

**In Alberta, First They Came...**

In Germany, they came first for the Communists, And I didn't speak up because I wasn't a Communist;  
And then they came for the trade unionists, And I didn't speak up because I wasn't a trade unionist;  
And then they came for the Jews, And I didn't speak up because I wasn't a Jew;  
And then... they came for me... And by that time there was no one left to speak up.

Reverend Martin Niemoller, "First They Came"

Reverend Martin Niemoller's poem, "First They Came" was written in response to apathetic German intellectuals who remained silent during the Nazi terror in the 1940's. Niemoller was arrested and confined in the Sachsenhausen and Dachau concentration camps until he was freed by Allied forces in 1945. His poem is a powerful reminder that public ennui is a dangerous response to State intrusions on individual liberty.

Today, the Alberta crusade in the name of justice reform is not nearly as overt or oppressive as that which inspired Martin Niemoller. Rather, the Alberta movement is a more ubiquitous campaign, driven by fear and advanced in the court of public opinion. At the heart of the campaign is a media based assault on our legal traditions conducted in the name of public safety and tough on crime type rhetoric. The dialogue is loaded with emotional content and is largely based upon low probability/high consequence subject matter, that when analyzed objectively, poses relatively insignificant risk to Albertans. Regardless, the end result is public furor against our system of justice by citizens whose opinions have largely been informed by politicians and interest groups who have fed them a special diet of information designed to satisfy the pallet and malnourish debate.

**In Alberta, they came first for my sense of security, and I didn't speak up because I wanted to feel safe...**

At the outset, let me say that I am not arguing Canadians should simply ignore their surroundings or blindly walk through life without concern for safety or security. Nor am I saying that we should only worry about events posing imminent threat or a clear and present danger. Rather, I am saying that we should not be fooled into believing we are at significant risk to being victimized by anomalous events to the extent that we should allow fear to compromise our way of life. Aside from the fact that we are exposed to waves of information, we have not likely in any meaningful way actually been effected by many of the events reported daily and in particular, things law enforcement tell us we should be afraid of.

With this in mind, I begin...

I do not profess to be an expert in the field of cultural studies, anthropology, social psychology, semiotics or any other social science occupied with the study of culture. For the purpose of this paper I am content to make a rather broad and somewhat banal assertion that definitions of culture are manifold and the definition often depends inextricably upon the discipline in which it is analyzed. Suffice it to say, however, it is widely understood that culture is the totality of information acquired, preserved and transmitted by various groups in human society. Anthropologist Edward T. Hall defined culture as "...the way of life of a people, for the sum of their learned behaviour patterns, attitudes, and material things"<sup>i</sup>. J.M. Balkan, suggested that culture is the socially generated and socially sustained way in which human

beings constitute their world. Though some intellectuals, such as Claude Levi-Strauss theorize culture as non-hereditary information and others, such as Richard Dawkins, argue it is the opposite, there is one thing for certain, culture is information and information is culture.

All information has fairly specific connections to the time and milieu in which it is shared . The flow of information from brain to brain is limitless, but contexting information is the by-product of a number of complex phenomena, such as the control systems through which information is delivered, the emotional response to the information received and the receiver's own understanding of the world based upon its knowledge, experience and cultural savvy. Today, information is transmitted through a variety of readily available sources, such as newspaper, television, radio and internet. Perhaps more than other age, human beings are subject to information, and as such, perhaps more than any other age, culture is malleable.

Issues pertaining to public safety and security, such as those naturally occurring in criminal justice, often inspire strong emotional reactions. After all, criminal justice is sated with horrific and all too often tragic stories of senseless suffering and loss. However, notwithstanding the exceedingly low probability of being dramatically affected by crime, the reality is, by sheer force of numbers alone there is a likelihood that people will be injured or killed by the remotest of occurrences. Thanks to a torrent of instantaneous communications our perception of susceptibility to risk may be unreasonably heightened. In the words of Dan Gardner, "[o]ne of the most consistent findings of risk perception is that we overestimate the likelihood of being killed by the things that make evening news and underestimate those that don't. What makes the evening news? The rare, vivid and catastrophic killers. Murder, terrorism, [gangsterism], fire and flood"<sup>ii</sup>. What doesn't make the news are everyday stories devoid of emotional content.

