within a year results in suspension of a driver’s license. Using ‘non-legal’ in this context is a way to convey that a set of actions elude easy legal capture due to their absence as directly codified in law. This is not to suggest that they evade the law altogether, since there are multiple ways that actions can be construed to fit into existing laws, but, if they are to be captured in the law, additional labor needs to be accomplished.

In considering why the medical police never translated to the U.S. context, the contradiction of health and the law in the U.S. come into stark relief: health and disease are accepted as intensely individual, and not-quite-criminal choices made by sick individuals that affect the social fabric in harmful ways, particularly members of the same family and local environment are difficult to attribute a knowing individual. One counter example might be the knowing exposure of an individual to a life-threatening, communicable disease, such as HIV, where this action is construed as a form of murder or assault (Markus 1999). But in the U.S., limiting the movement and actions of individuals through an institution like medical police is an undue burden on the liberty of individuals; instead, ancillary institutions like Departments of Public Health tend to this aporia in legal structure, but through means that may or may not be explicitly based in codified law, except in cases where direct harm can be proven and the threat to health is

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demonstrable and evident (Leavitt 1997). Without strict codification and penalties, health-threatening behaviors are difficult to deter. Much like other forms of criminality have been historically conceived, the non-crimes associated with disease transmission are construed as associated with kinds of people – based on race, ethnicity, and class – considered congenital in the 18th and 19th centuries, and now seen as based on economic disenfranchisement (Garriott 2013, Bourgois 2010). In the present, one site where this is apparent is in crimes associated with negligence – in self-care and in care of others. In the following, I outline the institution of medical police as elaborated by Frank in its historical moment, including reference to how disease was dominantly thought about in the North Atlantic during the 18th and 19th centuries.

During the 1700s, the causes of disease were unknown, and often ascribed to conditions in the environment. These conditions could be the result of naturally occurring phenomena – a swamp or bog – or human habitation, such as run off in a ditch, piles of offal from an abattoir, or poorly ventilated work or living spaces, to name just a few possibilities. Frank is exemplary of medical thinkers of his generation and lays out the ways that disease is influenced by environmental conditions that could be easily curtailed by deliberate, modernist efforts at being civilized:

Who does not know the devastating scourge of hospital fever, hospital infection, and typhoid epidemics which have their origin here! These very volatile animal products escape from the sick organism by way of breath, saliva, sweat, urine and excrement, or rather all the excretions are mixed with miasmas; they have the most devastating effect on the live organism and produce terrible general epidemics. Miasmas develop from rotting animal and vegetable substances. Unburied or not deeply enough buried human and animal bodies, animal waste in slaughterhouses, butchers' stalls, tanneries, soap works, in factories producing gut strings, etc., latrines, manure pools,

peat bogs, flax and hemp roasting, etc., are the sources of such poisonous vapors. The cathedral at Dijon was once so poisoned by the effluvia of corpses that it became the cause of a murderous epidemic. The deleterious miasmas were received by the atmosphere and spread their nefarious effect over mankind. (1976 [1786], 440)

Frank, like many of his contemporaries, and many natural philosophers and early modern physicians, supported the miasmatic theory of disease transmission (Hannaway 1993, Porter 1999 [1997]). In an era before the identification of bacteria and viruses, miasmatic theory relied on the understanding of ‘bad air’ leading to disease. Miasmas were natural, if dangerous, products of the world, intensified by dense human habitation, where masses of human-produced waste would intermingle and generate bad air. These miasmas could also be naturally occurring, in swamps and other conducive environments; in earlier times, individuals were warned away from travel through particular areas due to the local existence of such miasmatic formations (Corbin 1986). Moreover, a miasma might travel, spreading disease in its circulation through the atmosphere. The emerging urban centers of Europe and the U.S. meant that the careless management of human-produced waste – trash, offal, shit, corpses – could both be generated more easily through density of population and would potentially be more insidious and lethal due to easier methods of transmission and infection – both in people living in closer proximity to these miasmas, but also living in close quarters with poor ventilation, which led, as Frank notes, to miasmatic formations in their own right. Those particularly prone to the careless management of waste that produces miasmas were generally construed to be the illiterate and poor working classes, who failed to understand the basic science of disease transmission. The medical police were intended to intervene into this ignorance, enforcing scientific and social standards of waste removal and care.

