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# Exploring the Construction of Security in the Canada-United States Action Plan on Perimeter Security and Economic Competitiveness Consultations

Patrick Lalonde  
*University of Windsor*

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Exploring the Construction of Security in the Canada-United States Action Plan on Perimeter Security and  
Economic Competitiveness Consultations

by

Patrick C. Lalonde

A Thesis

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through the Department of Sociology, Anthropology and Criminology  
in Partial Fulfillment of the Requirements for  
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2012

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by

Patrick C. Lalonde

APPROVED BY:

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Dr. John Sutcliffe  
Department of Political Science

---

Dr. Amy Fitzgerald  
Department of Sociology, Anthropology and Criminology

---

Dr. Randy Lippert, Advisor  
Department of Sociology, Anthropology and Criminology

---

Dr. Alan Hall, Chair of Defence  
Department of Sociology, Anthropology and Criminology

May 16, 2012

### **AUTHOR'S DECLARATION OF ORIGINALITY**

I hereby certify that I am the sole author of this thesis and that no part of this thesis has been published or submitted for publication.

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## **ABSTRACT**

This thesis contributes to the criminological (especially the policing and security) and governmentality literature by examining constructions of security found in the Action Plan on Perimeter Security and Economic Competitiveness consultation process. In analyzing responses via a discourse analysis, this thesis identifies how security was constructed in the Action Plan vis-à-vis the various interest groups involved in the Action Plan consultation process. The research concludes that the discourses presented in the Action Plan systematically differ in patterned ways from discourses identified in the consultation process. The discourses found in the Action Plan contribute to an overwhelmingly neo-liberal and economic construction of security. These findings contribute to governmentality literature by identifying a need to examine beneath official texts in identifying discourses. As well, these findings provide an impetus for future research to move beyond pre-conceived constructions of security to instead examine security in case-specific contexts.

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## **DEDICATION**

I would like to dedicate this thesis to my parents – Patricia and Raymond – whose careful guidance, unparalleled example, and love throughout my childhood made me the academic and the man I am today. Your unquestioning support and constant acceptance toward not only my MA but in every aspect of my life always is truly what made this thesis possible. Both of you have provided me with knowledge and experiences that have made all things possible in my life, and for that, from the bottom of my heart I would like to thank you and tell you I love you.

## TABLE OF CONTENTS

AUTHOR’S DECLARATION OF ORIGINALITY	iii
ABSTRACT	iv
ACKNOWLEDGEMENTS	v
DEDICATION	vi
LIST OF ABBREVIATIONS	viii
<b>1. INTRODUCTION</b>	<b>1</b>
<b>2. THEORETICAL FRAMEWORK</b>	<b>2</b>
<i>Governmentality</i>	2
<i>Neo-Liberalism</i>	5
<b>3. LITERATURE REVIEW</b>	<b>10</b>
<b>4. METHODS</b>	<b>16</b>
<b>5. RESULTS</b>	<b>20</b>
<b>Introduction</b>	<b>20</b>
<b>Business Interest Group Security Discourses</b>	<b>20</b>
<i>Introduction to Business Interest Group Submissions</i>	20
1. <i>Toward a More Predictable Border</i>	21
2. <i>Performance and Efficiency Metrics of Border Security</i>	27
3. <i>Emphasizing Risk Management</i>	28
4. <i>Rewards for Private Partners in Public Security</i>	30
<i>Business Interest Group Summary</i>	31
<b>Individual Canadian Citizen Security Discourses</b>	<b>32</b>
<i>Introduction of Individual Canadian Citizen Submissions</i>	32
1. <i>The Law-Abiding Citizen Appeal</i>	32
2. <i>The Perils of Canada-U.S. Collaboration</i>	38
3. <i>Human Rights Discourse</i>	40
4. <i>Combating Illegal Immigration and Fraudulent Refugees</i>	44
<b>Other Interest Group Security Discourses</b>	<b>46</b>
<i>Introduction to Other Interest Group Submissions</i>	46
1. <i>Human Rights Discourse</i>	46
2. <i>A Dualistic Immigration Perspective</i>	51
3. <i>Risk-Based Pre-Emptive Techniques and Technologies</i>	52
<b>6. ANALYSIS</b>	<b>55</b>
<b>Which Discourses Were Reflected in the Action Plan?</b>	<b>55</b>
<i>Business Interest Group Discourses</i>	55
<i>Individual Canadian Citizen and Other Interest Group Discourses</i>	61
<b>What Governmentality Can Be Discerned?</b>	<b>65</b>
<i>Business Interest Group Security Discourses</i>	65
<i>Individual Canadian Citizen and Other Interest Group Security Discourses</i>	67
<i>Action Plan Security Discourses</i>	69
<b>What Are the Implications for Governmentality Studies?</b>	<b>72</b>
<b>7. CONCLUSION</b>	<b>74</b>
NOTES	77
REFERENCES	79
VITA AUCTORIS	84



## LIST OF ABBREVIATIONS

**ATAC** – Air Transport Association of Canada  
**ATI** – Access to Information  
**B3** – Business for Better Borders  
**BBWG** – Beyond the Border Working Group  
**CBP** – Customs and Border Protection (U.S.)  
**CBSA** – Canada Border Services Agency  
**CCLA** – Canadian Civil Liberties Association  
**CCPA** – Canadian Centre for Policy Alternatives  
**CERC** – Canadian Employee Relocation Council  
**CFIB** – Canadian Federation of Independent Business  
**CIFFA** – Canadian International Freight Forwarders Association  
**CIU** – Customs and Immigration Union  
**CMC** – Canadian Manufacturing Coalition  
**COPA** – Canadian Oilseed Processors Association  
**CSA** – Customs Self Assessment Program  
**CSCB** – Canadian Society of Customs Brokers  
**C-TPAT** – Customs-Trade Partnership Against Terrorism  
**DUI** – Driving Under the Influence  
**DWI** – Driving While Intoxicated  
**ESTA** – Electronic System for Travel Authorization  
**FAST** – Free and Secure Trade  
**GOC** – Government of Canada  
**INS** – Immigration and Naturalization Service (U.S.)  
**IRPA** – Immigration and Refugee Protection Act  
**IRPP** – Institute for Research on Public Policy  
**NAFTA** – North American Free Trade Agreement  
**NGO** – Non-Government Organization  
**OPC** – Office of the Privacy Commissioner  
**PBOA** – Public Border Operators Association  
**PIP** – Partners in Protection  
**PIPEDA** – Personal Information Protection and Electronic Documents Act  
**PNWER** – Pacific NorthWest Economic Region  
**RCC** – Regulatory Cooperation Council  
**RCMP** – Royal Canadian Mounted Police  
**SCM** – Supply Chain Management  
**TIAC** – Tourism Industry Association of Canada  
**US-VISIT** – United States Visitor and Immigrant Status Technology

## 1. INTRODUCTION

On February 4<sup>th</sup>, 2011, United States President Barack Obama and Canadian Prime Minister Stephen Harper convened a joint announcement to unveil a shared vision for perimeter security and economic competitiveness and on December 7<sup>th</sup>, 2011, convened for a second time to announce a formal agreement between the United States and Canada on an Action Plan on Perimeter Security and Economic Competitiveness. This agreement is built on the foundation of several previous agreements. These include the Agreement Between the Government of Canada and the Government of the United States of America on Emergency Management Cooperation 2008, Canada-United States Framework for the Movement of Goods and People Across the Border During and Following an Emergency 2009 (Government of Canada 2011), as well as a long history of other border agreements between the two countries.<sup>1</sup> This new Action Plan on Perimeter Security and Economic Competitiveness is distinguished – particularly in mass media – from those agreements preceding and following the terrorist attacks of September 11<sup>th</sup>, 2001 by its perceived exceptional surrendering of Canadian sovereignty and of individual rights of Canadians to the United States government. Most mass media sources, in turn, have situated the agreement as an exceptional policy whereby the Canadian government sacrifices rights and freedoms in the name of security in a zero-sum give and take relationship.

While this agreement was indeed formed from careful policy development between both nations through a policy development group – the Beyond the Border Working Group (BBWG) – the security agreement was also shaped from a calculated governmentality involving interactions among the state, key stakeholders, industry, and individual citizens in re-defining the meaning of security itself. This was ostensibly achieved largely through the Government of Canada’s use of an extensive consultation process ultimately garnering responses from over 140 individual organizations and interest groups and 1000 individual citizens. The Government of Canada planned to then use these responses in drafting the Action Plan with the United States. In this respect, the Government of Canada stated in a publication summarizing its findings of the consultation process, “Overall, the Government of Canada believes that the input Canadians have provided will *ensure* an Action Plan that better aligns with the interests of Canadians, and of Canada” (emphasis added GOC 2011b: 5). In analyzing a sample of the aforementioned consultation process responses via a discourse analysis, this thesis seeks to identify how security was constructed and in

turn highlight the construction(s) of security developed vis-à-vis the various groups involved in the consultation process of the Action Plan on Perimeter Security and Economic Competitiveness. Adopting a governmentality approach, this thesis asks four main questions: What specifically is being problematized through this international border security agreement? How do these problematizations contribute to how security itself is constructed within the policy? What governmentality can be discerned shaping stakeholder constructions of security in the context of the new policy? What are the broader implications of the findings for governmentality studies?

While recent literature has reflected on risk and security in relation to contemporary border practices (e.g. Pratt 2006, Bell 2006, Aradau and Van Munster 2007, Lyon 2007, Muller 2009) few have studied in criminology or sociology how security – including what comes to be defined as risks as well as the methods for reducing risk – comes to be defined through a complex governmentality in which various groups provide constructions to complement or rival those of the state. This thesis seeks to build on the criminological (especially the policing and security) literature by exploring how security is constructed by using the case study of consultations on the Action Plan on Perimeter Security and Economic Competitiveness. This is a complex process whereby the state, consultation with various stakeholders and individual citizens, as well as direct critiques of the consultation process itself are seen to ultimately contribute to the construction of security.

## **2. THEORETICAL FRAMEWORK**

### ***Governmentality***

This thesis adopts a governmentality framework. According to Rose (1999), an analytics of government examines “what authorities of various sorts wanted to happen, in relation to problems defined how, in pursuit of what objectives, through what strategies and techniques” (Rose 1999:20). In essence, the nature of governmentality inquiry is to examine how certain forces, events, or authorities act to problematize the conduct of persons, or, in other words, how certain actions or non-actions of individuals come under the scope of governmental control to achieve certain ends. Governmentality relies on forms of knowledge in terms of “ideas and beliefs about economy, society, authority, morality and subjectivity” that act to form the aforementioned problematizations and lead to strategies, tactics, and programs of government (Rose 1999:21). In doing so, in every examination of governmentality, and particularly in the

case of the Action Plan on Perimeter Security and Economic Competitiveness, the scope must not consider the state as the sole actor and decision maker in terms of the problematization of conduct and subsequent remedies. According to Rose, O'Malley, and Valverde:

...Instead of seeing any single body—such as the state—as responsible for managing the conduct of citizens, this perspective recognizes that a whole variety of authorities govern in different sites, in relation to different objectives. Hence, a... set of questions emerges: Who governs what? According to what logics? With what techniques? Toward what ends? As an analytical perspective, then, governmentality is far from a theory of power, authority, or even of governance. Rather, it asks particular questions of the phenomena that it seeks to understand, questions amenable to precise answers through empirical inquiry (2006: 85).

A governmentality approach must consider government as part of a complex social system whereby various other social actors provide input and mediate what is defined as problematic as well as the best way for remedying such conduct. In turn, through a Foucauldian discourse analysis of documentation, we can identify language and other signifying systems that are elements in forming and shaping realities and subjectivities, which in turn render reality governable (Rose et al. 2006: 89). We should therefore be able to identify how the complex of changing discourses act to mediate the development of problematized conduct as well as the subsequent remedies used (Rose 1999:22).

Lippert and Stenson (2010) provide an explanation of what studies of governmentality seek to achieve. Citing Donzelot (1979), Lippert and Stenson highlight a governmentality research programme that deploys three concepts: rationalities, technologies, and programmes. Rationalities may be defined as:

A way or system of thinking about the nature of the practice of government (who can govern; what governing is; what or who is governed), capable of making some form of that activity thinkable and practicable both to its practitioners and to those upon whom it was practiced (Gordon 1991: 3 as cited in Lippert and Stenson 2010: 477).

Technologies refer to intellectual and material means and routines that make different forms of rule possible, while programmes refer to prescriptions, plans or schema for acting on some aspect of social conduct (Lippert and Stenson 2010: 477). Collectively, these contribute to an identification of the objectives of government and what plans will be used to implement these objectives. Accordingly, this thesis seeks to identify the discourses by moving beneath official “tidy texts” (Lippert and Stenson 2010) to determine how and why certain conduct is rendered problematic, and how these problematic activities are remedied through the Action Plan itself. Are terrorism and domestic security the primary problems? Is the economy also a primary problem of security? What takes precedence when it comes to security within this particular international Action Plan: security from terrorism, domestic security from other threats, or security from

domestic or continental economic crises? How the complex of government, public and private interest groups, individual citizen participation and so forth mediates the understanding of security within this new program will be revealed.

Foucault (2007) himself attempted to answer the question “What are we to understand by security?” According to Foucault, by moving beyond disciplinary mechanisms, security is not a binary division between the permitted and the prohibited but rather an optimal average of behavior that is essentially a form of “bandwidth of the acceptable that must not be exceeded” (Foucault 2007: 6). Accordingly, security allows behavior to happen and moderates flows not toward perfection – as would be the goal of disciplinary regimes – but rather toward “maximizing the positive elements, for which one provides the best possible circulation, and of minimizing what is risky and inconvenient... while knowing that they will never be completely suppressed” (Foucault 2007: 19). Similarly, instead of operating as a centripetal function concentrating, enclosing, protecting and ultimately trying to eradicate a behavior, security instead is a centrifugal function according to Foucault, “[having] the constant tendency to expand... [with] new elements... constantly being integrated... [and] allowing the development of ever-wider circuits” (Foucault 2007: 45). As well, according to Foucault, security is future-focused and attempts to plan a “milieu” of possible events or series of events that need to be regulated within a framework based on many possible meanings and interpretations (Foucault 2007: 20). From the governmentality perspective, the ultimate goal of security is to move beyond governing the individual – as is the case in disciplinary governance – and instead attempt to affect in a precise manner a population, defined by Foucault as, “a multiplicity of individuals who are and fundamentally and essentially only exist biologically bound to the materiality within which they live” (Foucault 2007: 21).

Dillon and Neal (2011) summarize Foucault’s novel contributions to understanding security as follows:

Foucault’s key innovation of a *dispositive de sécurité* has less to do with protection and preservation than it does with circulation, cultivation, promotion and fructification. It has less to do with a people than a population. Little to do with will and more to do with statistics, patterns and behavioural regularities. Above all, Foucault’s security has less to do with certainty than with contingency (Dillon and Neal 2011: 11).