Though medical maladies such as asthma and heart disease kill more people each year than stray bullets fired by gangsters, there is arguably greater fear of being gunned down in a crossfire than suffering a heart attack. Though the casualties of Calgary's six year gang war pale in comparison to those suffered in one day by New Yorkers in nine-eleven, death by everyday occurrences, such as motor vehicle collisions, far outweighs either ruinous event. Indeed, motor vehicle accidents account for thousands of injuries and deaths annually, yet people fearlessly hurdle themselves down Canadian highways on a quotidian basis. Despite the fact that it is almost an absolute certainty that no citizen will be killed, let alone injured, targeted or even in the general proximity of a showdown between rival gangs, the Alberta government and its law enforcement agencies consistently tell us we are at risk. The question is, are they being honest about the extent of the risk? According to defence lawyer, Michael Bates, the answer is no. In his words, "Alberta's Minister of Justice ... and our increasingly politicized [...law enforcement officials] are behaving either as impressive advocates or immoral fraudsters in the ongoing plight to better position the boots of State power on the backs of the necks of the citizenry"<sup>iii</sup>. Having regard to the plethora of fear mongering type comments unleashed by various officials over past months, it is hard to argue with his point.

On December 13th, 2008, the Calgary Police Service's designated gang expert, Sergeant Gavin Walker warned citizens of southeast Calgary communities about being caught in the crossfire of rival gangsters. "There are a number of restaurants and establishments where people go to socialize in, "he said, "they attract criminals as well as law-abiding citizens. It is that mix that's a huge concern because these guys, they're not kids playing games. They're out there targeting and actively trying to assassinate their rivals"<sup>iv</sup>. "When [citizens] see things that make them ask questions... about the safety of the situation, the most immediate thing they should do is get themselves to a position of safety and phone 911"<sup>v</sup>.

Certainly there is no difficulty reminding citizens to be aware of their surroundings. "Be cautious" is always prudent, if not even mundane advice. We should be cautious crossing the street, operating heavy machinery, taking medications and watching what we eat. But being overly concerned about gangsters "targeting" and "actively trying to assassinate each other" while we enjoy a bowl of noodles is overly dramatic. Getting to safety and dialling 911 whenever questions are asked about the "safety of the situation" is in this writer's view, overkill. After all, how many times has any citizen been in any establishment where they felt unsafe or uneasy in the presence of some long haired, heavily tattooed, boisterous and language depraved male who caused no real problems other than generating irrational fear premised upon personal stereotypes?

Some Anthropologists refer to this as the "rule of typical things"-- a phenomena where the interpreter of information assesses data against its perception of what is typical. Perhaps the best example in Western culture, and in particular, the United States, applies to the "typical" black man. Studies have shown that white people instinctively view the typical black man as a criminal and conversely, the typical criminal as black. Even those who do not do so consciously, do so unconsciously<sup>vi</sup>. In Canada, we might exchange "black man" for "native male" or perhaps in Calgary, we might add "tattooed Asian male driving a Honda", but the point remains, people use cognitive tools, such as the rule of typical things, to assess any given situation, and the assessment may not be reasonable. Interpreting Sgt. Walker literally means police should be called whenever they question the safety of the situation. Surely this is overly dramatic advice? I mean, if a citizen overhears a conversation about murdering the guy at the next table or even simply observes a firearm, I agree, take cover; but dialling 911 and becoming an agent of the State responsible for providing information so that the police have an excuse to harass the well-dressed, heavily tattooed Asian male driving the supped-up Acura is simply unreasonable.

"Being aware" is not synonymous with "being afraid". Though citizens can be aware without being frightened, the message about getting to safety and calling the police whenever a question is asked about the "safety of the situation" is more synonymous with being afraid than being aware. Despite the fact that the overwhelming majority of Calgaryians have never even observed a gunfight (or any kind of skirmish between gangsters for that matter), and despite the fact that Calgary's gang population comprises just 0.0004% of Calgary inhabitants, and notwithstanding the fact there has only been a couple dozen deaths in over six years and less than a half-dozen bystanders injured or killed in this city, Sgt. Walker tells us that we should still be afraid. "I think it should be frightening to everyone", he says, "when criminals can operate, gather weapons, and not feel that there's any risk to themselves"<sup>vii</sup>. On January 7th 2009, Calgary's Chief of Police, Rick Hansen echoed Walker's sentiment: "People in this community" he said, "have a right to expect that they can go into a restaurant and have a meal and not be at risk"<sup>viii</sup>.