The medical police and early public health-focused bureaucrats were integral in producing the urban geographies of the emerging industrial landscape in Western and Central Europe, both in city centers as well as the rural areas that serviced these urban centers in the production of food and laborers. Critical in Frank's conception of developing a healthy landscape was the removal and isolation of waste in centralized spaces, and, in so doing, the removal of every trace of waste in the city itself, thereby upholding the idealized view of the city as the center of civilized society (Frisby 2002), despite its likely exposure to the many miasmatic threats spawned by close habitation and a careless laboring class. This was not to simply police what belongs where – that garbage belongs in landfills or otherwise remote sites (Reno 2016) – but to police the movement of bodies and waste through space, and to tie the existence of waste to the behaviors of individuals:

At a certain distance from all human dwellings and public roads, and if possible at a place from which the wind may not so easily blow into town, every town must maintain several reservoirs for the rubbish brought there from the town. In Paris, two kinds of receptacles are filled, one with real excrement, the other with other objects easily subject to rotting, dead animals, entrails, blood, rotten plants, etc. The drivers conveying such materials must be strictly instructed not to empty any of these on the way into rivers, depressions, or onto fields; that they load the rubbish without delay at night into well closed barrels, and drive off before daybreak, after having previously swept clean the place where the loading took place; that under no pretext do they stop on the way and dirty the streets, etc. (Frank 1976 [1786], 190)

Whereas miasmas were diffuse, and sometimes mysterious in their origins and effects, Frank worked to situate them in space and particular human behaviors, providing medical police with specific targets for their powers. Like other forms of criminality, specific

spatiotemporally situated behaviors became isomorphic with the intents of individuals: for Frank, those behaviors that act as a direct threat to society are those most in need of policing through the medical police. It is precisely in the intersection between individual self-determination and threats to a greater society that the medical police are meant to operate – they are not intended to police abstract or indirect threats – but it is in this intersection where their powers are most threatened.

The problem that Frank perceives with the ability for the rational practice of medical police to successfully shape all of society is the egocentric interest in self-determination.

I compared with admiration our times with those olden times, when the great lawgiver dealt with the lowliest detail to such an extent that he even ordered that every Israelite in camp should have his little shovel with him, with which to cover carefully his excrement with soil. Nowadays much more important proposals on medical matters immediately evince sayings such as: “Well, yes, how can this be done?” “This is too petty for the police to bother about it!...” “That way everybody would have his hands bound, etc.” However, basically, we are simply too lazy to do good, and we value too highly every step that is required of us for the sake of the public weal. (Frank 1976 [1786], 142)

This problem of self-determination, however central it is to the very structure of criminality and the law, and, Frank would argue, in need of policing, is the basis for the non-acceptance of medical police as a concept and set of practices in the U.S. The “public weal” Frank writes of is integral in the early colonial U.S., but the nascent U.S. government, as enshrined in the Bill of Rights, erred on the side of individual liberty over the common good (Woodard 2016). In 1793, epidemic Yellow Fever in Philadelphia would put these assumptions about self-determination and health to the test. In lieu of medical police, Guardians came to the aid of the sick and poor (Powell 1993 [1949]), a

class of young men with political aspirations who were tasked with helping to secure the city against threats to civic life. Generally, the job of a Guardian was modest, albeit undesirable and accepted as a step towards greater public service and power in a lifelong political career. Those who served as Guardians were likely not wholly different from the medical police in disposition, but when epidemic Yellow Fever struck, many of them abandoned their posts for fear of becoming sick. The “public weal” suffered for lack of policing, which may be the moral failing of individual Guardians, but in the context of the early U.S, similar moral failings were apparent everywhere, from authorities leaving their posts, to port authorities accepting plague-ridden shipments, to the poor, disease-ridden urban citizens, all of whom were seen as culpable in the spread of Yellow Fever and the deaths that ensued. When epidemic disease would strike again, in the form of cholera throughout the U.S. Eastern Seaboard, Boards of Health would arise based on the interests of individual citizens to preserve the “public weal,” but this would serve as an extra-governmental institution invested in public health, property values, and personal rights (Rosenberg 1987 [1968]), with the upper classes intervening on the behaviors and lifestyles of the urban poor and sick. Cholera and Yellow Fever were both diffuse threats, not unlike the miasmatic causes of disease Frank identified elsewhere, but under the mandates of the emerging Boards of Health throughout the 19th century, the interventions taken on the part of the Boards of Health were directed at individuals perceived as sick or criminal as well as the dirtiness of industrial, urban Civilization.