Dillon (2008) follows from the work of Foucault and others in the field of security and governmentality by explaining a biopolitics of security itself. This biopolitics of security installs risk as one of its most

important technologies (Dillon 2008: 310). Risk may essentially be defined according to Dillon as “an assemblage of mechanisms for measuring and commodifying exposure to contingency” (Dillon 2008: 310). Since contingency is a necessary factor of life itself, biopolitically speaking, life cannot be secured against contingency (or risk) but rather, may only be secured vis-à-vis contingency (Dillon 2008: 314). According to Dillon, this biopoliticizing of security is a historical phenomenon and thus “it is a project and not an accomplishment. It is therefore a plural and changing thing, and it changes according to different accounts of what it is to be a ‘living thing’” (Dillon 2008: 310). Following a Foucauldian governmentality perspective then, Dillon states that the biopolitics of security constitutes a plural and changing nexus of power/knowledge. This power/knowledge, according to Dillon, cannot be assumed. Rather, how they are allied together must be discerned and established. Furthermore, we must establish “how and why biopolitical technologies of governance constitute a distinctive *dispositif de sécurité*, an assemblage of particular kinds of security technologies and practices operating according to their own particular logic” (Foucault 2007 as cited in Dillon 2008: 311).

### ***Neo-Liberalism***

Neo-liberalism will be considered while following the governmentality perspective of this thesis. According to Rose and Miller (2010), neo-liberalism is characterized by its opposition to welfare liberalism. Neo-liberalism is, “Against the assumption that the ills of social and economic life are to be addressed by the activities of government” (Rose and Miller 2010: 295). In this way, neo-liberal economic thinking juxtaposes the perceived inefficiencies of planned economies with truly free markets, advocating for markets themselves to replace planning in terms of regulation of economic activity (Rose and Miller 2010: 296). The aspects of government that were formerly under welfare liberalism constructed as state responsibilities are instead – as far as possible – transformed into commodified notions that are therefore regulated by market principles (Rose and Miller 2010: 296). As such, an active entrepreneurship of individuals and organizations ultimately replaces the perceived passivity and dependency engendered under welfare liberalism (Rose and Miller 2010: 296). Individuals are therefore responsabilized to obtain and optimize their own quality of life without state intervention. According to O’Malley (2000), one of the distinctions between welfare liberalism and neo-liberalism is the emergence in the latter of a field of expert-

driven risk analysis, which has developed largely during the twentieth century (464). O'Malley goes on to say,

The prudent subjects of neo-liberalism should practice and sustain their autonomy by assembling information, materials and practices together into a personalized strategy that identifies and minimizes their exposure to harm. Such risk management is frequently, and perhaps increasingly, associated with access to statistical or actuarial technologies and expert advice that render measurable the (probabilistic) calculation of future harms (O'Malley 2000: 465).

According to O'Malley, this actuarial risk management will spark the continued growth of predictive technologies that minimize the impact of those risks that are costly for the corporate (or individual) "enterprise of uncertainty" (2000: 480). This shift in economic policies then results in corporations that are essentially obsessed with risk management, single-focused on reducing costs and maximizing profit, and resistant to any form of government management or regulation that might act to negatively influence the supply chain or profit potential of businesses and business groups (Snider 2000).

An examination of neo-liberal governmentality by Foucault (2008) details how originally there exists in any market economy the economy itself and also "an active, intense, and interventionist social policy" (160). However, according to Foucault, such a social policy is designed so as not to remove the negative effects of the market economy, but rather bolster such an economic arrangement by removing all possible anti-competitive mechanisms existing in or possibly able to arise within a society. Thus there develops the problematic of law which acts to complicate the competitiveness of the economy and a juridicial redefinition is necessary to essentially nullify these complications (Foucault 2008: 160).

Accordingly, neo-liberalism in North America can be traced to an economic crisis surrounding government interventionism, influence, and action over the economy. One such way neo-liberalism functions to limit government intervention, according to Foucault, is through the use of the economic grid as a sort of gauge to test governmental action and, "object to activities of the public authorities on the grounds of their abuses, excesses, futility, and wasteful expenditure" (Foucault 2008: 246). Foucault says this

involves scrutinizing every action of the public authorities in terms of the game of supply and demand, in terms of efficiency with regard to the particular elements of this game, and in terms of the cost of intervention by the public authorities in the field of the market (2008: 246).

Neo-liberalism therefore demarcates a shift in terms of measuring government interventionism. Prior to neo-liberalism governments were generally assessed in terms of the "rightness" of their actions, whereas under neo-liberalism, criticisms are levied as they apply exclusively to economic and market terms

(Foucault 2008: 247). In essence, enacting a policy or procedure that undermines the market is perceived to be done in bad faith and is also considered to be bad politics. Thus develops a reversal of *laissez-faire* according to Foucault. Whereas *laissez-faire* economic policy under classical liberalism served as a check on government in terms of respecting the free market, in neo-liberalism *laissez-faire* is turned around and instead used not as a self-limitation of government but rather as a tool *against* government itself. This enables each action of government to be measured and assessed in *laissez-faire* and economic terms, and, according to Foucault, “is a sort of permanent economic tribunal confronting government” (Foucault 2008: 247). Ultimately what results is a maximization of freedom, but only in the context of “economic freedom”.

Harvey (2005) highlights the shift since the 1970s in government to a pervasive neo-liberal political-economic way of thinking characterized by an apparatus Harvey refers to as the “neoliberal state”. This is characterized by the state attending to freedoms that “reflect the interests of private property owners, businesses, multinational corporations, and financial capital” (Harvey 2005: 7). Harvey details a history of corporate influence in the spread of neo-liberalism, starting with a coup in Chile backed by U.S. corporations, the Chicago school of economics, and the American state that dismantled social welfare mechanisms and was perceived to free the labour market from regulatory and institutional restraints. The subsequent revival of the Chilean economy in terms of growth rates, capital accumulation, and high rates of return on foreign investments was short-lived, but a more pragmatic version of neo-liberalism was spawned as a result and provided powerful evidence to support subsequent turns to neo-liberalism in both Britain and the United States in the 1980s (Harvey 2005: 9). These methods strongly advocated for by corporate interests were met with enthusiasm by governments attempting to combat the crisis of capital accumulation in the 1970s that resulted in a combination of rising unemployment and accelerating inflation. These methods were also far more widely accepted than the perceived communist “socialist threat” emerging as the other possible – but less palpable choice for the business elite – solution to the economic crisis (Harvey 2005: 14). After neo-liberal economic policies were implemented in Britain and the United States in the late 1970s, the income of the top 1 per cent of income earners exploded, ultimately creating “the restoration or reconstruction of the power of the economic elites” that served and still serves today to self-sustain the neo-liberal economic order as a result (Harvey 2005: 19). In turn, the neo-liberal economic order should be



considered in examining the Action Plan given the recent dominance of neo-liberal techniques of governmentality since the 1970s.

By using the governmentality perspective described by Rose (1999) and Lippert and Stenson (2010), and posited in Foucault (2007) – as well as by considering the neo-liberal economic order – in examining the Action Plan on Perimeter Security and Economic Competitiveness this thesis will determine how particular actors mediated the construction(s) of security, the realization of particular conduct(s) as problematic and in need of remedy, and in realizing the necessary remedy – or remedies – to the problematized conduct. In other words, this thesis is examining the *security cultures* in place to try to understand what exactly is a “threat” and what exactly appropriate responses entail (Monahan 2010). This is best accomplished through a governmentality approach inviting examination of the complex of changing discourses created through the influence of a variety of authorities acting to mediate the development of problematized conduct as well as the subsequent remedies used. Through examining the power/knowledge nexus behind the Action Plan, this thesis will be able to track what Foucault (2007) refers to as the *dispositif de sécurité*, or an assemblage of particular kinds of security technologies and practices operating according to their own particular logic through a centrifugal process involving ever-wider circuits in terms of scope, and working to control the circulation of a milieu of possible conducts that have been problematized. Through identifying the various authorities, the conduct that has been problematized, the remedies for problematized conduct, as well as the power relations at play, this thesis will be able to use the governmentality approach to find how security is constructed in the Action Plan itself.

A two-pronged approach is necessary when examining the Action Plan on Perimeter Security and Economic Competitiveness. Firstly, a governmentality approach is necessary to determine how particular actors mediated the construction(s) of security, the realization of particular conduct(s) as problematic and in need of remedy, and in realizing the necessary remedy – or remedies – to the problematized conduct. In other words, this thesis is examining the *security cultures* in place to try to understand what exactly is a “threat” and what exactly appropriate responses entail (Monahan 2010). Secondly, one must realize that security has a multiplicity of meanings and understandings. According to Zedner (2003), individual understandings of security can include security as a negative or a positive technique, as a material or symbolic good, as a commodity in the form of either a public or private good, as an internal or external

matter (especially in the context of the state), and as a state of being and/or as a means to achieve this state of being. By identifying problematized behaviour as well as the context in which security is presented, this thesis will begin to understand how security is constructed in reference to the Action Plan on Perimeter Security and Economic Competitiveness vis-à-vis the various social actors providing input into the Action Plan itself.

### 3. LITERATURE REVIEW

Examinations of private security have become far more prolific in the criminological literature (see for example Kempa, Stenning and Wood 2004; O'Connor, Lippert, Greenfield, and Boyle 2004; Lippert and O'Connor 2006). However, a significant gap in the literature exists when determining just how security is understood and mediated by various interest groups, stakeholders, individual citizens, and so forth interacting with government inside liberal states. As stated by Goold, Loader, and Thumala (2010) in examining security consumption,

...despite the amount of academic interest in security, it remains an under-developed and under-researched concept (Loader and Walker, 2007; Waldron, 2007; Zedner, 2009). Although frequently invoked as a lens through which we can view the ebb and flow of life in late-modern societies, the social processes that shape our alleged preoccupation with security and the specific ways in which this preoccupation manifests itself are rarely examined in any great detail (Goold, Loader, and Thumala 2010:4).

While Goold, Loader, and Thumala (2010) examine the consumption of security in private security markets, the same conclusion may be made about the semantic aspects of security. Current examinations of security are rooted in implicit assumptions about how security is defined within contemporary society without explicitly delving into the broad kaleidoscope of meanings provided by the independent and interconnected views of government, private industry, interest groups, and private citizen investment. Ultimately what this means is that security is understood and used based on convention and not based on a concrete understanding of how certain conduct comes to be problematized, and how subsequent techniques offer potential solutions to the problematized behavior vis-à-vis strategies, tactics, and programs of government. Therefore, this thesis attempts to bridge this gap by examining a social process (i.e. the BBWG consultation process) that shapes and defines the parameters, scope, and construction of security as it relates to the Canada-United States Action Plan on Perimeter Security and Economic Competitiveness specifically. What follows is an examination of previous constructions of security found in the literature.

Ericson (2007) attempts to define and understand securitization in contemporary Western society. He argues that Western society has seen an explosion of the use of risk language within security discourse congruent with the rise of neo-liberalism. According to Ericson, "People need, above all, knowledge and technologies of risk in order to function as neo-liberal subjects... in a regime that stresses uncertainty, a stress that can only be coped with through knowledge of risk and its promise of competitive advantage in risk-taking, prosperity, security, and freedom" (Ericson 2007:7). Risk in turn becomes *the* term whereby we

mitigate the stresses of uncertainty by imagining and acting as if we can predict the future and thus act on those predictions. According to Ericson, the paradox is that since it is strictly speaking impossible to predict the future, “indeterminacy is the rule and uncertainty magnifies” (Ericson 2007:8). What develops then is a cycle of risk whereby solutions to risk only act to create more and more risks requiring more and more solutions. However, according to Ericson (2007), what ultimately is defined as a risk is not based on a homogeneous neutral vocabulary for bridging facts and values, but rather:

The identification of risks that require attention involves a political process of selection in which some harms are given special attention while others are relatively unattended or ignored. Moreover, the harms selected are coded as threats to the security and prosperity at the heart of the liberal social imaginary, and this code legitimates intensified control including criminalization (Hacking 2003 as cited in Ericson 2007:14).

While Ericson goes on to situate the state as having the ability to exert *its* force almost indiscriminately on its people, this thesis will attempt to determine what other social groups and forces are possibly at play as well and thus examine multiple constructions of security beyond those of the state.

The criminological literature surrounding security has largely posited security as antithetical to liberalism, much as was the case for Ericson (2007). In these cases, security is constructed as a technology of governance that causes an imbalance between security and liberty, or as a technology whereby civil liberties are infringed upon by exceptional remedies for problematized conduct. For example, Roach (2003) explains that while many of the consequences of the Canadian *Anti-Terrorism Act* fall under *Canadian Charter of Rights and Freedoms* section I as reasonable limits on rights under the law, “This flexibility does not, however, take away from the fact that the legislation violates and limits some important rights” (Roach 2003:88). Roach then proceeds to highlight the various arguments suggesting that the *Anti-Terrorism Act* violates the rule of law in regard to the presumption of innocence, fundamental freedoms, privacy, equality, right to silence, self-incrimination, right to a fair trial, and so forth. Amoore (2006) demonstrates that the biometric border – which is actually a key component of the Action Plan on Perimeter Security and Economic Competitiveness itself – performs something like Agamben’s *homo sacer* in which living is reduced to calculability resulting in the individual being “killed and yet not sacrificed” (Agamben 1998 as cited in Amoore 2006: 348). In this way, the individual is completely stripped of his or her rights and left in a state of lawlessness. Welch (2007) concludes that regarding the U.S. lead war on terror, the absence of accountability creates a sovereign impunity that allows the state and its operatives to engage in crimes and

human rights abuses without fear of penalties (Welch 2007: 147). Hudson (2009) similarly states, “The war on terror, appears to be driven by hatred and vengeance rather than a concern for justice to the other” (Hudson 2009: 715). O’Malley (2010) in his examination of telemetric policing states, “In place of [the] governable individual, simulated justice creates and deploys what Deleuze (1995) refers to as ‘dividuals’” (O’Malley 2010: 796). Electronic policing – the traffic camera used to issue a ticket for speeding for example – then removes notions of “I” or “me” and instead creates the “dividual” through relying on codes and data in order to detect, convict, and prosecute transgressions of order without human involvement whatsoever. O’Malley argues that what develops as a result of simulated justice is a “simulated freedom” that seeks to limit the mobilization of individuals – including the very rights and liberties that are characteristic of liberalism itself (O’Malley 2010: 805).

