

# Beware: Medical Police

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Cops forcibly removing someone from a bus for not wearing a face mask, arresting people for failure to socially distance on a crowded subway platform, moving people on if they look like they are socialising in excessive numbers, determining who can attend a public event. This is the new reality of policing the virus. The street-level enforcement of social distancing during the lockdown is just the start. Governments the world over have started rolling out new surveillance schemes and testing regimes in the name of public health. In the timid new world of the present and the brave new world of the future, policing meets health head-on. Medical policing is back. But did it ever stop?

For some, the gravity of the new conjuncture finally and decisively inaugurated by the Covid-19 pandemic suggests that revolution is now thinkable.<sup>1</sup> Yet it also means certain features of the class and racial dynamics of the modern capitalist system are set in stark relief. How many healthy people does it take to make an economy run? How many sick people can the health system handle? How many vulnerable migrant workers does it take to run a health system? How many dead friends, family members and lovers will the people tolerate? As pundits, quacks and hacks debate the number of corpses that would make an acceptable blood sacrifice to Capital – aka ‘reopening of the economy’ – the plague is exposing the strategic orientation of the state. In this orientation, the broader *police project* that has always been central to the fabrication of capitalist order – making and remaking the working class, policing the crises and keeping the great machinery of global accumulation churning – is now manifested most intensely in a series of measures around health and disease, infection and immunity, illness and well-being. For this reason, the term ‘medical police’ is once again a powerful critical resource.

The idea of medical police harkens back to the early

modern period between the Renaissance and the Great Revolutions at the close the eighteenth and beginning of the nineteenth century. This was an extended historical epoch of systems transition when the modern order of things was still being consolidated and older ways of living were still being systemically destroyed. The plebs and the proles and the working class in the making were entangled in both the circuits of capital accumulation and the vestiges of pre-capitalist economies centred on the commons, which went beyond shared property (*the commons*) and entailed the shared knowledge and communal organisation of social life (practices of commoning). This systematic colonisation of the world was the process that Marx understood as ‘primitive accumulation’, the intervention of the state to transform commons into private property, dispossess and uproot the people from the land, and rebuild social order through the wage relation. During this period of dramatic and violent change, the nature of state power was stark, its oppressiveness plain and its function unambiguous. At the heart of this was the police power.<sup>2</sup>

At this time, ‘police’ meant everything that we would now call ‘policy’, including welfare, education, urban planning and, of course, law enforcement. Included in any list of police activities was a set of what we would now designate as matters of ‘public health’ but which went by the name ‘medical police’. Reflecting this orientation, some of the first ‘modern’ police bodies comparable to contemporary law enforcement agencies possessed missions far broader than what we often think of as ‘police’ in the narrower sense. The Royal Irish Constabulary, for example, one of the first such bodies for managing the colonies and a model for the London Metropolitan Police, functioned as a war machine working as medical police.

After the failed rebellion of the United Irishmen in 1789, London deepened its control over Ireland with

multi-faceted police projects executed by the Constabulary, which, in addition to enforcing the criminal law and repressing rebels, collected agricultural statistics and the decennial census, reported on evictions and loan frauds and inspected weights and measures. They were also quite explicitly designed to be medical police by legislators and administrators. This included identifying prostitutes and other people deemed immoral, loose or disorderly, not least because of the infectious diseases that they were said to spread. It also meant enforcing public health policy more generally: measures concerning the proper handling of dogs, the sale of livestock, the keeping of pigs and the removal of manure. Throughout the nineteenth century the Constabulary enforced the ban on wakes for those who had died from dangerous diseases, ensured that people disinfected their houses after inhabitants died of infectious disease and arrested people who did not vaccinate their children; the term 'conscientious objector' was first used to describe those among the working classes who resisted this medical police intervention in their lives. The Royal Irish Constabulary thus *policed* in the fullest sense of the term: it was the agent of law enforcement, the vessel for the exercise of multifarious police powers, and a prime force in the war of accumulation against the working class.