The civilizing process, of which the great uplift of the urban poor into modern subjects through disciplinary action is predicated, is based first on elite mores, which then find their root in scientific and medical reason (Elias 2000 [1939]). For the Boards of

Health in the 19th century, standards of cleanliness were used as the basis for the shaping – and policing – of individual and collective behavior, often without the ability for legal recourse to actually shape the actions of individuals and communities. Cleanliness, in the face of the emerging urban, industrial context, was vital for the appearance of modernity (Hoy 1996), an assumption that dovetailed with the ability to mitigate epidemic threats to society. But in its earliest forms, the need to produce order relied more on elite standards of social organization than sound medical advice. This is nowhere more apparent than in the policing of waste and its relationship to disease prior to the bacteriological and viral understandings of disease transmission, which would not occur until the late 19th century. First suspected by John Snow in London in 1849, and later confirmed by Robert Koch in 1883 (Rosenberg 1987 [1968]), the etiology of cholera as being the microbial contamination of drinking water through proximity to human waste finally rationalized centuries of social action around the care for waste and its removal in relation to drinking and bathing water. The legal policing of individual behavior depends upon the construal of actions as being based in an uncivilized Nature, a domain that would normally fall under the auspices of the medical police and institutions like Boards of Health. In the absence of these formal institutions that tend to the regulation of Nature, particularly uncivilized human nature, individuals who fail to meet particular standards of self-care and comportment are associated with particular classes of people prone to specific behaviors and dangers. This is especially apparent in how individuals care for others – or fail to – particularly children and elders, and how the behaviors of individuals can influence social goods, like common resources. Although there are any number of symbolic associations to be made to rhetorically position these people as particular kinds

of uncivilized people – who are not necessarily criminals, although this might be an oversight in the law itself – there is no symbol seemingly more efficacious than shit in construing them as uncivilized, too close to Nature, and exposing others to Civilization-threatening Nature.

Caring for Others Means Wiping Their Asses

With some regularity, U.S. newspapers report on the failure of individuals to care for their dependents, often relying on the symbolic power of human shit – and sometimes non-human shit – to impress the public on how vile these careless individuals are by allowing those in their care to ‘wallow’ and be ‘smeared’ in their own shit. Individual, uncivilized behavior is seen as threatening to other individuals through this exposure to shit – a direct rather than diffuse threat. In the U.S. the existence of this waste and its proximity to individuals, usually children and the elderly, is indicative of individual moral failing, often codified as criminal neglect. Every summer is greeted with headlines of swimming pool contaminations related to human shit, and the epidemic threats posed by exposure to the shit of others; individual bad actors are difficult, if not impossible, to identify in these situations, and instead the diffuse nature of these threats lead to individual self-monitoring – e.g. not swimming in public pools – and social interventions, like shutting down access to public goods, like community pools. In this section, I focus on a set of examples of these kinds of individual and social failings as rhetorical efforts at constructing the uncivilized status of individuals who act in deplorable ways and the particular failings of the social body to protect unsuspecting others from disease vectors enabled by the bad actions of anonymous, uncivilized individuals. [A warning to the

reader: the following two pages contain very graphic and disturbing content. You may choose to skip to page 18 to avoid these descriptions.]

In January of 2016, Mesa, Arizona police responded to the claims of a witness who observed a three-year-old child bound with duct tape, secured in a black trash bag, and covered in feces, obscured in the closet of a man the witness was visiting. The Huffington Post ran the story with the headline, “Abused Child Found Bound, Gagged in Bag of Feces” (January 20, 2016) and many outlets used variations of “Bound Child Found in Bag of Feces ‘Shocks the Soul,’” the latter part of which quoted the Mesa Police Chief, James Meza. The unnamed child was left in the care of Francisco Javier Rios Covarrubias by her homeless mother, Mayra Yomali Solis. In a statement to police, Covarrubias explained that he had not changed the child’s diaper in three days for lack of a clean diaper to change her into, leading to a severe rash across her groin and buttocks. Moreover, Covarrubias admitted to leaving the child unattended while he went to work, abandoning her in his apartment while he was gone. The child was discovered by a man who came to the apartment to have sex with Covarrubias, who was not so distressed as to not have sex with Covarrubias before contacting the police on the girl’s behalf. The details of the girl’s abusive situation run deeper, but what the media chose to portray – against what is contained in the police reports of the incident – was the questionable character of Covarrubias, who neighbors claim “liked dressing in women’s clothing” and what Meza described as “just evilness.”² The abuses are all important to the case, but the media reliance on “feces” as a marker for the depravity of the uncivilized behavior of the perpetrator – and the extent of the damage done to the child – is vital, as they implicitly