All of the above examples pose an important problematic for this thesis. Namely, they each challenge the construction of security in Foucault (2007) suggesting that security is a direct correlate of liberalism in which there is “no longer the exceptions and privileges attached to one person, but the possibility of movement, changes of place, and processes of circulation of both people and things” (Foucault 2007: 71). As such, when answering the three questions surrounding what behaviour is problematized, how these problematizations contribute to construction of security, and particularly what governmentalities can be discerned shaping stakeholder constructions of security in the context of the new policy, Foucault would believe necessarily that liberalism is inherently tied to those governmentalities and power relations present in problematizing behaviour and constructing security. While this of course stands in stark contrast to the above “illiberal” conceptions of security, some recent literature ultimately follows Foucault’s perspective.

Bigo and Tsoukala (2008) move away from the notion posited by Ericson (2007) and others that the state is an all-powerful manipulator of public policy and utilizes exceptional and illiberal practices and techniques to support its efforts of security while also effectively sacrificing individual rights and freedoms. Rather, Bigo and Tsoukala say “we consider [illiberal practices] as a result of the very functioning of a solidly constituted security field of professionals of management of unease, both public and private, working together...” (Bigo and Tsoukala 2008:4). In this way, while illiberal (or exceptional) practices are ultimately produced as a result of the debate surrounding security, according to Bigo (2008), we should not

consider exception as occurring outside of liberalism, but rather consider it working hand in hand with liberalism and actually helping us understand the normal functioning of liberalism (Bigo 2008:33). According to Bigo and Tsoukala (2008), as soon as we can refuse such grandiose “illiberal” narratives we can begin working toward a sociology of security producers and of their different audiences (Bigo and Tsoukala 2008:4). In turn, they advocate for abandoning security as a fixed normative value that is consistent across space and time and instead consider security as a social and political construction related to but not limited to various “speech acts”. As such, “They are themselves the result of structural competition between actors with different forms of capital and legitimacy over contradictory definitions of security and different interests” (Bigo and Tsoukala 2008:4-5).

Neocleous (2008) goes perhaps a step further than Bigo and Tsoukala (2008) in challenging the very notion of illiberal practices themselves as they relate to security. Neocleous (2008) offers an alternative explanation basically stating that this relationship is nothing but an assumption reliant on a question of balance that is inherently a *liberal* creation. Neocleous states, “Aside from lacking any empirical evidence and often involving the giving-up of the liberties of others, usually minorities, the whole approach based on ‘balancing’ presupposes that ‘balance’ is self-evidently a worthy goal... and thus acts as a substitute for real argument” (Neocleous 2008:12). Neocleous details a history of classical liberalism and illustrates how classical liberalism was actually accepting of the compromising of liberty, “[giving] it a fundamental place in regimes supposedly founded on consent” (Neocleous 2008:24). What Neocleous concludes in starting his critique of security is that he is driving toward “the liberal use of emergency powers within a broader ideology of the ‘state of emergency’ a state in which, in the liberal view, is an order of security entirely consistent with its principle of liberty” (Neocleous 2008:38). According to Neocleous (2008), while the state of emergency itself is a common feature of both the liberal and fascist state, “Indeed it was liberalism which perfected the practice” (Neocleous 2008:58). Neocleous then questions the liberal call for a return to “normalcy” based on this same logic. According to Neocleous then, so called exceptional security is justified and legitimized through constitutional acceptance of such policies in that constitutions are ultimately designed to uphold the security of the state itself. Accordingly, “To criticize the use of emergency powers in terms of suspension of the law, then, is to make the mistake of counterposing normality and emergency, law and violence” (Neocleous 2008: 71).

Bell (2011) similarly challenges the assumption that freedom and security are inherently linked in a give and take relationship. Rooting the preservation of freedom in the context of security as a liberal conception of the political, according to Bell, "...security's harnessing of freedom fundamentally shapes the horizon of politics; it shapes how politics are practiced and the kinds of debates that receive attention, not least of all legitimizing the infringement of civil liberties for the protection of 'free society'" (Bell 2011:151). To illustrate this relationship, Bell examines the security certificate program in Canada. According to Public Safety Canada, the security certificate program is a form of immigration hearing designed to remove non-Canadians from Canada who are deemed to "pose a serious threat to Canada and Canadians". Accordingly, "The Government of Canada issues a certificate only in exceptional circumstances where the information to determine the case cannot be disclosed without endangering the safety of any person or national security" (Public Safety Canada 2009). Bell (2011) essentially argues that while many (Buzan, Waever, and de Wilde 1998; Dyzenhaus 2001; Schmitt 1985; Schmitt 1996 as cited in Bell 2011) have stated that the Canadian security certificates operate in direct opposition to liberalism, the character of the certificates program and the "contours" of the subsequent 2007 Supreme Court ruling (*Charkaoui v. Canada 2007*) striking down the security certificate provisions of the *Immigration and Refugee Protection Act* but upholding the certificates "in principle" collectively, "underscore the role of exceptional politics *within* (and not without) the arsenal of liberal strategies of governance" (Bell 2011:57). According to Bell then, "Efforts to understand what security means... require[s] that we implicate liberal politics in practices of security rather than assume such practices to be moments of illiberal excess" (Bell 2011:151).

Monahan (2006) takes a similar point of view. Introducing a collection of work focused on questioning surveillance and security, Monahan questions why surveillance and security are "always" framed in terms of trade-offs. According to Monahan:

Some of the most common expressions of trade-offs are security versus liberty, security versus privacy, security versus freedom... But seemingly, once the issues are presented in these terms, the only thing left to decide is whether the public is willing to make the necessary sacrifices to bring about greater national security. Absent are discussions about the policies behind surveillance and security systems, what one means by "security", [and] what (or who) gets left out of the conversation... (Monahan 2006:1-2).

According to Monahan (2006), the drawback of questions about trade-offs is that root causes are not engaged and in turn, deeper social changes resulting from security itself are left unexamined (Monahan

2006:10). Instead, according to Monahan, we should consider technologies of security as “social inventions to begin with and part of the social problems they are intended to correct” (Monahan 2006:10). It is from this orientation that we may proceed in asking the “right” questions about security according to Monahan – not those questions that rely on trade-off relationships between security and liberty that function simply as smokescreens from a functional understanding of the meaning of security itself. Namely, this involves questions of power, including: what social relations do surveillance and security systems produce? Through asking questions such as this, Monahan states, “by attending to the embedding of surveillance [and security] technologies into existing institutional systems and social practices, power relations are much easier to detect” (Monahan 2006: 14).

Taking the lead of the “security as illiberalism” approach of Roach (2003), Amoore (2006), Welch (2007), Hudson (2009) and O’Malley (2010), as well as the “security as liberalism” approach of Bigo and Tsoukala (2008), Neocleous (2008), Bell (2011), and Monahan (2006) it is evident that security must be investigated empirically to understand how various groups think about security in a given context. As identified above, while some groups may view security as moments of illiberal excess, others view security in the same context to be instead embodied within and governed by liberalism. The debate surrounding liberalism is one example of potentially more constructions of security – albeit a very significant one – that could be identified in an analysis of how the various groups providing input on the Action Plan on Perimeter Security and Economic Competitiveness ultimately shape security. These differing constructions of security in the debate over security and liberalism provide an opportunity for this thesis to add to the criminological literature by exploring potential other constructions of security and problematized behaviour within the specific context of the Action Plan vis-à-vis the various social actors providing input. Determining how security is constructed was accomplished using the procedures and an empirical discourse analysis outlined below.



#### 4. METHODS

This section details the procedures and methods used to respond to the following research questions (outlined above): What specifically is being problematized through this international border security agreement? How do these problematizations contribute to how security itself is constructed within the policy? What governmentality can be discerned shaping stakeholder constructions of security in the context of the new policy? What are the broader implications of the findings for governmentality studies?

A discourse analysis was conducted to understand how security is defined and understood within a specific context, in this case, the Canada-United States Action Plan on Perimeter Security and Economic Competitiveness. Discourse refers to “groups of statements which structure the way a thing is thought, and the way we act on the basis of that thinking... in other words... a particular knowledge about the world which shapes how the world is understood and how things are done [within] it” (Rose 2007: 142). Discourses are determined through analyses of verbal text as well as the practices that these texts ultimately produce and permit. According to Foucault, discourses are powerful in that they discipline individuals to adopt certain ways of thinking and acting, not in a top-down arrangement, but rather through producing human subjects through discourses themselves (Rose 2007: 143). Furthermore, discourses create not only the human subject, but also “objects, relations, places, [and scenes]” (Rose 2007: 143). Essentially, discourses ultimately create our entire understanding of the world. Through a Foucauldian discourse analysis of documentation, we can identify language and other signifying systems that are elements in forming and shaping realities and subjectivities, which in turn render reality governable (Rose et al. 2006: 89). According to Foucault, because discourse permeates our entire reality, power is therefore everywhere as well. Where power is found there is also conflict or “a multiplicity of points of resistance” (Foucault 1979: 95 as cited in Rose 2007: 143). Simply put, this means there are a variety of competing discourses present, which compete to construct reality as we know it. Therefore, in using a Foucauldian approach to discourse analysis in analyzing the Action Plan, this thesis is analyzing various texts to determine what institutions and governmentalities are influencing discourse. This thesis also determines how these discourses ultimately mediate our understanding of the world itself in terms of problematized behaviour as well as the appropriate remedies for such behaviour. Through identifying potential conflicting discourses,

this thesis determines how social actors ultimately construct security differently and how security comes to be constructed within the Action Plan itself.

According to Baker, Gabrielatos, Khosravini, Krzyzanowski, Mcenery, and Wodak (2008), critical discourse analysis can essentially be understood as often focusing on theoretical concepts such as power, ideology, and domination. In turn, critical discourse analysis goes beyond simple analysis of the language within texts themselves and takes into account analysis of the social political, historical, and intertextual contexts found or implicit within the language (Baker et al. 2008: 273). Accordingly,

[Critical discourse analysis] provides a general framework for problem-oriented social research. Every 'text' (e.g., an interview, focus group discussion, TV debate, press report, or visual symbol) is conceived as a semiotic entity, embedded in an immediate, text-internal co-text as well as intertextual and sociopolitical context (Baker et al. 2008: 279).

Furthermore, critical discourse analysis is interested in analyzing "opaque as well as transparent structural relationships of dominance, discrimination, power and control, as they are manifested in language" (Baker et al. 2008: 280). Fairclough (2003) however cautions that in using a Foucauldian method, social scientists often end up neglecting the linguistic features of texts entirely. Fairclough's approach attempts to transcend this disjuncture by seeing discourse and linguistics not as antithetical concepts but rather as interrelated and essential to each other. Fairclough states,

On the one hand, any analysis of texts which aims to be significant in social scientific terms has to connect with theoretical questions about discourse (e.g. the socially 'constructive' effects of discourse). On the other hand, no real understanding of the social effects of discourse is possible without looking closely at what happens when people talk or write (Fairclough 2003: 3).

In keeping with the Foucauldian tradition of discourses analysis, this thesis recognizes that at least a cursory examination of text is necessary to identify discourses, loci of power, and so forth as posited by Fairclough (2003).

To analyze discourses to reach an understanding of the social construction(s) of security in regard to how various groups understand the Canada-United States Action Plan on Perimeter Security and Economic Competitiveness, various primary and secondary documents were examined. Sources include federal government and various independent organization websites; federal government and other publications; federal government official documents, including the international Action Plan itself; government and opposition discussions of the agreement from House of Commons Hansard Debates between February 2011 and February 2012; a random sample of approximately 35% of the 1000 unique

website submissions by individual Canadian citizens commenting on the agreement, furnished through Access to Information Requests filed with the Government of Canada for copies of submissions received between the March 13, 2011 launch of the online consultation website and Industry Canada's receipt of the ATI request on September 19, 2011; as well as about 40 responses from businesses, business groups, labour unions, industry experts, independent NGOs, and key organizations including the Canadian Civil Liberties Association and the Privacy Commissioner of Canada's office through both self-provision of documentation after email solicitation and through Access to Information Requests filed with the Government of Canada. These submissions were made in the form of letters and policy briefs to the Government of Canada through two separate solicitations for consultation both related to the Perimeter Security Action Plan: the February 4, 2011 creation of a Canada–United States Regulatory Cooperation Council (RCC) to simplify and align Canadian and American regulatory approaches, as well as the February 4, 2011 creation of a Canada-United States working group entitled *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness*.

To answer the key questions posited in this thesis, the discourse analysis of documents was coded consistent with the Foucauldian governmentality perspective. This coding was therefore “driven by the researcher’s theoretical or analytic interest” (Braun and Clarke 2006: 84). In keeping with the Foucauldian tradition and while seeking to answer the four research questions of this thesis, coding occurred at the latent level to move beyond semantics and instead focus on the governmentalities in the texts themselves. This also keeps with the constructionist orientation of the Foucauldian tradition in that this thesis is “examin[ing] the underlying ideas, assumptions, and conceptualizations... that are theorized as shaping or informing the semantic content of the data” (Braun and Clarke 2006: 84). Key themes were identified in individual texts first using an open coding method, and second using focused coding as posited by Emerson et al. (1995). Emerson et al. state,

Qualitative analytic coding usually proceeds in two different phases. In open coding the [researcher] reads [texts] line-by-line to identify and formulate any and all ideas, themes, or issues they suggest, no matter how varied and disparate. In focused coding the [researcher] subjects [texts] to fine-grained, line-by-line analysis on the basis of topics that have been identified as of particular interest. Here, the [researcher] uses a smaller set of promising ideas and categories to provide the major topic and themes for the final [analysis] (Emerson et al. 1995 as cited in Babbie and Benaquisto 2002: 382).

Again, the results of the open coding process were reviewed through a process of focused coding shaped by theoretical discourse analysis to focus the results and relate findings to the four questions this thesis seeks to answer.

After coding it was possible to address each of the four research questions. The first question regarding what specifically is being problematized through the international border security Action Plan was identified through different mentions of key targets of the program located in the policy itself, government websites, House of Commons questions from the opposition as well as responses by the government, as well as responses from individual Canadians and key stakeholders in the Action Plan. Question two regarding how the identified problematizations contribute to how security itself is constructed within the policy is logically connected to the first question and involved a comparison between all the identified problematized behaviours between all individuals involved in the consultation process with those “official” versions highlighted in government documents and in the Action Plan itself. Differences and similarities are discussed below and all individual constructions identified and highlighted. Responding to question three regarding what governmentality can be discerned shaping stakeholder constructions of security logically follows from the results of the first two questions. This involved taking all the collected texts on the Action Plan into consideration to discern the dominant rationality that is present. Question four regarding the broader implications for governmentality studies was answered by taking into consideration the cumulative findings of the first three questions and considering how they relate to the field of governmentality.