There is a tendency to misrecognise seemingly distinct and seemingly benign social policies as disconnected from each other and, more specifically, disconnected from police power. But as the example of the Royal Irish Constabulary attests, police power was in its origins a broad power concerned with the construction of a colonial social order and the promotion of commerce. It was police as *social policy* and hence *social policy as police*. It was, in other words, an art of government and an exercise in technologies of power through a network of institutions and animated by ways of knowing that produced modern social order. While policing was oppressive, its real *power* is manifest in the management of life and ways of living. Hence, medical police focused on the promotion of the collective health of the population which in turn involved the policing of the health of individuals. This health of individual bodies and the collective body politic was expected to underpin the economic productivity of the labour force.<sup>3</sup>

Such an art of government and such technologies of power are what Foucault later labelled as biopower

and governmentality. In this sense, it is perhaps unsurprising that many intellectuals have recently turned to Foucault's neologisms to make sense of the current moment, especially to the notion of 'biopower';<sup>4</sup> even to the point of talking of a possible democratic biopolitics<sup>5</sup> or a 'dual biopower'.<sup>6</sup> It is significant that the same arguments ignore anything that Foucault had to say about the *policing* of the social field. It is also significant that they often seek to resist the language of warfare to describe the virus, even though Foucault insisted time and again that politics is a continuation of war by other means. In our view, the notion of 'medical police' as part of an expanded concept of police power focuses attention on important aspects of capitalist power that the Foucauldian invocation of 'biopower' tends to obscure. It focuses our attention on the fabrication of capitalist forms of order through both the relentless war of destruction against the commons and practices of commoning that still sustain the marginalised masses of humanity, and through the systematic colonisation of everyday practices of solidarity, life, love and care by the 'soft power' of social police. In this way, the lens of medical police offers greater clarity for the emergent conjuncture.

## Responses

Such clarity also stems from a more enduring, less philosophical and much more direct demand, one that usefully kicks aside all the chatter about biopolitics: Fuck the Police! The words of NWA's great lumpen anthem, a slogan now being blasted in rowdy and disruptive anti-police actions across the United States, including the demand to defund and abolish police, plays on the commonly understood conception of police as hated agents of state violence, but it also points us to the expanded, original idea of police. In response to the current surge of medical police, can the crudity of 'Fuck the Police!' point to both a rejection of the violence of administration (the 'commonsense' idea of police) and a call for the abolition of the order of Capital that policing constitutes (the expanded idea of police)? Can 'Fuck the Police!' serve as a jarring reminder to kill the cop in your head and reject the police politics of bourgeois civilisation? To do so means avoiding the seduction of the prose of pacification and the temptation to get caught up in the pragmatic play of discourse that animates operations of



the state apparatus.<sup>7</sup> To say ‘Fuck the Police!’ is a reminder to resist becoming a cop, whether in the name of law and order, in the name of security or *even in the name of health security*. It is to confront, with sober senses, the strategic orientation of the state and the dynamics of contemporary police-wars of accumulation.

For a start, it is the *medical* policing of the crisis that has revealed the ubiquitous and amorphous nature of the police power in all its glory. The common refrain of those stopped by the police and questioned about their reason for being out of their homes has been that the reasons for the police stop have not been made fully clear and that such stops are not being enforced fairly or equally. What they have encountered is the mystical authority known as police discretion and what they have demanded is that the law should be clearer so that there is no room for such discretion. The critical theory of police power has long argued that discretion is the *sine qua non* of policing. As countless members of oppressed social groups and political movements all over the world will attest, the permissive nature of the law surrounding the police stop – walking too fast, walking too slowly or not walking at all can all be invoked as grounds for a stop – means that the stops have always been used unfairly and have always resulted in unequal treatment.