argue that being exposed to Nature of the most human sort is the most serious of these crimes.

In 1990, the Select Committee on Aging produced a report on “Elder Abuse: A Decade of Shame and Inaction” in response to growing attention to the squalid conditions many U.S. elders had been found in by health care aides and social workers (Chairman of the Subcommittee on Health and Long-Term Care 1990). Among the many case reports compiled by the Subcommittee on elder abuse, one of the most startling in its graphic content is the following:

In Texas an elderly woman lived with her son, who was armed, dangerous, often on drugs and threatening to shoot anyone who came to his home. The 94-year-old woman lived in an upstairs bedroom and the rest of her family had not been allowed to see her in a year. A caseworker discovered her nude from the waist down, dehydrated, and lying in her own feces, urine and blood. The stench from her bedsores, which ran to the bone and were covered in maggots, was overpowering. She screamed with pain when moved and could not be dressed. Her skin had broken down so badly that she had to be placed in a body bag to be transferred to a stretcher.

When told that his mother’s condition was serious enough to warrant placement in a nursing home, the son objected, asking, “Then who will pay the utility bills here?” The woman died 2 weeks later and the son was eventually convicted, under Section 2204 of the Texas Penal Code, of “willful neglect to an elderly individual causing physical harm.” (ibid., 6)

The horrors inflicted on the elderly mother are not incidental, and they gain their weight by their association with abject bodily functions and fluids. The uncivilized character of the son, negligent in his care of his mother, is constructed through these symbolic associations with Nature, and solidified by his callous disregard for his mother’s well-being in the face of his “utility bills.” This case does not stand apart from the other cases

collected by the Subcommittee: the report is filled with similar cases of extremely abusive situations, many of which traffic in the same symbolic construction of the perpetrators as exposing victims to Nature, often with reference to ‘feces’ and ‘excrement,’ sometimes that of humans, and sometimes belonging to domestic animals or pests. ‘Neglect’ is the crime associated with such behavior, but it might also be thought about as ‘exposure,’ and an exposure that is willful in its intent, leading to the ill health of particular individuals. Policing as it is practiced in the U.S. depends on social workers and public health professionals to identify possible sites of negligence, and Nature serves to symbolically exacerbate specific behaviors as criminal in their threats to Civilization.

Over the last several years, the Centers for Disease Control have noted and publicized the rise in swimming pool-related incidents of *Cryptosporidiosis*, often shortened to Crypto, a parasitic infection that causes diarrhea and is resistant to the usual swimming pool treatments of chlorine and bromine (Hlavsa et al. 2015). In untreated swimming sites, like ponds and lakes, *Escherichia coli* (*E. Coli*), is the primary culprit. Across 32 states and Puerto Rico, 90 epidemic outbreaks occurred in 2011-12, with some 1,788 infections, 95 hospitalizations, and one death. Crypto is entirely preventable, but, as Hlavsa et al. note, “In the United States, codes regulating public treated recreational water venues are independently written and enforced by individual state or local agencies; the consequent variation in the codes is a potential barrier to preventing and controlling outbreaks associated with these venues” (669). The CDC comes to learn of these outbreaks through a centralized reporting mechanism, the National Outbreak Reporting System, but this depends upon epidemiological associations between cases to correlate, thereby indicating an outbreak; because individuals may not seek out medical