## **5. RESULTS**

### **Introduction**

The results that follow highlight the constructions of security identified in submissions made by stakeholder groups to the BBWG. This section is divided into three subsections to assist in identifying between-group discourses while also highlighting key within-group discourses simultaneously. These three subsections are therefore categorized based on key characteristics (outlined below) that identify individual submissions as representative of and included in one of three stakeholder groups: business interest groups, individual Canadian citizens, and other interest groups.

### **Business Interest Group Security Discourses**

#### ***Introduction to Business Interest Group Submissions***

Approximately fifty-four business interest groups and ten independent businesses provided feedback to the BBWG. The criteria used in identifying business interest groups included: 1) that they primarily advocated directly on behalf of a business, a group of businesses, or represented an economic region primarily concerned with business-related activities; 2) they did not advocate directly on behalf of the Government of Canada or specific government agencies; 3) they did not primarily directly advocate on behalf of individual private citizens. Of the fifty-four identified business interest groups, submissions were acquired from twenty-seven groups, or 50% of the total submissions. Disappointingly, independent businesses were highly uncooperative in terms of emailing or otherwise providing their submissions. Of the ten businesses emailed, only one small private company provided documentation (the Wild Bird Trading Company). Of the larger corporations, three indicated they had no documentation to provide, one forwarded the email request to an internal department but then failed to reply further, and five did not respond to email requests in any way. None of the businesses posted any documentation related to the Action Plan on their website. Of the twenty-seven business interest groups from which submissions were acquired, twenty-six were business associations or groups representing multiple independent businesses, and one was a group representing an entire economic region of Canada.

Four discourses were identified through discourse analysis of business interest group submissions to the Beyond the Border Working Group: 1) the establishment of a more predictable border for supply chain management; 2) establishment of border security performance and efficacy metrics by the

Government of Canada; 3) greater state use of risk-management techniques to improve border practices and increase supply chain flow; and 4) the notion that voluntary participation in trusted-trader security programs with the Government of Canada and the United States should have tangible reward tradeoffs. Underlying these discourses was an overarching assumption that while security is important to ensuring business prosperity, security *should not* trump trade and the economy. In this respect, business interest groups often advocated for a “lesser of two evils” approach to security in order to promote trade and profit rather than stymie it. Security itself is therefore mostly portrayed as a need of the state that often conflicts with the need of individual businesses to increase profit. Each discourse – along with this overarching discourse – will be discussed below.

### 1. *Toward a More Predictable Border*

One frequently mentioned suggestion made in business interest group submissions to the BBWG was that the state should harmonize or otherwise eliminate policies that are perceived to negatively impact supply chain management.<sup>2</sup> This often included requests for blanket security in which the standards or procedures of security are constant regardless of the location of the search. For example, the Air Transport Association of Canada stated in their submission that, “There should be no different levels of security at airports versus land borders.” Similarly, the only individual private business acknowledged to have submitted to the BBWG – the Wild Bird Trading Company Ltd. of Newmarket, Ontario – expressed concerns that policies were not being administered equally between Canadian and U.S. goods crossing the border. The Wild Bird Trading Company Ltd. wrote in its submission,

Part of the difficulty is the enforcement by the US Border service. They are very badly trained and often have difficulty determining which import policies apply and they refused to give written guidelines on products that are not specifically identified on any legislation [*sic*].

The Canadian Council of Chief Executives also commented on the need for harmonization in their submission:

Streamlining the myriad rules and activities that impede the flow of legitimate cargo will improve security while at the same time enhancing the competitiveness of the U.S. and Canadian companies and lowering costs for both consumers and governments (p. 4).

In the above examples – and in other similar submissions – the main concern is that state border security practices ultimately put industries – or specific companies – in positions of financial or other hardship when rules, laws, and practices are administered unequally. This type of submission suggested the great diversity

of state policies and procedures placed on trade often restrict the flow of goods across the border unnecessarily and that this hurts both the economy and security of North America. Therefore, harmonized security practices are presented in this case as a “lesser of two evils” approach in that they are perceived to allow for greater predictability in terms of business economic benefit while also allowing for enhanced security of the state. Primarily, business interest groups therefore problematize non-harmonized security practices as antithetical to economic goals of businesses, and secondarily also antithetical to the security goals of the state in that non-harmonized policies have an element of chaos that makes blanket uniform security impossible. Greater security in this discourse both in terms of business profitability and security of the state is therefore presented as best achieved through harmonized policies and practices.

Another frequent suggestion in several submissions was about harmonizing the numerous data reporting requirements to various agencies into “one single window.” In this approach, both the U.S. and Canadian governments – as well as all related government agencies – would share all required data from one submission database. For instance, Business for Better Borders (B3) – a bi-national coalition of manufacturing associations – stated in its submission,

Most importantly must be implementing [*sic*] of a single window reporting process across all other government departments in Canada and other government agencies in the United States. Companies must be able to report all importation and exportation requirements electronically and through one source in each country. This would also support government needs for security as they would be able to view importation and exportation data holistically in order to make effective and efficient determinations of potential threats (p. 6).

From the above quotation and in other submissions to the BBWG, it is apparent that businesses such as those represented by B3 indicate that the benefits of a single-window reporting process would be twofold: 1) it would allow businesses to report all data to one place thus reducing the costs both in terms of data and human costs, and 2) this type of reporting would also support state risk management schemes toward security. Once again, current non-harmonized state border security practices – in this case data reporting requirements – are perceived to be antithetical to the business pursuit of profit and also the security needs of the state. A less-burdensome harmonized data reporting security practice is therefore advocated for in order to serve the dual interests mentioned above. Security is again presented as antithetical to capital accumulation and the need for a “lesser of two evils” approach to security is advocated for instead.

Redundancy was also a major concern addressed in several business interest group submissions, mostly in the supply chain security process. Business interest groups referred to state-mandated security

procedures at shipping facilities as well as dual searches of the same shipment by customs officials on both sides of the border as unnecessary, time consuming, and adding extra costs not possible to calculate in advance in supply chain estimates. The Canadian Council of Chief Executives argued against redundant searches of goods crossing the Canada-U.S. border in its submission:

Cargo arriving at a Canadian or U.S. port of entry from a third country should be inspected only once. Goods that pass inspection by a U.S. agent should not require re-inspection by a Canadian agent before crossing the border, and vice-versa... Any subsequent inspections for verification purposes should take place at the destination point, not at the border (p. 5).

The Canadian International Freight Forwarders Association (CIFFA) echoed this concern and added that redundant container examinations “are costly, time consuming and drive uncertainty into the supply chain”

(1). The Canadian Chamber of Commerce similarly submitted:

Reducing processing overlap at many ports of entry would not only help to streamline operations but would also have a positive effect on operating costs... For example, a bag leaving Canada for the U.S. is first screened by Canadian officials and then rescreened by U.S. officials. Removing such redundancies and improving coordination between the relevant border agencies would not only allow agencies to work more cohesively to address security concerns but would also significantly improve the movement of people and goods at ports of entry (p. 10).

The above quotations highlight how business interest groups problematize perceived redundant state border security inspection practices as mostly antithetical to the movement of people and goods at the border, and thus also the pursuit of profits lost via increased operation costs. Another less burdensome approach is advocated for in order to allow for businesses to increase profits and also support the security needs of the state – in this case through a “search once accept twice” procedure or by otherwise moving inspection processes away from the border.

Another common concern was movement of business personnel across the Canada-U.S. border.

The Canadian Federation of Independent Business (CFIB) wrote

...the rules regarding temporary movement of business people across borders – whether to sell products or deliver services – are more nuanced and in some cases subject to a great deal of interpretation (p. 3).

The above quotation suggests that businesses seem to be generally intolerant of any unpredictable laws or regulations that inhibit the flow of international trade or business personnel across the border. This concern was echoed numerous times. For example, B3 stated:

Governments must strive to immediately introduce a coordinated and simplified border crossing processes for business travellers between the countries, including [efforts to] provide plain [sic] language detailed requirements to businesses, educate all officers on current requirements, [and]



eliminate visa requirements for Canada/U.S. citizens and permanent residents traveling for business purposes (p. 7).

This statement by B3 seems to request a much more predictable interpretation of the laws and regulations governing business travellers across the border. There is also an implicit assumption that border officers are not properly trained to handle business travellers and that perhaps visa requirements should be completely removed instead. The Canadian Chamber of Commerce echoed this concern while requesting that governments add to the existing NEXUS system a provision that again would allow greater predictability in terms of business travellers crossing the border:

While rules are in place governing entry requirements [for business travel], the growing red tape associated with temporary entry permits is an ongoing concern to businesses. The voluntary expansion of NEXUS to contain visa requirement information in its database would allow quick access by border agents to the necessary documentation for approval and verification. This would speed up processing times without reducing security (p. 6).<sup>3</sup>

The Pacific NorthWest Economic Region (PNWER) also echoed this request by asking for a “business Nexus program” (PNWER 2011: 11). In the aforementioned quotations state border security and immigration policies regarding the movement of business personnel are problematized in that they add direct costs to businesses and reduce the predictability of the movement of business personnel. Again, non-standard state policies and practices are problematized as antithetical to the business pursuit of profit. There is also the subsequent request for a “lesser of two evils” approach to security whereby business traveller policies are harmonized and the NEXUS system is adapted to allow for more business predictability, lowering the costs associated with impeded business travel, and also maintaining the state need of security provision.

Submissions advocating for a more predictable border also often included calls for limitations on officer discretion at the border and the development of a more uniform approach to law and immigration enforcement. For example, in its formal submission to the BBWG, the Canadian Employee Relocation Council (CERC) discussed the results of a survey they administered to their membership. In its submission the CERC wrote,

A theme throughout the survey, and one supported extensively by comments from participants, is the inconsistency that exists in decision making between border officials. As one participant commented, ‘Currently, it depends on the time of day, the border you cross and which border official you get as to how they interpret the rules.’ This creates frustration and unnecessary ‘red tape’ in the efficient movement of personnel... In exploring reasons for delays in processing entry applications, almost three quarters of participants cited inconsistent decision making by inspectors (p. 6).

The Canadian Federation of Independent Business (CFIB) echoed this same concern after interviewing member businesses,

Finally, almost every person interviewed mentioned the inconsistency of border processes and the behaviour of some border officers. Since much is left to the discretion of an individual border officer, it can sometimes seem like a very arbitrary process... These types of actions may be absorbed more easily by larger firms... but for a small business this kind of experience can be devastating to their bottom line (p. 8).

In both cases it is evident that inconsistent delivery of border security and immigration practices by officers – including when officers are appearing to use unrestricted discretion as opposed to discretionary decisions rooted in fixed policies – is a disruptive and costly practice in the opinion of businesses. Again, this leads to business concerns about predictability in that discretionary decisions are perceived to be generally unpredictable in terms of supply chain or business personnel management. Ultimately, business interest groups and the businesses they represent problematize unrestricted officer discretion as well as non-uniform state border security and immigration policies as antithetical to business goals and the pursuit of profit. More uniform discretionary decision-making is advocated for instead.

Along the same line of thought, business interest groups also included comments about the perceived negative impact of random border exams. As with unrestricted officer discretionary decisions, random exams represent for business interest groups *the* definition of unpredictability in terms of supply chain and business personnel management. The Canadian Federation of Independent Business (CFIB) stated,

Another very costly border procedure are random inspections, in which nothing is found, but for which the business is then charged fees ranging from \$1500 to \$2000 for offloading and warehousing of the goods (p. 8).

In this quotation there is the dual sense that 1) random inspections are unpredictable and thus cost businesses fees that cannot possibly be factored into supply chain management calculations, and 2) random inspections are not achieving their presumed intended state security purpose anyway since “nothing is found”. This calls into question efficiency standards in terms of border security practices, which will be discussed in detail below. The Canadian Oilseed Processors Association wrote in its submission to the BBWG:

Increasingly, shipments of protein meal destined for the U.S. livestock feed sector have become subject to random border testing... This has resulted in extensive cross-border shipping delays, costly interruption to commerce for both suppliers in Canada and customers in the U.S...

Estimates of the impact of this action on Canadian processors are a loss... of U.S. sales of 500 thousand tonnes of protein meal worth \$125 million (p. 1).

This staggering claim of \$125 million of commodity lost to random border inspections is again indicative of the business interest group belief regarding these specific practices – unpredictable border security and immigration techniques hurt companies and industries economically while providing very little (if any) benefit in terms of a security tradeoff. Again, the notion that border security practices should be predictable and that the state should allow private industry to more accurately predict supply chain management costs via reductions in random or otherwise unpredictable techniques is paramount in the submissions. In the above examples, random border examinations were also added to the list of problematized state border security actions. In this case, random examinations are portrayed as completely antithetical to the business pursuit of profit and to the state goal of security. As such, business interest groups do not advocate for a “lesser of two evils” approach as a potential solution. Instead, the complete removal of random examinations is advocated for.

Business interest groups also felt that greater predictability could be achieved if the government acted to increase the use of security and inspection processes away from the border. For instance, the Canadian Council of Chief Executives stated that, “Pre-clearance of shipments before they reach the border will strengthen our integrated supply chains, expedite commerce and increase efficiency” (p. 4). The Canadian Chamber of Commerce similarly stated,

Many border processes can be accomplished just as efficiently offsite such as risk assessment and product health and safety inspections... Preclearance can also be conducted at processing and manufacturing facilities where goods are often sealed before arrival at the border. These goods could be inspected and sealed before being loaded on pre-cleared, sealed trucks. As well, truck, rail cars, and intermodal containers can be pre-cleared in bonded carrier facilities at trip origins. These trucks, rail cars and containers can be expedited across the border through prearrival [*sic*] notification that includes data on the shipment and if the seal is still intact (p. 8).

The Canadian Oilseed Processors Association (COPA) echoed this suggestion in stating that random product examinations at the Canada-U.S. border should be stopped and that states should “Move all testing/sampling back to the plant of origin” (p. 3). The above statements are examples of several business interest group requests that inspections move away from the border for dual purposes: 1) moving searches away from the border could act to enhance security, 2) moving searches away from the border is perceived to increase efficiency of border practices as well as increase the flow of traffic. In this sense, business interest groups problematize state security inspections at the physical border that are perceived to introduce

uncertainty into the supply chain and create unnecessary costs for businesses, and instead advocate for off-site inspections that are perceived to lower costs and increase the flow of traffic across the border while also allowing the state to achieve its security needs.

Regarding border security predictability overall, The Canadian Trucking Alliance released a statement in which president and CEO David Bradley summed up the potential hardships experienced by businesses as a result of unpredictable supply chain management at the border:

We are hopeful this [Action Plan] process will lead to a better balance between security and trade initiatives... Canada and the United States, alone or in partnership cannot hope to compete with the emerging economies and/or other trading blocs, unless we have a predictable, reliable and efficient supply chain; the sheer enormity and overlap of the measures that have been imposed on cross-border trade over the past decade has not always been consistent with that imperative (CTA 2011).