Now that members of the white bourgeoisie are experiencing those same powers (though to nowhere near the same extent) complaints against the powers are heard far and wide in the mainstream media. What has brought such powers into sharp focus is precisely the surge of medical policing to contain the pandemic. Where the police might once have stopped certain kinds of people from gathering on the street to talk, using discretionary powers to question them over whatever reason the police choose at that moment (‘suspicion’), now the police stop other kinds of people on medical grounds and for reasons of health security. Nonetheless, flagrant racial and class disparities remain, most obviously in the ways that the discretionary nature of medical police replicates and intersects with the exercise of discretionary power in other ‘policy’ fields.

That the practices of medical police are being ratcheted up during the lockdown is a sign of what we might be facing when the lockdown eases, in what will become the new ‘normality’. Much has been made, for example, of the projects to restart the machinery of accumulation the world over. China has rolled out a new Health Code which analyses usage data from mobile payment and social media apps to colour-code the relative risk/threat of each user. Hong Kong is enforcing quarantines with

tracking bracelets synced to smart phones. South Korea fused data from CCTV cameras, mobile payment apps and smart phones to re-trace the steps of infected people, the very surveillance that has allowed South Korea to be held up as an exemplary case of ‘curve-flattening’. Similar new measures for advanced physical surveillance include facial recognition cameras equipped with heat-sensors. Police in China, Italy and the UAE are already wearing ‘smart helmets’ capable of detecting body temperatures in addition to employing facial recognition capabilities, number plate recognition and QR code readers.

In the face of the virus and the proposals for testing, civil libertarians are struggling to respond. Surely it is irresponsible to condemn such benevolent surveillance in the name of public health? Surely selling our digital souls to the state is the price to pay for regaining our freedoms and maintaining our health? Even those known previously for their privacy campaign work have come out in favour of a massive surveillance program to fight the virus: how many times are we going to read the line ‘I am a privacy advocate and have fought against surveillance but right now and in the name of health ...’?

It is no surprise that the civil libertarians are flummoxed. Their entire politics is premised on the foundational liberal belief that we can and should live atomised lives, that human societies are nothing more than the aggregation of private individuals. But ‘privacy’ is a particular claim articulated within a particular context. Privacy has no essential essence. It is a concession that the consolidating administrative state made to ‘the public’, a shifting boundary with demarcations set and reset by the state. Privacy is a tool of regulation, not resistance, and key to this regulation is information. But the virus has revealed something that has been inherent in medical police ever since life was redefined as information and the body as an information technology: the fact that the body is simultaneously the site of disease and information creates the opportunity for it to be policed through that very information. This enables any authority which can rightly claim access to that information – employers, credit card companies and insurance companies as well as the state – to keep constant watch over the body’s biochemical processes and shape the behaviour of the subject. The issue here is not the fact of surveillance or the infringement of privacy but the *formation of the pacified subject*. The issue, in other words, is not surveillance,

but ways in which the police power fabricates forms of subjectivity and submission.

The whole refrain of ‘privacy’ and surveillance’ focuses our attention on the wrong thing: it focuses on the police of health *information* when it is the *police of health* that is the more pressing issue. In this regard, the proposal of many countries for Immunity Passports is telling.



Even though epidemiologists doubt their efficacy, the Immunity Passport may well turn out to be the new normal. Already, China’s Health Code is functioning as a de-facto Immunity Passport, albeit one based on data analysis and not antibody testing. Chile launched an Immunity Card program in April. In May, Estonia started testing out digital Immunity Passports for businesses. Currently, the UK, Italy, Germany, Portugal, France, India, the US, Canada, Sweden, Spain, South Africa, Mexico, United Arab Emirates and the Netherlands are developing versions of Immunity Passports.

Everything about the Immunity Passport escapes the easy criticisms made by those who focus on privacy and surveillance. In contrast, the Immunity Passport does take us to the heart of medical police. Passports have always been an expression of power: the sovereign grant of travel that doubles-up as a document of bona fide citizenship. A passport can be denied, cancelled or seized by the police. The Immunity Passport (or ‘CoviPass’) will be a new document of state and corporate power, permitting the holder to go about their business in the market. As generations of racialised migrants in many countries will attest, only if you have the passport or certification can you participate fully in society.