care in a timely fashion, and because medical professionals may not report the incident as pool-related, the number of outbreaks and cases is viewed by the CDC as “an underestimate of actual incidence” (671). That all said, the public reporting in 2015 on the CDC’s report produced such headlines as “Super Gross! Swimming Pools are Ridden with Germs from Pee and Poo” (The Monitor Daily, June 29, 2015), “Poop in Swimming Pools Leads to Deadly Parasite Risk” (USA Today, July 15, 2015), and “Important Advice from the CDC: Don’t Poop in the Pool” (Mother Jones, May 14, 2015). In 2016, a similar CDC report garnered headlines such as “CDC Releases Annual Poop in the Pool Report and It’s Gross” (Newsweek, May 19, 2016) and “You are Swimming in Poop” (New York Post, May 20, 2016). Other, tamer headlines, identify swimming pools as the sites of possible risks, and many headlines use the language of revulsion to warn potential swimmers of the dangers associated with epidemic disease. Not unlike miasmas, swimming pools in the contemporary moment serve as geographically specific sources of disease, but the individuals who contaminate the water, and those who perpetuate the disease vectors by swimming in the same or other pools before medical treatment, help to make the threat diffuse. Instead of having individuals associated with particular, uncivilized behavior, the very participation in a public resource like a municipal swimming pool becomes coded as a dangerous exposure to untamed Nature, made symbolically powerful through recourse to shit.

In each of these cases, what are clear are the failures of individuals to care for others. Through their relationships with others and the exposures they allow, the uncivilized, potentially criminal nature of the careless individual is exposed. In the cases of child and elder endangerment the neglect of others serves as an extension of the self

and particular forms of inherent criminality; the failure to care for others is indexical of an individual who fails to care for him- or herself, enshrined in the standards of civilized behavior. The diffuse threats posed by those who contaminate public resources, of which swimming pools are a mere icon, are similarly indexical of individuals who behave in ways that betray their uncivilized natures. When those who perpetuate these crimes of neglect are symbolically associated with shit – either those or others – they are rhetorically positioned as threats to the social order because of their association with Civilization-threatening Nature. There is no mistake here, since human shit is rhetorically charged as abject “matter out of place” that not only chafes against dominant social mores (Douglas 2002 [1966]), but is also taken as dangerous to the health of individuals and society as a whole. Police, as they are currently conceptualized as agents of the law in the U.S., do not find these threats to health and society under their purview – and in their absence Americans have little recourse outside of the symbolic to punish those who would threaten others through the use of neglect and uncivilized behavior. The absence of an institution like the medical police – or like the Guardians of Philadelphia – especially tasked to uphold the health of society against the exposures of Nature is indicative of U.S. attitudes towards individual natures – that is, certain people, by their very natures, defy the civilizing process. But something must be done about these individuals to make them less associated with Nature.

Why Not Medical Police Now?

In this conclusion, I want to think through what the medical police were doing in their moment, what the failures of U.S. Boards of Health were, and how they relate to the

production of social order – an order that might be policed, and thereby actively reconstituted, or ignored, and allowed to decay. The modern, uncivilized situations wherein the medical police might be our authorities of nearest resort – the negligent care of others, of public health, and of society itself – expose how care and orderliness are integral to the social constitution of each other. What the discourses around shit and the uncivilized status of particular individuals as criminals – and potentially communities as uncivilized – helps to make clear are the relationships between individual behaviors and social orders predicated on symbolic labor that produces Nature in opposition to Civilization, disorder opposed to order. Although the symbolism of the uncivilized is often in flux and subject to changing social mores (Miller 1997), shit, fairly safely, sits at the limits of civilizational pretensions: shit is always abject, it is always uncivilized, and it is what individuals and society do with it to care for themselves and others that indexes a society's or individual's status as civilized or not. But civilization as Elias described it is no mere disciplinary process; rather it is subject forms of power and knowledge production akin to Gilles Deleuze's conception of "control societies" (1995 [1990]). Moreover, the civilizing process itself is a territorializing effect that makes and remakes human nature in its actions (Deleuze and Guattari 1987 [1980]). As a process, the expectations of civilization are constantly on the move, despite some expectations remaining relatively fixed, thereby allowing for symbolic labor to be productive, as in the case of shit. In keeping some symbolic content stable, the domain of Nature similarly remains relatively fixed, allowing for the alignment of particular behaviors and individuals with that symbolic domain.