In the above quotation there is the notion that state border security measures are antithetical to “trade initiatives” and the economic competitiveness of North America internationally. Throughout all the aforementioned business interest group submissions regarding border security predictability, it has been made apparent that business interest groups portray state border security practices as antithetical to the business need of increased profits and lower costs. The overwhelming notion present in these submissions is that businesses in Canada and the United States rely directly on “predictable, reliable and efficient” supply chains, again predicated on the notion that Canada and the United States need to make it easier on private industry to conduct supply chain management by making security practices uniform and predictable. As such, unpredictable border security practices initiated by governments are problematized specifically because they are perceived to deny private businesses the ability to fully control and predict supply chain management and thus also costs. Business interest groups often advocated for states to use border security techniques that are less-impactful economically and also more predictable from a business standpoint in order to serve the dual goal of increasing business profitability and also still meeting the state need for security. In a few of the aforementioned quotations there was also the implicit assumption present that perhaps state border security practices can therefore be measured in terms of efficiencies in order to meet these goals. The request for performance and efficiency measures will be brought to light below.

## *2. Performance and Efficiency Metrics of Border Security*

Business interest groups often stated that states should be reaching certain benchmarks or performance indicators consistent with business-based metrics found in the economic world. For instance,

the Canadian Council of Chief Executives advocated in its submission for “Establishment of time-specific benchmarks for transiting each border point/port” (p. 4). The establishment of firm time-related benchmarks at the border is perceived to allow businesses to more accurately predict border-crossing times for supply chain management purposes. The Canadian Chamber of Commerce in its joint submission with the U.S. Chamber of Commerce to the BBWG stated,

A temporary cabinet-level border subcommittee should be created and specifically empowered to review border processes and streamline operations where possible... To understand how to improve the efficiency of the border, we must first have an excellent understanding of existing border operations. The cabinet subcommittee should also spearhead the development and centralization of border related metrics and serve to monitor progress of efforts to improve the efficiency and security of the border (p. 2).

This suggestion implies that the state can develop metrics to monitor and improve levels of efficiency and security at the border. Efficiency inherently implies that security itself can be subject to performance measurements in the interest of streamlining border inspections and associated processes as well as meeting the state need for security. A similar submission by the Public Border Operators Association (PBOA) stated that states should

Recognize that the border can only work as well as it is managed by CBP and CBSA. Infrastructure improvements are meaningless if the human resources are not in place to utilize them. Ensuring that inspection booths are appropriately staffed and scheduled to accommodate traffic demands is critical to a well functioning border... (p. 2).

Again, there is the suggestion that the state needs to accommodate private industry and make border crossing more predictable by implementing performance measurements and metrics to ensure that border security is optimally reaching its goals in a way that does not adversely affect trade and the economy. In the aforementioned quotations – and in other similar submissions – the fact that state border security is currently not subject to performance, efficiency, and other metrics is problematized as contributing to greater inefficiency, lower predictability, and added supply chain costs that ultimately undermine business goals. Again, state security techniques are portrayed as antithetical to the goals of business and the routinization of metrics is offered as a potential solution to increase business profitability while also meeting the state need for security.

### *3. Emphasizing Risk Management*

Business interest groups, as mentioned above, demand the state use the principles of “risk-management” more efficiently to allow for the flow of so-called legitimate goods and people across the

border. For example, the Air Transport Association of Canada stated that there exists a necessity to “Agree on a reasonable (not 100%) screening of Air Cargo level” (1). This implies of course that examination of all cargo is not reasonable to ensure security and that therefore an acceptable level of risk-based assessments needs to be used instead. Business for Better Borders (B3) provided a submission that centered its suggestion for border security on the notion of risk:

Specifically, we believe the priority for the BBWG should be to create a harmonized system of border operations between the countries that separates traffic and their reporting requirements at the border into three distinct types based on the levels of investment by companies and the advanced knowledge and information of those companies that governments have (p. 2).

The B3 suggestion is a risk-based submission that advocates for differential levels of risk and security based on individual company input into voluntary state security programs. In essence, B3 advocates that those who invest the most into such programs should receive unimpeded flow at the border, those who supply a medium range of information should receive quicker passage at the border (but still would be subject to inspection), and those who have not invested should provide plenty of information before arriving so as to speed up the process for all those who have invested. Again, implicit in these levels of risk is the notion that border security (particularly risk levels) should be predictable for the private sector businesses involved in state initiated voluntary security programs. The Canadian Chamber of Commerce in its joint submission with the U.S. Chamber of Commerce to the BBWG similarly stated, “It is imperative that the Canada-U.S. border separate ‘trusted’ trade and travel from high-risk goods and people. Over the years various programs have been developed with this in mind, however, unnecessary overlap is eroding many of the potential benefits” (p. 3). The Chamber’s submission also argues for risk predictability in harmonizing risk-based programs to ensure benefits are truly being provided to those in voluntary state security programs. The Chamber’s submission also seems to suggest that there needs to be a concerted effort on the part of the state to actively “separate” those people who are non-risky from those people who are high-risk, and target security practices accordingly. The Tourism Industry Association of Canada (TIAC) in its joint submission with the U.S. Travel Association to the BBWG provides a summary of the business interest group advocacy for risk-based practices while also calling for unencumbered travel across the Canada/U.S. border. The TIAC states,

Now more than ever we need to ensure a risk management framework at our borders that enables economic growth at the same time as it ensures security. Ultimately, traffic should flow between Canada and the United States as easily as it does in the European Union (p. 1).

In a sense, for many business interest groups, it is a standard suggestion across submissions that risk-based practices will ultimately help relieve current non-predictable state security practices at the border, which will ultimately help move traffic quicker and thus also help improve the North American economy and also the business pursuit of profit. Risk practices are portrayed as having a dual benefit in these submissions, serving both a security-based function and an economic function ultimately leading to mutual benefit between private industry and the state. In this sense, risk practices are routinized as a “lesser of two evils” approach much more favourable to business interests when compared to border security practices that do not use risk profiling. State border security techniques that are not predicated on the notion of risk are therefore problematized as antithetical to the business pursuit of profit, the economic growth of North America, and the state need for security given that techniques not involving risk are perceived to introduce chaos in terms of security provision.

#### *4. Rewards for Private Partners in Public Security*

Lastly, along the same vein as risk-management approaches, business interest groups also regularly advocated that voluntary participation in trusted-trader security programs with Canada and the United States should involve tangible rewards for businesses. This especially included the request that such businesses receive decreased levels of security inspections at the border in reward of their participation. In this sense, business interest groups often advocated for predictable rewards when participating in state sponsored risk-based programs. The Canadian Society of Customs Brokers (CSCB) in its submission wrote:

...underutilization of FAST lanes at specific border points indicates an opportunity that should not be missed. Why not allow Trusted Traders access to those lanes? This is... about providing a benefit to [Partners in Protection] participants who at this time would welcome a benefit of any kind. Programs without benefits have questionable futures and allowing PIP participants access to FAST lanes is a relatively simple way of establishing a demonstrable benefit to current and potential program participants. The efficiencies to be gained by re-routing of carriers at the land border to open lanes should be actively considered (p. 1).

This suggestion obviously is very firm in stating that voluntary risk-based programs instituted by states will only have effective participation if business interest groups are offered clear tangible benefits in return. In the above quote, the CSCB is advocating that members of the Partners in Protection (PIP) program be allowed to use existing Free and Secure Trade (FAST) lanes in order to increase border crossing efficiency and provide a demonstrable direct benefit to participants in terms of lowered border inspection rates.<sup>4 5</sup> The Canadian Chamber of Commerce in its joint submission again echoed these concerns, writing,

Unfortunately, participation in these [trusted trader] programs can be difficult, the costs remain high and the benefits can be limited. For example, certification as a trusted shipper can take years and cost hundreds of thousands of dollars in upfront costs. In the long term, continued compliance in these programs often requires oversight by dedicated staff. To make matters worse, despite paying for memberships in multiple programs, companies are still subjected to costly inspections. In one instance a company reported having to pay over \$1 million because of increased security measures, participation dues and border fees (p. 4).

The Chamber's submission highlights the implied notion that through a cost-benefit analysis, the benefits of trusted trader programs should outweigh the costs of such programs.

These submissions regarding benefits for businesses also included requests that the state afford businesses unimpeded flow and movement at the border. For instance, the Canadian Manufacturing Coalition (CMC) stated that there needs to be a focus on the part of the state to improve and expand trusted trader programs, and that this should include "Non-stop movement of fully qualified and secured (CSA and PIP/C-TPAT) shipments across the border" (p. 1). Business for Better Borders (B3) advocated for immediate release at the border when trucks meet three key characteristics – a FAST registered driver, a registered importer, and a registered carrier – as well as, "Non-stop movement of fully qualified and secured shipments across the border" (p. 5). In this sense, business interest groups problematize state sponsored voluntary trusted trader programs that do not have tangible benefits for businesses and therefore create a situation in which costs of membership and participation are not outweighed by potential benefits. Again, state border security techniques are problematized in that they are antithetical to the business need to increase profits and lower costs. As such, a "lesser of two evils" approach is offered as a solution in order to provide direct financial and cost-savings benefits to businesses while also allowing the state to continue its voluntary trusted trader programs to meet the state need for security.

### ***Business Interest Groups Summary***

Underlying all the aforementioned submissions regarding harmonizing and eliminating economically damaging policies, moving toward a more predictable border, emphasizing risk-management techniques, achieving rewards for private partners in public security, moving border security away from the border, and the installation of performance and efficiency metrics of border security, is the overarching assumption amongst business interest groups that while security is important to ensuring prosperity, security *should not* trump trade, business profit potentials, and the economy. In essence, security is portrayed as a need of the state that often does not coincide with the needs of businesses to increase profits,



lower consumer costs, and contribute to the North American economy. The primary concern of those in the business field is security of profit potential juxtaposed against the border security needs of the state. As exemplified above and found in several other submissions to the BBWG, business interest group submissions regarding border security and border security techniques are frequently coupled with demands that the security needs of the state not infringe on or impose barriers to the capacity of private industry to conduct trade and improve profit potential.

### **Individual Canadian Citizen Security Discourses**

#### ***Introduction to Individual Canadian Citizen Submissions***

Through Access to Information Requests filed with Industry Canada the Government of Canada furnished about 450 pages of individual Canadian citizen submissions. While most responses were confined to one page, some citizens did have lengthier comments. About 432 individual responses were received from the Government of Canada.<sup>6</sup> Of these, a systematic random sample of 360 was examined by taking five out of every six responses to represent a 36% sample of the total population of responses of 1000 individuals. Of the sample of 360, two were excluded because they were written in French, one was excluded because it contained a question to state officials and not a comment on the Action Plan, and two were excluded because the nature of the content of the submissions was not related to the Action Plan. This resulted in a sample of 355 individual citizen responses for analysis.

Citizen submissions to the BBWG generally focused on four key discourses: 1) the “law abiding citizen appeal”; 2) The perils of Canada-U.S. collaboration; 3) human rights discourse; and 4) combating illegal immigration and fraudulent refugees. Individual Canadian citizen submissions often constructed security as a state need that is antithetical to certain identified key discourses in terms of freedom of mobility of law-abiding people, human rights, Canadian security, and immigration enforcement.

#### ***1. The Law-Abiding Citizen Appeal***

The most frequent discourse generated by the sample of individual Canadian citizen submissions to the BBWG is what can be referred to as a “law-abiding citizen appeal”. In this sense, Canadians frequently indicated that customs agencies in both Canada and the United States should be focusing on “criminals” and “terrorists”, and thus not needlessly targeting innocent individuals. This is most accurately referred to as a law-abiding citizen appeal given that the “average Canadian citizen” is contrasted with the

“criminal other”, or perhaps what may be referred to as a “law-breaking citizen”. In this sense, border security practices that are perceived to needlessly target or otherwise inconvenience law-abiding citizens are problematized because of the dual sense that: 1) the state is inhibiting the flow of law-abiding citizens that ought to be afforded freedom of mobility due to their law-abiding nature; and 2) the state should be instead focusing all of its attention on law-breaking citizens in order to provide security for all.

Occasionally such practices were also problematized because of their perceived antithetical relationship to the economic competitiveness of North America. The use of risk-based practices as well as technology are offered as potential solutions to achieve the task of separating the law-abiding citizen from the law-breaking citizen and also allowing for the free flow of legitimate trade and travel across the border.

These notions were presented in several ways across submissions. Firstly, citizens were opposed to border security practices identified as intrusive and needless given the self-concept label of “law-abiding citizen”. Citizen 0153 suggests,

Do more profiling to speed up the lines. I’ve seen to [*sic*] many times where non-threatening citizens (little old ladies) are treated like they want to blow up the world. Pick who you think is more of a threat and focus on them.

Here we see a direct contrast between law-abiding citizens portrayed as “little old ladies” and those who actually would “want to blow up the world”. Moving beyond the “little old lady” portrayal, citizen 0239 stated,

I’m not sure of the stats, but certainly the majority of people crossing the border are not criminals, a security risk or breaking the law. Bottom line is that Border Services has to get smarter without hindering the public or stopping every fifth car for a complete top to bottom search... The most important thing to maintain in this is the FREEDOM of Canadians to travel. That we are innocent and should be treated with respect. No amount of security should take that away.

In the above quotation there is the suggestion that the majority of people are law-abiding citizens and that therefore the majority of people should not be subjected to border searches. There is also the appeal that states should be focusing their security practices on *only* those who are in fact criminals or who pose a direct security threat. Citizen 0156 offered a potential solution, submitting,

I believe that more people need to do the in-car interrogation more quickly – and send cars with suspicious people inside for further investigation... Perhaps officers could pre screen [*sic*] some vehicles waiting in line and tag suspicious vehicles.

As is the case in each of the aforementioned submissions, in this one there is the notion that efforts must be made to identify those who are a security risk or a law-breaking citizen and who would do harm while simultaneously also not subjecting law-abiding citizens to border security-related practices.

Secondly, Canadians often noted that at the border, security-related practices entailed being treated like a terrorist or a criminal instead of how they personally defined themselves – as innocent members of the traveling public. Citizen 0013 copied an email from a third party about a border experience in which an artist was denied entry to the United States at the border, finger printed, photographed, had their car and possessions searched, and was then escorted back to the Canadian border by a patrol car with its top lightbar flashing. The email then went on to say, “There is something very wrong here, when a person trying to cooperate with border regulations is treated as a criminal.” Here, the artist was portrayed as innocent and as complying fully with border regulations and therefore not deserving of the enforcement actions of the U.S. border officials. Citizen 0117 stated,

If someone traveling to the U.S. or Canada via air/automobile has to be scrutinized like a rat in a lab, less travel will occur... The current security measures makes one feel more like a terrorist than welcomed guest. The security measures now do not work properly.