Even if it was true that criminals operate without feeling risk to themselves (which I think is not), does not mean that they operate at such meaningful risk to Canadians that we should be frightened while enjoying dinner at a local noodle-house. Even though Sgt. Walker does not come out and directly say, "citizen, you will be shot", the message is that the gang war has grown to such an extent that innocent people are at meaningful risk of being injured or killed in a crossfire. His dialogue with south-east Calgary residents is nothing short of fear mongering at its best. We should remember, just because the appointed police gang expert says it is so, does not make it so.

Fear mongering by those cloaked in authority and vested with public trust is dangerous. For "[w]hen citizens come to believe that they may be next, the risk is, they may accept and even welcome...repressive measures such as more jails, capital punishment, harsher sentences -- measures that have never reduced crime...-- if that promises to relieve anxieties"<sup>ix</sup>.

On April 23rd, 2009, Alberta Solicitor General and Minister of Public Safety, Fred Lindsay echoed the safety-first line when commenting on proposed legislation banning gangsters from bars: "Entertainment spots", he said, "are supposed to be places where you can go and have a good time. The last thing someone wants to worry about is getting caught in the middle of a violent incident"<sup>x</sup>.

Living in a condensed population of a million or so people, it is certainly possible that anyone may be caught in the middle of a violent incident, in any establishment, at any time. To reiterate, by sheer force of numbers alone, there always exists the possibility that a person may be injured or killed in some anomalous occurrence. But this does not mean that we are at such meaningful risk that we should be afraid, or that the threat is so significant that it should be at the forefront of our minds. Yet this is what Mr. Lindsay is selling. Essentially, he says Calgary needs legislation banning gangsters from bars because there is meaningful risk to citizens being caught in a violent incident between rival groups. To this I query, how many citizens have ever observed any kind of conflict between rival gangs? Though I have no statistical data on the subject, I suspect that the number is infinitesimal. If I am right, the risk is exceedingly low. Despite what is almost certainly negligible risk, Mr. Lindsay sells relatively high fear. The question is why?

More recently, Alberta Minister of Justice, Alison Redford and Calgary's Chief of Police, Rick Hansen, openly lauded legislation banning so called armoured "killing machines" from roaming Alberta highways. Again, reciting public safety as justification for the new law, Ms. Redford clearly intimated that armoured cars pose a safety threat to other drivers"<sup>xi</sup>. Echoing Ms. Redford, Rick Hansen said: "It's what they facilitate that's dangerous. It allows them the protection and in their eyes the safety to drive around and do the hits and not the retribution, as long as they're safely ensconced in one of those vehicles"<sup>xii</sup>.

Again, I pose a question: other than military, police and security vehicles, how many armoured cars have you -- the reader -- ever observed in this city? Perhaps more importantly, how many armoured vehicles has law enforcement encountered in this province? Astonishingly, according to Chief Hansen, the answer is none! But he assures us, "[w]e know they're there, we just haven't come across any of them,"<sup>xiii</sup>. In response, perhaps Liberal justice critic Kent Hehr said it best: "If I were cynical, I might conclude that this is a measure designed to feed off public fears."

More broadly speaking, if one were cynical, one might think that much of the dialogue by law enforcement on issues of criminal justice is designed to feed off public fears. The rather honest, albeit block-headed admission by Chief Hansen takes fear mongering to an all new level. For now we should not only be worried about exposure to exceedingly low probability occurrences, such as being gunned down in a local restaurant or nightclub, but we should be concerned about the mere notion of travelling next to armoured cars operated by gangsters who are out doing "hits" and seeking "retribution".

When those endowed with public trust tell us these things, no wonder why citizens are afraid! Information is the tool for understanding the world. Tools of understanding become part of our apparatus for understanding, which is to say that the tools of understanding -- the information -- becomes part of us. The problem is not the information, but our reaction to it. When the reaction is emotional and not rational, the real risk is that measures designed to cope with uneasiness may not be the most appropriate in the circumstances.

**Then they came for the law as I understood it to be, and I didn't speak up because I didn't feel safe...**

Canada's legal culture is premised upon a presumption of innocence, which is to say that any person accused of committing a criminal offence is presumed innocent until proven guilty. The onus of proof rests upon the State. That is to say the Crown must prove, beyond a reasonable doubt that the accused committed the offence alleged. As the Supreme Court recognized in *R. v. Lifchus*, [1997] 3 S.C.R. 320, "[t]he onus resting upon the Crown to prove the guilt of the accused beyond a reasonable doubt is inextricably linked to the presumption of innocence"<sup>xiv</sup>. Mr. Justice Cory poetically described this linkage in the following terms: "If the presumption of innocence is the golden thread of criminal justice then proof beyond a reasonable doubt is the silver and these two threads are forever intertwined in the fabric of criminal law."<sup>xv</sup>.