What the cases discussed above provide is a glimpse of post-disciplinary power, power in the context of ‘control societies’ where norms are constantly in flux, leaving individuals in a space of doubt, not knowing what the right, order-upholding action is. If power -- in the context of the modernity-focused civilizing process that Elias diagnosed -- was disciplinary, namely that there was a correct behavior to produce through institutional correctives to curtail the eruption of Nature, what is apparent in the contemporary U.S. context is that the absence of direct codification of Nature in law provides an opening for its doubtful presence in society. Discipline sought to eradicate Nature; control societies are unsure what to do with Nature – and, potentially, are unsure what constitutes Nature. In two short pieces, Deleuze outlines his conception of ‘control societies,’ which, he argues, replace disciplinary institutions in the contemporary moment, from the 1970s onward. Rather than monolithic disciplinary institutions that uphold particular cultural expectations and norms, enshrined in Civilization, and which characterized everyday life in the North Atlantic and in many colonies in the global South through the late 20th century, in the current moment there is a proliferation of norms in the many parallel institutions that comprise everyday life in modern societies. From the family, to work places and schools, to recreational communities – there is no outside of control and the rule of the norm, however in question that norm might be, and whatever the norm’s relationship to Nature might be. Most importantly, these norms are in flux, making it difficult for an individual to know what is expected of him or her in any given situation, particularly in relation to how Nature relates to the comportment of the self, emblemized in the civilization process’ codification in law. In the context of control societies, doubt replaces the certainty provided by disciplinary institutions as an ordering

logic for everyday life. Generously, the actions of my sewage-pumping neighbors and the various actors discussed above might be construed as generated out of this context of doubt; what is the right thing to do in these situations? Even if it is morally or ethically wrong to behave in a particular way, what if such actions are not specifically illegal? What is wrong about the exposure of others to Nature?

Such situations might index that the law itself is in flux, working to order Nature in relation to reconfiguring ideas about Civilization -- or at least to produce particular ideas about what Nature is and who is most associated with it. In this flux, dominant ideas about order and disorder are in flux as well, being reconstituted against changing ideas about the role of Nature in society. As a counterpoint, one might consider here the relationship between law, Nature, and individual behavior in the context of contemporary genomic research and neuropsychology: each of these scientific efforts seeks to base human behaviors in biological understandings of the body, themselves based in Nature. Thus, an individual acting in accord with his or her biological predisposition is acting in accord with Nature, however disorderly those actions might be. The disorderly can be marked as criminal or pathological, but in the cases discussed herein, through the rhetoric of shit, the disorderly is associated with Nature and set against Civilization as embodied in the figures of children and elders, and the common good, such as a shared resource like a community pool. Who does it serve to have such oversights in the law, such spaces where Nature, order, and disorder are in flux, wherein ideas about Nature as associated with particular behaviors and individuals are reified?

This recourse to Nature through shit provides a space for the non-enforcement or non-existence of the law and the production of particular kinds of order and disorder that

reify conceptions of particular kinds of individuals, of new criminal types. In this emergent context, what is becoming the object of control are the behaviors of individuals that come to be signs of good or bad intent and are often mapped on to types of people based on class, race, ethnicity, gender and sex. From negligent children of elderly parents, to sexually-dubious undocumented immigrants, to children pooping in community pools, to my working class neighbors, what these cases share are actors who share social class associations as low and uncivilized. When paired with discourses about the naturalness of particular kinds of behaviors being associated with specific kinds of individuals, stereotypes lead to the installation of Nature as outside of the law – that is, particular kinds of individuals act in specific ways related to Nature. In turn, these individuals come to need legal intervention through laws that profess to protect Civilization from those who would allow exposure to Nature. What follows is the production and treatment of kinds of individuals, of new criminal types, by police through recourse to their associations with Nature and their need to be ordered by the law.

The imposition of order in relation to law is a territorializing effect. Territorialization provides a mechanism through which the behaviors of others can be judged and normed; territorialization striates otherwise unruly actions and individuals into a social form (1987 [1980]). Police are territorializing agents, imposing norms on society; by focusing on the kinds of disorder they generate and depend upon, as in the case of the neglect of Nature and its exposures to be codified in law, we might also see police as deterritorializing agents who simultaneously depend on the disruption of order and the imposition of emergent, sometimes under-articulated, orders that are arising out

of normatively-produced disorders. That is, the exposure of children and elders to shit is symbolically important because the material conditions these children and elders find themselves in are dangerous and potentially lead to disease or harm through exposure – and such a state may be on its way to its own codification as a criminal act over and above ‘willful neglect.’ But the disorder perpetuated by these acts not being codified into law allows for particular symbolic work to be done, vilifying specific individuals through their acts related to Nature and its exposures, developing a new criminal type specifically threatening to Civilization.