This citizen’s submission supports the notion that innocent travelers should not be treated like terrorists when traveling in North America. Furthermore, the citizen regards border security practices as antithetical to the economic competitiveness of North America given that such practices are perceived to ultimately lead to less cross-border travel. The citizen also asserts that such practices do nothing to increase security. Citizen 0216 similarly highlighted another area of perceived concern regarding

Courtesy of the Border Officers, especially on the U.S. side. Perhaps a course in human relations would help. We see ourselves as clients of the Bridge Authority and have [NEXUS] Cards. Yet we are often treated with suspicion and rudeness. We have spotless records as travellers into the U.S. Surely, the information about us stored in the computer should indicate this... The majority of people crossing the [Sault Ste. Marie International] Bridge are not criminals or terrorists. Treat us as guests in your country, not undesirables.

Thirdly, Canadians often appealed to the perceived innocence of their intended *activity* in the United States as *prima facie* evidence that they were law-abiding citizens and that they should therefore not be subjected to border security practices. Citizen 0070 for example wrote,

I would like to please speed the processes up for border crossing. I understand the need for increased border security... I enjoy going to hockey, baseball, football and concerts [*portion blacked out under s. 19(1) of the Access to Information Act*]. However, I have been doing this less and less with each crossing. I do not want to leave 3 hours prior to an event to endure long searches at the border... If you want to improve tourism at the border crossings... going to... and

coming [portion blacked out under s. 19(1) of the Access to Information Act] then please do something.

In this quote, the citizen appealed to the notion that going to sporting venues and concerts does not warrant border searches that delay crossing the border. In this sense, “pleasure” visits to the United States are portrayed as harmless and law-abiding. This citizen also echoed the submission from citizen 0117 in portraying border security practices as antithetical to the perceived economic goal to improve tourism in North America. Citizen 0152 stated, “Have the border guards on both sides focus on those who are actually [a] risk versus those who are just there to spend money or have a vacation.” Citizen 0236 echoed this submission in stating,

I believe the threats are already known before hand in most cases. It seems that the ‘people’ in charge of this information keep it to them selves [sic]. In most cases the ‘suspects’ are not your average Canadian going on a holiday.

In the above two quotes there is the notion that those who are “just” vacationing or “just” shopping in the United States do not pose any threat whatsoever given that both activities are lawful. Citizen 0175 also submitted,

I would like to see the role of customs and immigration agents redefined – eliminating low level responsibilities such as sales tax collection and quizzing me over my lunch, which creates unnecessary delays when crossing the border – and instead have them focused on true concerns relating to security of both countries (immigration, drugs, weapons, terrorism, human trafficking, etc.).

Here again is the notion that shopping or having lunch in the United States is not worthy of border officer attention, and that instead officers should be focusing on the “true concerns” highlighted above.

Fourthly, Canadians often appealed to the fact that they are Canadian citizens as *prima facie* evidence that they do not have nefarious purposes and thus should not be subjected to border security practices. For example, citizen 0190 wrote,

I nevertheless feel that some kind of ‘risk’ profiling could be employed to reduce the considerable wasted time and money spent going through security... [portion blacked out under s. 19(1) of the Access to Information Act], born, raised and have only lived in Canada all our lives. The odds of people like ourselves being security risks are probably something more than a million to one. Could we not be issued a special card and have a separate line for any required security check?

In the above quote, the citizen advocated for special cards and separate primary inspection lines for Canadian citizens because of the notion that the risk that someone born in and living in Canada is up to criminal or other risky activities is projected to be “a million to one”. Citizen 0182 stated,

I have no problem sharing my personal information with the U.S. government... They should know if I have a criminal record or any affiliations with groups that could be considered a threat to their country... I do have a problem with the treatment Canadians receive from U.S. border and customs officials at the two Windsor/Detroit crossings... The U.S. customs and border agents are rude and intimidating in appearance and conduct... For a country that declares itself as champions of justice and the land of the free, they apparently feel their closest neighbours should have no rights or courtesy when entering their territory.

Here it is apparent the citizen portrayed U.S. CBP officers as essentially denying Canadians rights and courtesy at the border needlessly, and that implicitly Canadians should have enough credibility as the United States' closest neighbor to be entitled to some degree of rights and courtesy when crossing the border. In this sense, current state border security practices are portrayed as antithetical to the maintenance of human rights so proudly touted by both states. This quotation, while illustrative of the notion that Canadians are not threats to the United States, also sheds light on a discourse surrounding human rights that will be elaborated on further below.

Fifth, even when Canadian citizens admitted to not being the stereotypical law-abiding citizen, they still invoked the law-abiding citizen appeal in stating that the United States and Canada should have differential levels of enforcement based on the severity of previous criminal history, where some criminal offences were portrayed as not nearly as severe (and therefore worthy of exclusionary enforcement activities) as other offences. For example, citizen 0293 stated,

I would suggest that the United States review their 'no entry' policy to differentiate between people likely to reoffend and possibly break a law while visiting their country and people with old criminal records who are unlikely to break the law.

Here, a differentiation is made between those with old criminal records who are perceived to be "unlikely to break the law", and those with more current records who are apparently more likely to reoffend while visiting the United States. Citizen 0325 similarly suggested,

Currently anyone with any kind of criminal record cannot enter Canada, and cannot gain permanent residency, even through marriage or relation. For example, someone with a DUI no matter how old or severe cannot enter Canada for any purpose... This is an incredible drain on financial resources and tax revenue with little or no benefits to the Canadian people... People should only be denied entrance to Canada if they are restricted travel by their respective gov't [*sic*] or deemed violent/repeat offenders.

Here, the citizen's submission advocated for a differentiation between supposedly more serious offenders (those restricted by their own government or violent and repeat offenders) versus those who commit perceived less-serious crimes like DUIs.<sup>7</sup> In this quotation there is also the notion that such border security

practices are antithetical to the economic competitiveness of North America given that the costs of enforcement are perceived to be high with little or no direct benefits in return.

Lastly, citizens also appealed to technology as an infallible method for separating the law-abiding citizen from the law-breaking citizen. Biometrics was often advocated for in this respect. Citizen 0149 stated,

I... was granted a FAST card a few years ago. In order for the granting process to be completed I was... also finger printed and eye scanned. This I have no problem with whatsoever. I think it would be a great idea for all those being granted a passport to follow the same procedure; especially the eye scanning... I may be wrong, but I know of no means by which a person's eye can be altered; not so with fingerprinting.

This citizen appeals to the apparent impossibility for individuals to alter their biological markers as evidence that iris scanning could provide an infallible security technology for North America. Citizen 0341 likewise wrote,

I hope that the canadian and american govt's [*sic*] can come together and create a biometrical system using passports or other forms of biometrical ID... I believe this would reduce illegal entry by individuals coming to canada or the us [*sic*] on tourist and student visas and smuggling themselves into our countries when there [*sic*] visas expire and not bothering to return home.

Here, biometrics is presented as an infallible technology to control immigration overstays in Canada and the United States. Security is basically constructed in this discourse as technology itself given that technology is perceived to be infallible. Much like the “CSI effect” in which the importance of scientific evidence is overemphasized and presented as irrefutable, technology is presented in much the same overemphasized way as *the way to ensure* security in an infallible manner.<sup>8</sup> While many individual Canadian citizen submissions were generally opposed to the greater use of biometrics, several submissions did advocate nonetheless for the increased use of specific or non-specified “technologies” in order to separate law-abiding citizens from law-breaking citizens.

Overall the aforementioned quotations and other similar submissions problematize border security practices that are perceived to needlessly target or otherwise inconvenience law-abiding citizens. The border security practices of the state are portrayed to be inhibiting the flow of law-abiding citizens that ought to be afforded freedom of mobility due to their law-abiding nature. Furthermore, there is the notion presented by individual citizens that the state should be instead focusing all of its attention on law-breaking citizens in order to provide security for all. Occasionally such practices were also problematized because of their perceived antithetical relationship to the economic competitiveness of North America. The use of risk-

based practices as well as technology were offered as potential solutions to achieve the task of separating the law-abiding citizen from the law breaking citizen and also allowing for the free flow of legitimate trade and travel across the border.

## 2. *The Perils of Canada-U.S. Collaboration*

Several Canadian citizens also maintained that further collaboration with the United States regarding security was a greater threat to Canada and Canadians than if Canada remained independent in its pursuit of security. This often included the belief that colluding with the United States would put Canada at a greater risk of a terrorist attack for a variety of reasons. Canadian citizens often cited the perceived intrusive and aggressive foreign affairs record of the United States as *prima facie* evidence that colluding with the United States would increase the risk of terrorist actions against Canada. For example, citizen 0189 stated,

Canada currently, though rapidly swinging in that direction, does not have the horrendously flawed and blood stained foreign affairs track record that the U.S. unabashedly holds. Such mistreatment of our fellow man [*sic*] has led to a growing number of enemies around the world angry at the U.S., and I believe that Canada should not have to bear this same burden under [any] circumstance.

Citizen 0096 explicitly highlighted the notion that further integration with the United States would put Canada at a higher risk of a terrorist attack due to U.S. activities:

The biggest threat to Canada IS the United States. Until they rout out the corruption that is a hallmark of their monetary system, financial system and their foreign policy, we would be best to distance ourselves from them. We are inviting terrorist attacks by serving alongside the US in [two] illegal occupations in Iraq and Afghanistan.

Citizen 0289 agreed with this sentiment, submitting,

First off, I would suggest that the United States has a very aggressive foreign policy which has included interference in many other foreign countries around the world, which is the reason that they are a target for terrorism... and I believe that we are putting ourselves at risk by aligning Canada's foreign and domestic policies with the U.S.

In this respect, further Canadian security collaboration with the United States is problematized in individual Canadian citizen submissions to the BBWG due to the notion that perceived negative worldwide opinions of aggressive U.S. foreign policy practices will ultimately put Canada at a greater risk of a terrorist attack as a result. Canadians instead frequently advocated for the Canadian state to remain autonomous in its pursuit of security to avoid the potential increased risk of terrorist attacks.

Canadians also frequently cited NAFTA as an example of a previous agreement that did not end up reflecting Canadian interests, and as direct evidence that Canada should not be entering into another

economic or security pact with the United States.<sup>9</sup> This unfolded in two ways. Firstly, Canadians often stated that NAFTA ultimately did nothing to benefit Canadians generally. For instance, citizen 0015 stated,

In support of trade and economic growth I suggest you try to recover some of the manufacturing capability exported offshore under the [North American] Free Trade Agreement... Lastly you might try to recognize that your programme of emphasizing trade in order to support U.S. security is a flimsy cover for the U.S. initiative to integrate the two economies within a common perimeter.

The narrative that manufacturing was a major casualty of NAFTA and that Canada suffered as a result was a repeated theme. For instance, Citizen 0075 wrote,

My example is free trade. The prices in Canada remain much higher than US prices even though our dollar is at par. Free trade initiated a huge export of manufacturers to other countries where production costs are lower but our prices remain high.

In this sense, Canadian citizens problematized economic arrangements such as NAFTA and argued that they cost Canadians jobs and also ultimately hurt the Canadian economy. Again, as was the case in the increased risk of terrorist attack discourse mentioned above, Canadians often advocated that Canada remain autonomous in its pursuit of economic competitiveness.

Canadians also commonly stated that NAFTA was an example of a direct circumstance in which the United States had taken the lead on a collaboration in the past for their own intrinsic reasons, and thus also an example of the United States completely disregarding the views of Canadians in turn. Citizen 0026 stated, “I would like to see [an] end to Free trade [*sic*] and have my country back the way it was before Mulroney sold out to the big American corporate interests.” In this sense, corporate interests are problematized as corrupting national economics and not providing any tangible benefit to individual citizens. Citizen 0201 chose to highlight how the U.S. specifically used NAFTA as leverage to undermine Canadian interests:

We ARE secure as long as we are the masters of our own affairs, which means our present borders should remain as they are! We have seen NAFTA working only in one direction. May I remind you of the years of fighting corporate USA in our soft wood lumber disputes, where Canada was found to have a legitimate case repeatedly, but corporate america [*sic*] did not abide by the rulings and we lost billions.

In this sense, any further collusion with the United States on economic or joint border security arrangements seems ill advised given previous NAFTA-related disputes such as in the case of soft wood lumber. U.S. corporate interests seem to reign supreme in such arrangements with little concern for the welfare of private citizens (especially Canadian citizens). Citizen 0336 echoed this concern and provided NAFTA as an example of the United States’ unwillingness to abide by its own agreements:



Although we often have common interests, the United States has demonstrated quite often that they are not willing to abide by any agreements if they feel it is not in their best interest to do so. I see no difference between this proposal and NAFTA which they have flagrantly abused and ignored in the past.

While economic arrangements form a key problematized behaviour for Canadian citizens, NAFTA is used as an example of why Canada is ill advised to enter upon *any* further agreements with the United States of America. This is protracted of course onto the entire Action Plan on Perimeter Security and Economic Competitiveness (and not just the economic portion). As such, economic cautionary tales serve as direct evidence in citizen submissions that Canada should not be entering in any further security collaboration with the United States as well.

The above quotations highlight how many individual Canadian citizen submissions to the BBWG indicate that further collaboration and association with the United States will only serve to put Canada at a greater security risk – especially from terrorists – but also in terms of a negative impact on the Canadian economy. In this sense, while some Canadians chose to highlight exclusively the perceived security risk to Canada of further collaboration with the United States, others portrayed security and the economy as inseparable from each other and thus the perceived risks of economic collaboration can also be protracted directly onto security collaboration. Overall, Canadian citizens directly problematize further collaboration with the United States and see such collaboration as a greater security risk than sovereign or independent security provision.

### *3. Human Rights Discourse*

Another common discourse among individual Canadian citizen submissions was that new border security procedures are eroding human rights, privacy, freedoms, and democracy and that steps need to be taken to ensure that such inalienable constitutional and legal limitations on state actions are preserved for all Canadians. Citizens in opposition to the Action Plan frequently employed human rights-based concerns. For example, citizen 0032 stated,

Bio passports, finger prints, iris scans, cameras all over the place... I am sure that some grandma and grandpa will be tasered [*sic*] soon for no reason at all. Maybe some cars taken apart at the owners [*sic*] cost... We are not cattle – we claim to be humans.

There is the notion here that people are dehumanized as a result of electronic and other enforcement actions, in this quotation treated like cattle. Citizen 0106 was equally concerned about information sharing activities and likened it to spying:

I am very fearful of this idea. You are literally proposing to increase monitoring, that is, spying, on citizens of each country. As with other investigations, all monitoring should require judicial approval for individual instance [sic]. Its [sic] bad enough that the mounties [sic] keep tabs on politicians and [that] civil servants feel free to use privileged information to attack people.