As any practitioner in criminal justice understands, proving a case beyond a reasonable doubt can be difficult. And it should be; for it is hard to imagine a greater calamity than to be accused and prosecuted for a crime. In the words of an unknown author: "[p]erhaps the greatest calamity that can befall a human being in our society is to be charged with a criminal offence. Based on mere accusations, the government, through the machinery of criminal prosecution, focuses its formidable powers against the individual. Amassed against the accused will be the prosecutor, the police and often times the general public"<sup>xvi</sup>. In present day Alberta, the government, with the support of various law enforcement agencies, actively campaigns to make investigating and prosecuting citizens easier. Easier, however, does not necessarily make the measures right, or consistent with the fundamental values underlying our system of justice.

In recent months, the Alberta government has either enacted or is in the process of aggressively lobbying for various crime measures on the basis of public safety. Legislation permitting police to search and seize armoured vehicles; laws prohibiting alleged gang members from frequenting nightclubs; measures allowing the government to seize property obtained by crime, bail reform and abrogating 2:1 credit for pre-trial custody comprise just some of the initiatives pursued by current Justice Minister, Alison Redford. As proven by recent legislation targeting so-called armoured killing machines, the Alberta government is not merely prepared to design laws to deal with real problems, it is prepared to deal with fictional ones as well. Many citizens might think, "well...I don't drive an armoured killing machine, so why should I be concerned"? After all, if one hasn't done anything wrong, one has nothing to worry about - right?

Wrong. The answer to this type of thinking is more complicated than one might think.

At the outset, it is important to remember, every law enacted by government empowers the State to invade the private lives of citizens. Seemingly simple by-laws, such as those prohibiting citizens from placing their feet on park benches, allows State agents to interfere with the so-called wrongdoer. Everyday sanctions, such as tickets to pay fines not only provide a means for collecting sin taxes, but they represent a useful mechanism for collecting information about the person taxed. Depending upon the kind of infraction, the law may even allow for a search, or perhaps even detention or arrest<sup>xvii</sup>.

Also, the more loosely law is drafted, the more power State agents have to exercise their discretion. With respect to Alberta's forthcoming armoured vehicle regulation, one might ask, what does "armoured" mean? Does the brush-guard on the front of your truck count? What happens if a person has after market body aesthetics or security roll-shutters capable of covering the windows? Notwithstanding it is highly unlikely any of these modifications are bullet proof, or that they will meaningfully increase the weight of the vehicle, mere appearance may provide law enforcement the opportunity to harass you on your morning commute. Some State agent might even issue a ticket, which many-a-citizens will simply pay to save the cost of wasting time in sin-tax court. Worse still, the law enforcement officer might even search your vehicle or perhaps have it towed on speculation that it weighs too much. The point is, more law

equals more power to the government. More power to the government equals more power granted to State agents to interfere with the everyday lives of citizens.

Everything comes with a cost.

Canada is a free and democratic society. Our legal system operates on longstanding principles -- the presumption of innocence, proof beyond a reasonable doubt and axioms engrafted in the *Canadian Charter of Rights and Freedoms*. Consistently applying these principles requires incredible energy, perseverance and intellectual fortitude; for when confronted with a great many incidents in criminal justice, it may be easier to take shortcuts rather than being strong on principle. Notwithstanding disturbing behaviour on the part of a small number of Canadians, it is important that we treat even those accused of committing the most heinous offences with principle. For in the words of Professor David Paciocco, "the quality of a nation's civilization can largely be determined by the methods it uses in the enforcement of its criminal law"<sup>xviii</sup>. So whenever we scold judges, prosecutors or even defence lawyers for being "soft on crime", we might question whether they are soft on crime or strong on principle?