Taken together, these -- concerns about order and disorder and the changing nature of power in the context of control societies in relation to the use of Nature -- raise a question: to what extent are police a metonymic representation of the State? For Elias, Civilization was integral to the development of the early modern state and state power, and the medical police and their ilk were fundamental to these early modern states as they codified Nature in law. Similarly, for Laporte, the State was the site of purification: it was able to sanitize Civilization, both materially through the treatment of sewage, but also symbolically, by rendering its symbolic labor clean and orderly, despite its trafficking in dirt (2000 [1978], 40). But in the contemporary U.S., Nature as it is symbolically deployed often exists outside of the law, positing the State as removed from Nature – rather than purifying, as in Laporte’s conception of the State, the State in the U.S. seems to be unsure what to do with Nature, or what Nature even is. What follows is that Nature exceeds the powers of the State, but also that individuals associated with Nature are those most in need of policing – and civilizing. The police, whether legal or medical, might be construed as mimetic extensions of state power; that is, police represent the power of the

State to citizens on an everyday basis. In the void of law applied to Nature, however, disorder prevails and unwanted exposures to Nature are what follow. This might point to a decay of the State and state power; it might also point towards a mutation in the nature of power and its effects on everyday life. Police are simultaneously deterritorializing and reterritorializing the state in their imposition of disorder and order in everyday life, thereby making and remaking ideas about Nature, civilization, law, and the threats that individuals pose to others through their uncivilized behaviors.

I wish I had an uplifting conclusion to the tale of my neighborly woes in Santa Cruz. We left notes for our neighbors, and left them messages entreating them to a conversation, but stopped short of actually pursuing legal action. We worried that any legal action would irreparably sunder our relationships with our neighbors, despite the fact that the legal repercussions of their actions were minor. If anything, we worried that the fines associated with their nuisance behavior would delay their installing a new septic system. But two years later, the septic situation was still uncorrected, and, our feelings for our neighbors were not positive ones. Instead of investing in a new septic system, they had invested in a small mechanic's shop that was going out of business; their projected personal gain was our continued loss, as we continued to not be able to use the yard comfortably, nor could we open the windows on the south facing side of our home without wafts of septic miasma filling our home. When a job offer came which required our relocation and the sale of our home, it almost came as a relief: our neighbors were to be somebody else's problem – and, hopefully, the smells would be unapparent during any potential buyer's visit to the property.

The duties of the medical police as outlined by Frank have been adopted piecemeal by other U.S. institutions, with some responsibilities, like the monitoring for the care of others, falling under the auspices of Departments of Social Welfare, the monitoring of food safety being associated with the Food and Drug Administration and U.S. Department of Agriculture, and the monitoring of disease being the responsibility of the Centers for Disease Control and local Departments of Public Health. Such a dispersal of responsibilities is indicative of control societies, where no one institution is charged with the disciplinary responsibility and power to ensure certain kinds of normative behaviors on the part of individuals. Such a dispersal of responsibilities and powers allows some actions – like the behavior of my Valley neighbors, pumping their septic waste onto their yard – to slip through the law, despite what might be taken as obvious threats to individual well being and public health. An institution like the medical police, tasked with ensuring that the “public weal” remains healthy, might serve as a remedy to such threats of Nature and Civilization. But the question persists: despite the possible threats to self and others, could the U.S. ever tolerate an institution so blatantly biopolitical in its intent, and so paternalistic, as the medical police and their control of Nature?

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¹ I am capitalizing 'Nature' and 'Civilization' herein to denote their conception as competing universal concepts and foundations in North Atlantic modernity. As Bruno Latour has argued (1987 [1980], Laporte 2000 [1978]), claims to modernity have depended upon acts of purification that impute Civilization with the ability to suppress or vanquish Nature. In producing civilized people and societies, Nature is assumed to be disempowered as a force in shaping individual and social relations. Latour has shown this project of purification to be integral to claims of modernity, but that the division between Civilization and Nature to be an ongoing effort. Nature and Civilization, here, are used symbolically to motivate action.

² <http://raycomgroup.worldnow.com/story/30997789/mesa-pd-bound-child-found-in-bag-of-feces-shocks-the-soul>