This citizen also calls for some sort of judicial oversight of information sharing that would theoretically ensure the rights of Canadian citizens are protected. Citizen 0319 submitted,

The existing data base [sic] on travellers in the US is generally politically biased. It seems that anyone in authority can add a person's name to the list and the affected person has no recourse. It is nearly impossible to remove a name from the list regardless of that person's guilt or innocence.

This citizen highlighted U.S. watch lists as a potential violation of Canadian citizens' legal rights given that there is no legal recourse whatsoever to assist in getting a name off a particular list. Citizen 0272 stated,

Any agreement between our nations must not compromise Canadian sovereignty, the rights of Canadians, including our freedoms. Therefore, we should not have an 'open border' with the Americans. And we should not continue to give up our freedoms in the name of security.

This quotation provides a summary of similar submissions made by individual Canadian citizens that problematize state border security as antithetical to the rights and freedoms of Canadians. This discourse is very similar to the "security as illiberalism" discourse offered by Roach (2003), Amoores (2006), Welch (2007), Hudson (2009) and O'Malley (2010) as described in the literature review section of this thesis. Security in this discourse is portrayed as only reflecting the security needs of states while completely disregarding the rights and freedoms of citizens.

Privacy-based language was also used in order to oppose the Action Plan. Citizen 0095 advocated for the privacy of Canadian citizens while opposing information sharing with other nations in writing,

It is important for both countries to share information on perceived threats to actual security. HOWEVER – In no way should Canada permit monitoring of the communication of the citizens of Canada by its [sic] own agencies nor those of its [sic] neighbor the USA etc.

Some citizens highlighted the need for proactive disclosure to individual citizens of the reasons why their information needs to be shared with the United States. Citizen 0128 for instance stated,

Personal information is a very valuable commodity which US government [sic] actively seeks to obtain. The value and monetary cost of personal information is not fully recognized. Moreover, the accumulation of such information is prone to abuse, theft and etc. [sic] It must be the right of every citizen to know for what purpose, when and who has accessed their personal information stored by any government.

There is also the notion here that sharing information with the United States could leave Canadians' information prone to abuse and theft. Citizen 0238 echoed this concern in stating,

With respect to exchanging information I feel that my privacy would be violated, I like many Canadians do not trust the US to handle that information correctly and my or other persons' personal information could be leaked.

Citizen 0336 continued with requesting that the intent of information sharing be disclosed to Canadians:

For this reason I believe that the privacy of Canadian citizens must be paramount when it comes to sharing personal information with the Americans. It should never be done unless the Canadian Citizen in question has been informed of the intent to do so and given the opportunity to object to the release of their personal information... I believe any agreement on the release of personal information to ANY U.S. agency by any Canadian agency [must] have this protection at its core.

In the above quotation, legal recourse is again requested as a mechanism for opposing sharing of any specific information with the United States. In the above quotations there is the overwhelming sense that sharing information with the United States would violate Canadian citizen rights and that information would be abused or unjustly shared by the United States without legal recourse. As such, individual Canadian citizens problematize unrestricted information sharing with the United States as part of state border security practices because it is perceived to be antithetical to the privacy rights of Canadians. This again coincides with the security as illiberalism discourse identified above. Potential solutions offered by Canadian citizens included legal checks and balances on information sharing or a complete ban on information sharing with foreign states entirely.

Freedom of mobility seemed also to be a concern frequently mentioned regarding the Action Plan. This included directly advocating for complete freedom of movement in terms of Canadians crossing the border. For example, citizen 0036 wrote, "Other than screening for criminals and dangerous cargo, the state has no business interfering in the free movement of people and goods." Again there is a law-abiding citizen appeal presenting itself in which the citizen only advocates that the criminal other and dangerous or risky cargo get screened at the border, and everyone else have complete freedom of mobility across the border. Citizen 0066 similarly stated, "The visa is always a burden and key issue for staying and working. I hope that both governments can do something to encourage the free movement of people." The request for freedom of mobility also occasionally echoed concerns of business interest groups that business travel across North American borders is often burdensome and unnecessarily complicated. For example, citizen 0009 submitted,

Most of my work is scheduled in Canada. Occasionally I get urgent last minute requests to teach [*portion blacked out under s. 19(1) of the Access to Information Act*] courses outside Canada. If I am available, I will accept these international assignments with the sole exception of the United

States because of my experiences with US Homeland Security and the TN Visa process which is needlessly bureaucratic and unpredictable.

Freedom of mobility submissions also included suggestions that the Canada-U.S. border should be arranged in a way much the same as the Schengen Zone in the European Union in which security and immigration concerns are administered at the perimeter and then people have unrestricted movement between member nations inside the zone afterwards.<sup>10</sup> Citizen 0157 also stated,

I would recommend that the three NAFTA members follow the model of the European Union... institutions and programs could draw their inspiration from agencies like Frontex... Europol... and programs like the Schengen Information System... The goal of these... organizations would be the creation of a secure travel and customs area with strong external border controls (i.e. passport and customs controls for people and goods arriving from outside our three countries) and the eventual removal of internal border controls for travel between Canada, the United States, and Mexico.

Much like the suggestion that immigrants and refugees require strong policing while entering the continent (which will be discussed further below), this quote highlights how there is a perceived need for tight requirements only for those traveling from outside North America – not Canadians and Americans within the perimeter. In the above quotations, while Canadian citizens do not always problematize security as antithetical to freedom of mobility, they do nonetheless advocate for freedom of mobility provisions and practices within North America as part of the Action Plan. As such, Canadians often focused their construction of security to include mobility provisions consistent with freedoms and human rights provisions found elsewhere.

There was also the suggestion made by many citizens that the consultation process initiated by the Government of Canada was either non-transparent or otherwise fraudulent, and that democratic processes were suffering as a result. For example, citizen 0209 wrote, “So I would not be surprised if our concerns are not noted, because the concerns of corporate business and so called ‘security’ will be the only points of view taken.” In this quote, the citizen feels that the views of citizens will be deferred in order to instead take the views of corporate businesses and the security concerns of the state within the Action Plan itself. Citizen 0294 maintained that the consultation process is nothing but a smokescreen designed to accomplish state goals,

The really sad part about all this is that the comments that ordinary citizens include here will have zero effect on the larger target goals. This forum is nothing more than a part of the smoke screen to ease the population into accepting gradual erosion of their freedoms and rights.

In the aforementioned quotations, and in similar submissions by individual Canadian citizens, security is problematized as a state creation serving exclusively the needs of the state itself as well as private industry while not including any of the concerns of individual citizens. In this sense, many individual Canadian citizens felt that the aforementioned rights-based discourse would be completely overlooked in favour of a pre-set construction of security comprised of business and state interests.

Overall, many individual Canadian citizen submissions problematized the perceived loss of human rights, privacy, freedom of mobility, and democracy as a result of the border security provisions of the state. Security is portrayed as antithetical to human rights in a discourse very similar to the “security as illiberalism” discourse offered by Roach (2003), Amoore (2006), Welch (2007), Hudson (2009) and O’Malley (2010). Individual Canadian citizens often advocated for legal checks and balances regarding human rights, privacy, freedom of mobility, and democracy as potential solutions.

#### *4. Combating Illegal Immigration and Fraudulent Refugees*

Among individual citizen submissions, there was also the pervasive notion that states are not doing enough to combat illegal immigration, or that states need to do more to combat the threat of “outsiders” generally. This frequently invoked the notion that there are currently holes in the Canadian immigration system or that Canadian standards are overly lax. For instance, citizen 0147 wrote,

Immigration however, is a whole different story in my opinion. The laws are way too lax, and there are people getting into this country way too easily. The crime I see rise on account of new immigrants in my community is alarming and concerning to me and my fellow neighbours [*sic*]. This has to stop.

This quote firmly places immigrants in the category of the “criminal other” in opposition to the perceived law-abiding citizen born and raised in Canada. Citizen 0234 likewise stated,

Canada needs to align its immigration/border security controls to be the same as the USA. Using ESTA [and] Biometric [*sic*] immigration entry (US-VISIT). USA also needs to implement US-VISIT for EXITING humans. Canada needs to do this also. Canada is way too lax.

Here again, Canada is portrayed to be lax on immigration, and it is suggested that Canada should follow a supposedly less-lax United States model in order to align continental security and immigration controls.

As noted in one quotation above, citizens also frequently noted the existence of what they referred to as criminal or terrorist immigrants when immigration issues were discussed in submissions to the BBWG. Citizen 0227 submitted,

I would suggest that Canada tighten up its ridiculously open and lenient immigration and refugee system. Remove illegals quickly and change legislation to stop affording them all of the delays our legal system provides. Work with the US to stop boatloads of illegals from coming to our shores. Undocumented refugees and ‘immigrants’ arriving by plane should be sent back on the next flight.

In this sense, citizen 0227 firmly places migrants in the category of criminal immigrants and fraudulent refugees who come to North America illegally and are therefore undeserving of living in Canada. Citizen 0264 likewise stated,

Canada needs to stop being a doormat for illegal immigrants, mask-wearing illegals, and anyone who tries to jump the legitimate queue. Send them home on the first airplane, or refuse permission for their boats to come ashore. Only then, can Canada hope to work on an equal basis with the U.S.

In the above quotation again it seems that Canada is viewed as an “open door” of sorts for illegal immigration, and that there is a need for greater enforcement in this area to align Canadian policies with the United States. Citizen 0250 echoed this concern while also suggesting that Canada panders to the criminal and terrorist immigrant:

How about ACTUALLY deporting criminals instead of giving them years and sometimes decades of appeals.... Reduce immigration numbers... stop being so kindly [*sic*] to terrorists and maybe the US will take OUR national security seriously... Maybe keep illegal flesh peddlers and smugglers out of Canada. If a criminal is ordered deported... THEN DEPORT THEM... How about showing the WORLD that our justice system actually penalizes terrorists instead of coddling them and treating our own citizens like criminals.

Here, immigrants are paired with criminals and terrorists in direct contrast to law-abiding Canadian citizens. In essence, the citizen argues that the criminal immigrant should be treated as a criminal and not afforded rights and protections under the law whereas Canada should afford more rights and greater treatment to its own citizens (the law-abiding citizens).

Other immigration-related submissions focused on perimeter or other controls on immigration without specifically invoking the criminal immigrant discourse. Citizen 0098 for instance stated,

We should have a common security zone... anyone trying to come in from outside Canada/US would require the current strong requirements for entry. Anyone within the Canadian/US zone would be free to travel as with domestic travel between provinces/states.

Again is the notion that migrants from outside of North America should require strict security requirements while those living inside North America should not be problematized or securitized. Citizen 0235 similarly wrote,

With that said anything that needs to be done to protect our Country [*sic*] and its citizens should be done and the old adage [*sic*] an ounce of prevention is worth a pound of cure applies in this instance. Find it, Address it, Stop it [*sic*] before it reaches our shores.

Again there is the suggestion that migration from outside North America represents some sort of threat that needs to be pre-emptively stopped to protect those living in North America. Through all of the above quotations, it is apparent that many individual Canadian citizens problematize immigration and migrants generally, and also lax immigration laws more specifically. Citizens seem to offer greater immigration enforcement as a potential solution, along with lessening enforcement of North Americans inside the proposed perimeter in order to focus on those coming from outside the perimeter.

## **Other Interest Group Security Discourses**

### ***Introduction to Other Interest Group Submissions***

Approximately nineteen “other interest groups” provided submissions to the BBWG. The criteria used in identifying these other interest groups included: 1) that they are not businesses, business interest groups, or entire economic regions, and 2) that they did not advocate directly on behalf of the Government of Canada or specific government agencies. Of the nineteen identified other interest groups, submissions were acquired from eleven organizations. This included six “think tank” submissions, three human rights-based offices or organizations, one public service union, and one labour union. Perhaps most dismaying is the fact that submissions were not made available from the four First Nations organizations identified as consultation groups by the Government of Canada. Submissions were also not made available by two of the eight think tanks and one special interest advocacy group consulted by the BBWG. The Privacy Commissioner of Canada was included in this section of analysis given that the Privacy Commissioner represents Canadian citizen interests directly and is only responsible for reporting to Parliament and not necessarily supporting government initiatives. The specific discourses outlined by other interest groups are discussed below.

#### ***1. Human Rights Discourse***

Other interest group submissions first and foremost included the discourse that provisions about human rights, freedoms, privacy, and democracy must be made within the Action Plan itself as a check on state security-related activities. The Canadian Civil Liberties Association (CCLA) focused most of its comments on human rights, freedoms, and privacy issues. For example, the CCLA in its submission stated,

The CCLA recommends that the Action Plan must include safeguards consistent with the *Canadian Charter of Rights and Freedoms*... Such safeguards must include methods of accountability with respect to the necessity, proportionality and reasonableness of any collection,

dissemination, storage and use of personal information, including biometric information, of individuals (p. 2-3).

In this submission, the CCLA advocates for checks on government action in terms of border security techniques relying on sharing and using personal information. The CCLA was also concerned about information sharing abuses, calling for further restraints:

As demonstrated by the case of Maher Arar, inappropriate interjurisdictional information sharing can have grave consequences for the rights and lives of Canadians. The CCLA believes that clear procedures must be established regarding how information encountered during the course of a cross-border law enforcement action may be shared and used by U.S. officials. This would include a general prohibition against further using or communicating private and confidential information to other U.S. agencies or foreign governments (p. 7).<sup>11</sup>

Individual Canadian citizen responses also occasionally invoked the Maher Arar case in their responses as evidence that information sharing with foreign states requires checks and balances that ensure the rights and freedoms of Canadians are not disregarded or otherwise abused. The CCLA also called for greater checks on electronic security,

In particular, the CCLA would call for assurances that Canadian *Criminal Code* and *Charter* protections apply to any electronic surveillance, wiretaps, and disclosure of information by and among law enforcement agencies. Further, any disclosure of information from the private sector to government must comply with Canadian legal safeguards including those contained in the *PIPEDA* or equivalent provincial privacy legislation, and in the *Canadian Charter* (p. 9).<sup>12</sup>

Again, the CCLA advocates that Charter rights and other protections be applied not only to physical security techniques, but also electronic security and surveillance techniques. While most of the previous submissions focused on border security techniques as well as information sharing, the CCLA also includes electronic security and surveillance techniques as other security techniques occurring away from the traditional physical border while still contributing to the state need for security. This is an important discourse given that it reflects the recent trend of technology allowing borders to expand inward and outward from the traditional physical border and to encompass more and more aspects of life such that the border is theoretically everywhere (see Amoore 2006 and Broeders 2007 for instance). The majority of the CCLA's submission advocated for checks, balances, and legal procedures placed on states regarding border security and other surveillance techniques consistent with pre-existing legislation. In this way, the CCLA problematized unrestricted security practices of the state and offered legal protections as a potential solution in order to ensure human rights, freedoms, and privacy are protected. The concerns of the Council of



Canadians were very similar to the human rights, freedoms, privacy, and other concerns outlined by the CCLA.