Notwithstanding the centuries of principle woven into the fabric of our criminal law, shortcutting the rules is precisely what the Alberta government is selling. Arguably, Alberta Justice Minister, Alison Redford, has done so with alarming bravado. To this end, she has made a number of rather dismissive comments about the presumption of innocence, such as: "[i]t's *fine* to be presumed innocent until proven guilty"<sup>xix</sup>. Worse yet, she has made cavalier remarks about enacting potentially unconstitutional laws. "We need to write vigorous legislation", she said, [and]... *if people don't like it, they can challenge it*"<sup>xx</sup>. Aside from the fact that she states the obvious, the issue is not whether legislation is challengeable or that it may even be struck at some point in the future. The issue is whether the government is making a sincere effort to write constitutional laws that make sense! In this writer's view, it is catastrophically unprincipled for any government to enact any law for the short term benefit of capturing unlucky citizens (and in the case of Alberta, alleged gangsters) until somebody has the wherewithal to muster a meaningful legal challenge?

Consider Alberta's recently enacted, *Victims Restitution and Compensation Payment Act*<sup>xxi</sup>. This Act permits the Government to seize assets from persons suspected of acquiring property by any illegal act and to dispose of it on proof on a balance of probabilities. Aside from the fact that there already exists proceeds of crime legislation allowing for the restraint and seizure of property within the Criminal law, it is nevertheless interesting that pursuant to the Provincial legislation, the Government can actually dispose of the accused's property even though the respondent/accused is never criminally prosecuted. To be more precise, s. 18(4) stipulates that the Court may grant a property disposal order notwithstanding that the respondent has never been charged with, found guilty of convicted of or otherwise held responsible for any illegal act in relation to any matter related to the property in respect of which the property disposal order is being granted. So let me understand, the Government can take a person's stuff on grounds that he or she has committed criminal acts, but it need not prosecute them criminally? Does this even make sense? I suppose if the State wishes nothing more than to extort property from citizens by prosecuting them on a weaker standard of proof so as to increase the likelihood of gleaning the benefits of a disposal order, then the measure is laudable. Of course I am being facetious.

This is not the only problem with the Act. Within sections 47 and 48 of the legislation, the Alberta government has actually insulated itself and its agents from any action (including a claim for costs) by an aggrieved party for any negligence or abuse of discretion on its part. Aside from the fact that such protections are patently unfair, they appear in direct contradiction to s. 24(1) of the *Canadian Charter of*

*Rights and Freedoms*. Section 24(1) mandates that upon finding a Charter breach, a court of competent jurisdiction has the discretion to impose any just remedy (including costs) in the circumstances. So, bravo Ms. Redford! You have not only written potentially unconstitutional legislation, but have gone to great lengths to do so in contradiction to your public mandate -- to write "legislation that makes sense"<sup>xxii</sup>.

Should we really be surprised with Ms. Redford?

Ms. Redford's view is "...that law should respond to what's going on in society"<sup>xxiii</sup>. Though this statement appears relatively innocuous, it should nevertheless be analyzed with extreme caution. The law is not a malleable instrument for conveniently addressing perceived social problems or instances of injustice. Equally, the law is not a frivolous instrument to be used for combating low risk occurrences at the expense of the fundamental freedoms enjoyed by all Canadians. Most importantly, the law is not an instrument to be used as a tool for allaying irrational fears perpetrated by our own government, the police or other interest groups. Having said this, I readily acknowledge that law must evolve to reflect our changing social climate, but it must do so principally and with minimal or no damage to our core legal values. With this in mind, I echo Mr. Bates': "[I]ets cut the rhetoric, deal with real problems, end the fear mongering and avoid giving up our rights and freedoms to the State who promises to benevolently protect us from the very fears they have conjured. Let us reject as false the choice between our safety and our ideals"<sup>xxiv</sup>.

**Then they came for those responsible for applying and interpreting the laws, and I didn't say anything because I wanted them to tell those responsible for applying and interpreting the laws how to protect me....**

Judicial independence is the principle that courts in Canada are independent from government or outside influence. As Mr. Justice Dickson stated in *Beauregard v. Canada*, [1986] 2 S.C.R. 56:

Historically, the generally accepted core of the principle of judicial independence has been the complete liberty of individual judges to hear and decide the cases that come before them: no outsider -- be it government, pressure group, individual or even another judge -- should interfere in fact, or attempt to interfere with the way in which a judge conducts his or her case and makes his or her decision.