The Immunity Passport will be a new form of pacification: it allows the state to declare not only who is (or is not) permitted to work and trade – as the CoviPass.com website makes clear, its main task is an ‘end-to-end secure return to work protocol’ – but also to decide who can drink with friends, go to a sports game, engage in sociability; first work, then live. The fact that no such immunity could ever be guaranteed by the Passport, since they have no idea whether people are genuinely ‘immune’, reveals the state’s desperation to announce that capital is back in business and to keep it that way. An Immunity Passport would thus be a document of a bona fide ability to be a good citizen. It would constitute a ‘health certificate’ and ‘work permit’ in one document. It would be the ultimate document of medical police.

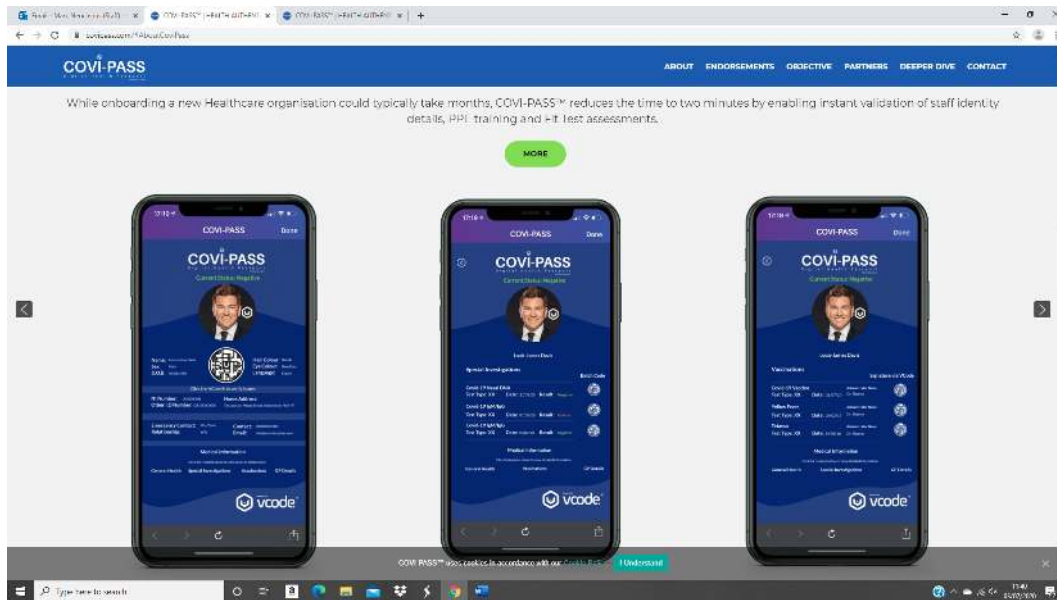
In 1788 the Director General of Public Health of Austrian Lombardy, Johann Peter Frank, introduced the fourth volume of his *System of Complete Medical Police* by announcing that medical police is concerned with ‘the work, life, and health of the citizenry’. One finds a similar sentence in virtually every text in police science. It is life itself that is the object of police. Frank’s comment is a reminder that, for police, life is where ‘work’ and ‘health’ come together. Just a few years later in his *Science of Rights*, the philosopher Johann Gottlieb Fichte suggested that the chief principle of a well-regulated police is that ‘each citizen shall be at all times and places ... recognised as this or that person’. For police to be able to recognise a person, each should carry with them a ‘certificate’ or even something that might be called a ‘pass’. This would contain their description and might even hold a portrait of them. The police would then have the power to ask any person for their ‘pass’. Fichte’s concern was with identification and thus identity. The police must be able to either know who you are or to demand that you reveal who you are: ‘Let me see your ID!’ Many balked at Fichte’s proposal for such a ‘pass’ to better police what he openly described as the ‘police-state’; even Hegel thought the idea was a police measure too far. Yet his proposal is now the norm.

The Immunity Passport takes this one step further. In that sense, such a passport might well turn out to be the epitome of medical police: the power to demand a certificate of *health* as well as identity: ‘Let me see your Health ID!’ This would be an exercise of the police power to ensure that the world remains open, first and foremost,

only to those declared ‘healthy’ and thus *fit for work*. The Immunity Passport will be the epitome of health security.

## The supreme concept of bourgeois society

Health security? As we have already commented, a large part of the left has balked at the language of war being used in this pandemic. ‘Our country is at war’, ‘the world is at war’, ‘invisible enemy’, ‘wartime government’, ‘wartime President’, ‘medical personnel are frontline workers’, ‘each and every one of us directly enlisted’, ‘a coronavirus war economy’, a *health war*, to use President Macron’s phrase. On and on it goes, and on and on goes the left’s insistence that the language of war is inappropriate. Maybe it is. But the language of war and health has coincided since at least the launching of the ‘germ warfare’ theory of disease in the mid-nineteenth century. Surely there are more salutary arguments for the left to be making, nearly 200 years later? Now, the idea of the virus as a health war certainly sits comfortably with two trends of twenty-first century bellicosity: on the one hand, the idea that ‘a new and deadly virus has emerged – the virus is terrorism’ (as Tony Blair put it in a speech to the US Congress in July 2003, and he was far from alone in thinking so), and, on the other hand, the fact that scientists now commonly resort to describing viruses in the language of terrorism studies (for example, as ‘bioterrorism’). As an indication of where this is going, note that the UK’s Joint Biosecurity Centre (JBC) established to collect and analyse data about infection rates, identify local spikes and recommend appropriate responses is to be led by a senior counter-terrorism official, will be modelled on the Joint Terrorism Analysis Centre, and will use a model of ‘levels of threat’ that is adopted from the same techniques used to assess terror threats. Yet the real issue that emerges from this combined argument that terrorism is a virus and viruses are a kind of terrorism is that we should be thinking less about the rhetoric of war and more about the rhetoric of security. Descriptions of viruses read like they have been penned by security intellectuals and descriptions of terrorism read like they have been penned by virologists, and what gets imprinted on our minds is one idea: *health security*. This requires arguments from the left that are far more sophisticated than a pacifistic plea for less use of the language of war.



Marx long ago pointed out that ‘security’ is the supreme concept of bourgeois society and that this is why it coincides with the concept of police. It is clear that a left politics must involve a critique of security along the lines envisaged by Marx, and we ourselves have pursued this idea in other publications. One reason so many on the left find the idea of a critique of security so problematic is because they wish to hold on to something positive in the idea of security, some softer and person-centred notion of security. ‘Health security’ would appear to be one such notion. It is the centrality of ‘health’ to the new ‘surveillance’ measures that has flummoxed so many civil libertarians and radicals. We are confronted, then, with the war power and the police power coagulating around the notion of health security. Health and security coincide to reinforce the power of medical police. Yet this is precisely one of the ways in which ‘security’ and police’ reinforce their power, through seemingly softer and apparently person-centred practices to do with things such as health. Pacification is the more successful the more it is done in the name of life itself. In our view, however, health security and medical police coincide.

Precisely how we might develop and configure our own collective notion of health without succumbing to ‘health security’ and the ‘medical police’ will turn out to be one of the pressing questions for the foreseeable future, not least because in a society racked with terrors, the terror of disease is among the highest. This is why ‘health security’ can so easily go unchallenged. But challenge it we must, and while we recognise that some form

of socialised medicine for the many is better than privatised insurance for the few, the problem is much deeper than the structure of the ‘healthcare system’.