Given Canadian judges are appointed by the governing political party -- whether it be provincial or federal -- it is questionable whether any judge in Canada is truly, in the purest sense of the word "independent". Every political party exists on a political platform, and as such, its choices are often representative of the party's political attitude. Despite this, a great many Canadian jurists have undoubtedly been meritoriously appointed to various courts across Canada based upon years of dedicated service and intellectual aptitude. Concerns regarding the lack of transparency in the judicial appointment process, however, have ignited accusations of political patronage. Indeed, it is sometimes difficult to understand why some candidates are appointed and others are not. For example, former Provincial Court and Court of Queen's Bench judge, now appellate court justice, J.D. Bruce McDonald, has in the past been targeted as a "patronage" appointment. His years of loyal service and financial contribution to the Reform Party, Canadian Alliance and Progressive Conservative Party triggered the debate<sup>xxv</sup>. To be clear, the question is not really whether any judicial appointment is a supporter of a particular political party or even whether the appointment is somehow connected with a high ranking

government official; rather, the question is whether the appointment is strictly patronage based -- meaning without merit.

Since being appointed to the Provincial bench in 2004, it is interesting that perhaps no other judge has been tracked so quickly through the various levels of court in Alberta than Justice McDonald. This begs the question: why? Was it his years of service as a Provincial Court and Court of Queen's Bench Judge? The answer it seems is no; for numerous other Provincial Court and Court of Queen's Bench judges have served much longer. Was it his glowing qualifications, making him the obvious choice as compared to other candidates? The answer is uncertain. According to the Department of Justice 2009 news release, he obtained a bachelor of arts in 1969, a bachelor of laws in 1972 and was admitted to the bar in 1973<sup>xxvi</sup>. Suffice it to say, this published list of qualifications in no way distinguishes him from any other lawyer who has been practicing since the year after I was born. Was it the large number of erudite and landscape changing judgments written since his appointment to the Provincial Bench? I suppose the answer is a matter of interpretation; but given the extensive archive of decisions on a range of important subjects written by other judges, the question is left begging. Or were his various appointments prompted by a healthy mixture of financial contributions, fundraising efforts and undying loyalty to the Conservative government? In 2006, Justice Minister Vic Toews responded to accusations of political patronage, stating: "We appointed him to the Queen's Bench on the basis of his demonstrable legal ability"<sup>xxvii</sup>. If that was so, then why not any number of other more experienced judges, with a more comprehensive resume of erudite judicial decision making? A very good argument can be made that jurists such as Judge Allan Fradsham, along with a host of other Provincial Court and Court of Queen's Bench judges have demonstrated greater and more remarkable legal ability over a much longer period of time. Judge Allan Judge Fradsham has even written an annotated Rules of Court and taught for many years at the University of Calgary -- not too shabby. In 2006, Mr. Toews suggested that J.D. Bruce McDonald was initially appointed by a "different government". Though technically true, Mr. Toews seemingly forgot to mention that the government was essentially the provincial counterpart of his Federal Conservative party.

Accordingly, there remains many unanswered unsettling, wicked, questionable questions. Questions that Canadians should find easy answers, yet none seem readily available. In 2006, when Mr. Toews was pressed to provide the "list" of judicial candidates for inspection by the opposition, "House Speaker Peter Milliken said there is nothing requiring the government to table the document at this time"<sup>xxviii</sup>. If there is truly interest in transparency, why not disclose the list? If a candidate is a merit appointment, why the secrecy?

In Alberta, the transparency problem is exacerbated by a government that seems to have little, if any appreciation for our culture of judicial independence. Alberta Justice Minister, Alison Redford has actually publicly stated the need to have "real conversations" with courts about what society expects. Specifically, she stated, "[o]ne of the things that we as legislators need to do is have real conversations with judges and with the courts about what society expects to be the standard and the consequences for committing criminal acts"<sup>xxix</sup>. "In the last three or four years", she added, "legislators have been absent from that discussion"<sup>xxx</sup>. Given the apparent foolishness of the comment, it actually occurred to me that perhaps it was a slip of the tongue, except the Justice Minister chanted a similar mantra in a CBC Roundtable discussion with Jim Brown. "But from my perspective, having been a minister for less than a year, it seems to me that the dialogue could be a lot more dynamic between the courts and the legislatures in terms of what the laws are. Bring the public into this, and bring stakeholders into this, and make sure that the police are involved in this"<sup>xxxi</sup>. So, if I understand correctly, Ms. Redford is actually

suggesting that legislators and police should have real conversations with Alberta jurists about what the laws are, and presumably how they should be interpreted. It doesn't take a particularly active imagination to hypothesize what a "real conversation" with Ms. Redford and Mr. Hansen would consist of. Detain em all!

On this topic, it is worth briefly commenting about recently appointed Court of Queen's Bench Justice Ron Stevens. Though he was appointed by the Federal Tories (not the Provincial Conservative party), he was Alberta's Deputy Premier and considered to be Ed Stelmach's "Calgary lieutenant"<sup>xxxii</sup>. Prior to his appointment, I am reasonably certain he sat across the table from Ms. Redford on many occasions. I wonder whether Ms. Redford ever had a "real conversation" with Mr. Stevens about what society expects to be the standard and consequences for committing criminal acts? Yet another wicked, questionable question!

### **And then they came for me...**

Trepidation is a powerful tool to allow government to enact potentially repressive measures to allay public safety concerns. Certainly, government is expected to be reasonably responsive to social problems, which includes those associated with criminals and gangsters. Every response, however, comes with a potential cost. When the costs come in the form of compromises to individual liberty or the core values underlying the enforcement of our law, citizens should seriously ask whether it is worth it. For every measure potentially brings the State closer to being empowered to invade the private lives of law abiding citizens.

Absent exceedingly strong grounds to do so, this is a compromise I am unwilling to make....

Submitted by:

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[www.calgarydefence.com](http://www.calgarydefence.com)

i Hall, Edward T. The Silent Language. Random House Inc., New York, 1990: pg. 20.

ii Gardner, Dan. Risk: The Science and Politics of Fear. McClelland and Stewart, Ontario, 2008: 66.

iii Michael Bates, "...nameless, unreasoning, unjustified terror...": <http://calgarycriminallawyer.blogspot.com/2009/07/nameless-unreasoning-unjustified-terror.html>

iv Gangs a Serious Problem in Calgary: <http://www.secalgarynews.com/news/se-calgary/gangs-a-serious-problem-in-se-calgary/>

v Gangs a Serious Problem in Calgary: <http://www.secalgarynews.com/news/se-calgary/gangs-a-serious-problem-in-se-calgary/>

vi Gardner, pg. 50.

vii *Ibid*

viii We are Going After Them Hard: <http://www.canadaspace.com/CBC.php?/canada/calgary/story/2009/01/07/cgy-gang-violence.html>

ix <http://ccdlaforum.blogspot.com/2008/08/musings-of-fear-monger-gangs.html>

x "Calgary Police Seek to Ban Gangsters from Bars: <http://www.vancouversun.com/news/Calgary+police+seek+gangsters+from+bars/1522468/story.html>

xi Alberta Challenges Ottawa to Ban Killing Machines: <http://www.calgaryherald.com/news/Alberta+challenges+Ottawa+killing+machines/1730770/story.html>

xii *Ibid*.

xiii *Ibid*.

xiv *Lifchus*, para. 13.

xv *Ibid.*, para. 27.

xvi Homepage of the Law Office of David G. Chow: <http://www.calgarydefence.com/>

xvii See <http://ccdlaforum.blogspot.com/2009/04/making-bad-big-brother-relationship.html>

xviii Paciocco, David M., Getting Away With Murder - The Canadian Criminal Justice System, (Irwin Law: Toronto, Ontario, Canada, 1999), p. 11.

xix <http://ccdlaforum.blogspot.com/2008/11/lest-we-forget.html>

xx <http://ccdlaforum.blogspot.com/2008/09/who-is-george-j-gaschler-qc-judicial.html>

xxi [http://www.qp.alberta.ca/574.cfm?page=v03p5.cfm&leg\\_type=Acts&isbncln=9780779737369](http://www.qp.alberta.ca/574.cfm?page=v03p5.cfm&leg_type=Acts&isbncln=9780779737369)

xxii [http://calsun.canoe.ca/News/Columnists/Bell\\_Rick/2008/08/31/6621796-sun.php](http://calsun.canoe.ca/News/Columnists/Bell_Rick/2008/08/31/6621796-sun.php)

xxiii <http://www.cbc.ca/canada/calgary/story/2009/02/27/cgy-gangs-roundtable-transcript.html>: If the onus is put on the police, not only to show that we found them with a gun or they're found at a shoot-up but also prove to us that they're a member of an organized crime group and all that, all that's going to do is we're on trial and it's time to shift, to put the bad guy on trial again.

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David G. Chow - Barrister - [www.calgarydefence.com](http://www.calgarydefence.com) - July 10th, 2009 - <http://ccdlaforum.blogspot.com/>

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