In this regard, we could do worse than revisit the critique of ‘health’ as a category that was made so trenchantly in earlier social struggles, from René Dubos’s *Mirage of Health* (1959) through to Ivan Illich’s *Medical Nemesis* (1979), Howard Waitzkin’s *Second Sickness* (1983), and, of course, some of Foucault’s work in the mid-1970s on the ‘investment’ in the healthy body demanded of us by capital. Much of this work on health was as powerful as the concomitant radical work on prisons and asylums, and involved an equally trenchant critique: ‘health is a thoroughly bourgeois concept’, the Socialist Patients Collective of the University of Heidelberg commented in *Turn Illness into a Weapon* (1972).<sup>8</sup> Under conditions of capitalist exploitation, to be declared healthy means nothing other than to be declared ‘fit for work’, which is the very thing the police power was instituted for in the first place. The reason ‘disease’ always has moral and political as well as medical implications (disease as dis-ease) is because ‘health’ likewise has moral and political implications. If health is a performance in a social script, as Illich put it in *Medical Nemesis*, that script is written for us by capital. Written out of the play are those who capital and the state are clearly willing to sacrifice to the virus: the elderly and those in nursing homes, prisons and asylums, and those, disproportionately racial and ethnic minorities, rendered ‘vulnerable’ due to ‘underlying health issues’. This is the discretion of po-

lice power condensed into social relations, as Poulantzas would say, the materiality of the state and its strategic orientation toward the needs of capital expressed in the nursing-home-as-morgue.

We must therefore emphatically reject the police politics that accompanies the possessive individualism of bourgeois order. We must also emphatically reject the platitudes of the discourse around ‘biopolitics’ and ‘privacy’. What we are up against is medical police conducted in the name of health security. Against this we need to assert an expansive solidarity that succumbs to neither medical police nor health security. This means learning and understanding how to care for each other – minds and bodies, fragilities and pleasures. And it means doing so without succumbing to the idea that our bodies are always already at war, without buying into bourgeois notions of illness, and without thinking that wellbeing is something that needs to be either policed or secured. All of which is a challenge that demands a positive politics rooted in a conception of human need, one that not only seeks to meet human needs as needs but builds momentum toward systems transition. This is precisely what has been articulated in the George Floyd Rebellion: an emphatic rejection – once again, Fuck the Police! – combined with an expansive solidarity oriented toward the construction of a new world: defund, abolition and commit instead to care and need.

The antithesis of police is the commons, a fact that is quite explicit in early modern writings on police. Perhaps as part of the new struggles against police powers we need also to articulate a new commons (of health) against the (medical) police? In a sense, the pandemic has already made some of this work a top priority, with ad-hoc efforts at mutual aid. Such efforts have been overtaken by the anti-police protests that have spiralled out of the George Floyd Rebellion, the terrifying spectre haunting the bourgeois imagination: the spectre of the commons, of the ‘communism’ of a non-policed order, of a world beyond police. Whether these struggles against policing in all its forms can grow into a sustained project of anti-capitalist world-making remains to be seen. It’s not yet clear how we might move on from defensive efforts to mitigate the worst harms of police, whether medical or otherwise, and in that sense the challenge of abolition inspires both wonder and terror. Will popular responses to pandemic produce new solidarities and in-

stitutions capable of providing for ‘public health’ in such a way that the ‘normal’ plagues of our times – addiction, suicide, depression – get the same level of collective attention as the ‘exceptional’ pandemic? Will the revolt be mollified by divesting the armed uniform police only to be reinvested into the ‘softer power’ of social police? Or will the break be further reaching? The new conjuncture of pandemic and depression presents new possibilities. In the face of a moment both awesome and frightening, we must resist the seductions of security, including ‘health security’. Beware: medical police. Recreate the commons.

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## Notes

1. Ben Tarnoff, ‘These Are Conditions in Which Revolution Becomes Thinkable’, *Commune*, 7 April 2020, <https://communemag.com/these-are-conditions-in-which-revolution-becomes-thinkable/>
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