The C.D. Howe Institute released a paper by Daniel Schwanen, Associate Vice President, Trade and International Policy in which he stated the concern that "...the Action Plan could be derailed if it does not pay attention to overarching considerations such as protecting individual rights and guarding against the misuse of confidential information" (Schwanen 2011: 1). The full report goes on to say

...the public should trust that restrictions applied for security reasons do not trump individual rights, or rights to privacy or confidentiality, without due process, at least in non-emergency circumstances. Canada needs to be transparent about the type of information it intends to share, why it is relevant to addressing security concerns, and what assurances there are that the information shared will not exceed what is necessary or be misused (Schwanen 2011: 3).

The C.D. Howe Institute called for a mechanism in which the state informs Canadians that their personal information is to be shared with the United States and that there is redress if information is improperly shared. In this sense, the C.D. Howe Institute problematizes unrestricted information sharing and proposes legal checks and balances as well as redress mechanisms as potential solutions.

The Privacy Commissioner of Canada also commented in this regard. The Privacy Commissioner's submission to the BBWG echoed what several individual Canadian citizens had also mentioned about U.S. Customs and Border Protection – namely that many citizens of Canada since 2005 began to report to her office about difficulties in crossing the border for the purposes of business, shopping, or to visit friends and family. In essence, while there is again the application of the law-abiding citizen appeal in the presumed innocence of these actions, the Privacy Commissioner goes on to explain that many of these difficulties occurred as a result of increased information sharing with the United States. She stated,

In Canada, many side-effects of mass collection, analysis and sharing of personal information with US security agencies and border authorities have clearly been unanticipated. These cases have ranged from the inconvenience of being stopped crossing the border on the basis of a suicide attempt five years in the past to the tragic rendition of a Canadian citizen to torture in Syria (OPC 2011: 2).

In this sense, the Privacy Commissioner appeals that law-abiding citizens should not be subject to the "inconvenience" of being stopped at the border based on perceived less-serious and less-risky activities such as past suicide attempts or – in the case of Maher Arar alluded to above – based on faulty shared intelligence. Regarding information sharing, the Privacy Commissioner stressed,

The major observation to emerge from those reviewed cases was the sensitivity investigators need to exercise before they label citizens with the word 'terrorist' or 'extremist' because of the

longstanding consequences arising from these individual profiles. Maher Arar, despite having been cleared of any wrongdoing in Canada, remains on the U.S. no fly list to this day (OPC 2011: 4).

Here, the Privacy Commissioner states that there are often no redress mechanisms for landing on a U.S. “no fly” or other security list. Furthermore, the Privacy Commissioner puts forth a notion very similar to labeling theory in criminology that once one is labeled as a “terrorist” or as an “extremist”, there are severe lasting consequences regarding mobility and treatment at the border in the future. Again, the Privacy Commissioner invokes the Maher Arar case as an example of why investigators should not be so quick to apply such labels to individual Canadian citizens or others. In this respect, the Privacy Commissioner recommended that the Government of Canada focus instead on the screening of cargo, goods, and facilities in order to minimize the collection of personal information.

The Privacy Commissioner also challenged the existence of biometrics, and noted how the Government of Canada has yet to legislate standards regarding minimum protections for biometric data. The Privacy Commissioner also questioned the sharing of biometric information with the United States, advocating instead for local storage of data in order to prevent the risks of covert collection, undisclosed usage for secondary purposes, cross-linking across applications or programs, function creep, and institutional data breaches (OPC 2011: 7). Regarding the sharing of medical records in the event of a public health crisis, the Privacy Commissioner warned,

The risk of function creep is amplified when the data in question pertains to medical records. Disclosure of medical records from hospitals to law enforcement has been viewed, both legally and civilly, to be a massive violation of individual privacy. Disclosure of these records to a foreign entity is questionable because control of data flows cannot be regulated (OPC 2011: 14).

The Privacy Commissioner concerned herself with function creep in regard to the sharing of information (particularly medical information) internationally. Again, there is the prevailing sense that once information is shared, Canada will inevitably lose control of just how such information is used unless certain legal safeguards are put in place. In general, the Privacy Commissioner stressed that cross-border law enforcement activities must be confined by proper legislation and also stressed the importance of deferral to the *Canadian Charter of Rights and Freedoms*, the *Privacy Act*, and the *Personal Information Protection and Electronic Documents Act* (OPC 2011: 16). In this sense, the Privacy Commissioner of Canada problematizes any unrestricted state security technique – physical or otherwise – and proposes legal checks and balances as potential solutions.

Other organizations like the Canadian Centre for Policy Alternatives (CCPA) likewise were concerned about rights, stating,

The latest of these attempts, the so-called North American Security Perimeter, currently under negotiation, is likely to meet the same fate as earlier efforts, short of a major surrender of Canadian control over, for example, immigration, refugee and information privacy policies (p. 1).

Here again there is the concern that the Action Plan would mean a loss of Canadian sovereignty as well as associated control over human rights, privacy, immigration, refugee, and other policies. The Council of Canadians echoed the concerns of the Privacy Commissioner and the CCPA in stating,

The Commission asked that checks and balances be put in place. They weren't. Yet the Harper government may be about to drastically increase the types and amount of information that is sent across the border, as if it were any other commodity. In other words Harper wants to unilaterally move us further down the path of integration without making existing security practices truly accountable (Barlow and Trew 2011).

A few other interest groups also commented that the perceived lack of democratic processes in relation to the Action Plan indicates that the construction of security will inherently be the construction of the state itself. The Council of Canadians presented in their submission to the BBWG the dual notion that Canada is selling out sovereignty to the United States and that the public consultation process is actually a fraud just so Canada and the United States can negotiate in secret. The Council of Canadians released an action alert on its website stating,

Prime Minister Harper... will sign the deal alone, without permission from the Canadian public, without approval from Parliament. It's typical of his government's anti-democratic record and we shouldn't put up with it. From media reports about the deal, there is no compromise. It could mean the wholesale adoption of U.S. security, surveillance, immigration, and military practices in return for a hollow promise of a 'thinner' border for trade (Council of Canadians 2011).

The Council of Canadians in the above quotation problematizes the notion that the construction of security in the Action Plan is essentially a U.S. creation without any Canadian concerns addressed. Secondly, the Council of Canadians also draws an apparent distinction between security practices and surveillance, immigration, as well as military practices. The Council of Canadians appears to construct security as basically border security practices with surveillance, immigration, and military practices constituted as something else not involving security.

Overall, other interest groups advocated for the development and implementation of legal checks and balances against the border security and other security-related practices of the state, particularly when it comes to the area of information sharing with the United States. In this sense, the lack of policies and

procedures entrenching the protection of rights, privacy, freedoms, and democracy within the Action Plan is problematized by other interest groups.

## *2. A Dualistic Immigration Perspective*

Immigration was also a concern of these other interest groups. As stated in the quotation above, the CCPA for instance was concerned that Canada would be losing sovereign control over immigration and refugee policies should it enter upon this Action Plan with the United States. The CCLA also commented on immigration matters:

Security Perimeter screening methods cannot be used to deny asylum-seekers the ability to reach Canadian borders to make a refugee claim. Similarly, individuals within Canada whose refugee claim is being processed, or who have received refugee status, must not be rendered vulnerable to new harms caused by conflicting US views regarding the status or claims of such individuals. The CCLA strongly recommends that the BBWG ensure that Canada maintain its legal commitments to refugees and asylum seekers, including upholding the prohibition against non-refoulement to any risk of torture. In particular, any rendition, deportation, removal or extradition of individuals from Canada to third countries, without full due process protections, is illegal (p. 4-5).

In this sense, rights based and other interest groups moved beyond individual Canadian citizen requests for greater security of the immigration and refugee process in Canada and instead concerned themselves with immigration and refugee rights and protections. This marks a clear shift from the individual Canadian citizen rhetoric of greater enforcement of the immigrant and refugee “other”. In this sense, some other interest groups problematize security practices that are perceived to target migrants. Rights and due process protections are offered as potential solutions. The Customs and Immigration Union (CIU) conversely focused some of its comments on greater immigration enforcement more along the lines of individual citizen comments. They suggested that Canada

[a]mend the Immigration and Refugee Protection Act (IRPA) Regulations for persons departing Canada to permit the matching of information to defined databases including information which would allow the matching of travelers with outstanding domestic criminal and/or deportation warrants... [and also] amend [IRPA] Regulations to permit the matching of information with US officials for matching to inadmissibility and lookout databases as jointly determined by Canada and the US (p. 2).

In this sense, the CIU appeals to the existence of the criminal immigrant frequently cited in individual Canadian citizen comments while also calling for greater enforcement capacity via greater information sharing mechanisms between Canada and the United States. Immigration enforcement measures are again problematized as inadequate and as not achieving intended purposes.

### 3. Risk-Based Pre-Emptive Techniques and Technologies

Several of the other interest group submissions also advocated for greater use of risk-based and pre-emptive techniques. The C.D. Howe Institute suggested,

First, it is necessary to move security-related verification mechanisms and personnel away from the actual border (an essential feature of the ‘perimeter’ concept), while simultaneously improving the two countries’ abilities to distinguish between secure and less secure shipments and individuals potentially headed for the border. Second, inspection at the border needs to focus more on potentially high-risk movement and less on secure shipments and individuals (Schwanen 2011: 2).

Here there is the notion that border officers and agencies need to more effectively use the risk-based techniques and pre-emptive measures at their disposal to separate the law-abiding citizen from those deserving of border security practices. Again, there is a distinction between those who are more secure or law-abiding, and those who are less secure or law breaking. As such, dividing practices are advocated for as a potential solution to the problematized behaviour of applying border security practices to law-abiding citizens needlessly. The Customs and Immigration Union (CIU) suggested similarly regarding cargo, “Develop common Canada-US cargo screening at Points-of-Entry so that suitably screened and secured cargo containers can be expedited for clearance at the Canada-US border” (p. 3). CIU also advocated for risk profiling in order to identify those who are low-risk (including commercial carriers) and separate them from higher risk individuals necessitating security measures. While there is not the notion present that there are “law-abiding citizens” in the CIU submission, there is still the notion that there are those who carry an acceptable level of risk, and that the state should

Implement pre-border clearance at selected locations [and] expand on mutually acceptable low-risk but well-monitored identification programs including modification of facilities to expedite the clearance of pre-approved travelers and commercial carriers (p. 3).

The Institute for Research on Public Policy (IRPP) published a paper that also advocated for the greater use of risk assessments to allow for differential levels of security. The paper stated:

We must engage in an open and honest discussion about the role that risk assessment plays in our approach to processing transborder passengers. Not all passengers, not all flights and not all destinations are equal from a security and interdiction perspective. For example, a weekly flight from Lahore or Lagos surely poses a different potential security interest than the thrice-daily flight from Allentown to Toronto. Similarly, the Bank of Montreal employee who travels four times a month from Toronto to Milwaukee to work on the Harris Bank merger presents an entirely different threat profile than a previously unregistered traveller on a route from a known global hot spot (McCoomb 2011: 48).

In the above quotation, the IRPP essentially problematizes blanket border security techniques that do not differentiate based on levels of risk. As a solution, the IRPP constructs security as a notion that is not

uniform in nature, but rather which may be separated into different levels of intensity in order to accommodate different levels of risk. In essence, security is constructed as a technique that can be applied differently to different people depending whether and to what extent they are perceived to pose a threat. Again there is also the suggestion that differential levels of risk exist between the law-abiding business worker traveling in North America and unknown outsiders entering the continent from outside the security perimeter.

Other interest groups also highlighted how technology is perceived to be a highly effective way to complete the tasks associated with border security while also not inconveniencing law-abiding citizens. The Customs and Immigration Union advocated that the Government of Canada

Expand the RCMP tested (already deployed in some areas) automated analytical marine and low-flying aircraft radar system on an integrated basis with US authorities to further support cross-border interdiction activities (p. 2).

Here, technology is presented as an infallible way to provide security to implicit holes in continental security, namely against marine-based and low-flying aircraft penetration of the perimeter. In this CIU submission, technology is equated to security with technology constructed as essentially *providing* security itself. Regarding the identified problematized behaviour then, technology is presented as *the* solution in and of itself. The CIU also wrote,

CIU has advocated the creation and deployment of an *Enhanced Lookout System* using face recognition biometric technology in multiple submissions to Government and Parliament as well as through officer safety complaints pursuant to the Canada Labour Code (p. 2).

In this sense, here and in the rest of its submission to the BBWG, biometric technology is portrayed as an infallible way to detect those perceived to be risky and those willing to do harm to Canada as well as a way to keep officers safe in enhancing the ability to detect dangerous individuals before harm occurs. The IRPP stated that there is a need to shift focus on how to best use technology to make the border more sophisticated and risk-based:

Regrettably, too often in Canada we speak of customs and immigration from the perspective of whether the individual agent is polite or greets the passenger appropriately. It goes beyond that. We need to focus higher and in a more sophisticated manner... We must make better use of technology, such as the established trusted-traveller program Nexus and emerging programs such as Automated Border Clearance (ABC), which, as the name suggests, uses automation through kiosk technology to process lower-risk passengers (Lennox 2011: 70).

While the IRPP quotation does not go as far as the CIU submission to construct security as technology, the quotation does still suggest that technology may be better used to assist in border security techniques. In this sense, technology is not equated with security but rather is portrayed as a method of security itself.

## **6. ANALYSIS**

### **Which Discourses Were Reflected in the Action Plan?**

The Action Plan of course serves as the main document for indicating how (and if) the Government of Canada used the consultation process in its construction of security. According to all accounts in the Action Plan itself and in other publications, the Government of Canadian initiated the public consultation process prior to the formation of the Action Plan in order to gauge public opinion and ultimately construct the plan in accordance with the needs of business interest groups, individual Canadian citizens, and other interest groups. While several security discourses as well as problematized activities were identified in the business interest group, individual Canadian citizen, and other interest group submissions in the sections above, the Action Plan must be analyzed to determine how (and if) these identified constructions and problematized activities contribute to how security is constructed within the Action Plan itself. In other words, the Action Plan document must be examined to determine if all discourses from all interested groups are universally adopted in the Action Plan, if the Action Plan selectively incorporates certain discourses while ignoring others, or if the Action Plan ignores all identified discourses with other constructions of security presented instead.

It should be noted firstly that several discourses found within the Action Plan were generally agreed upon by the identified parties in the consultation process – Canadian citizens, business interest groups, and other interest groups – notably, greater protections against terrorism generally, the increased use of risk-based techniques in order to profile more effectively at the border, increasing the flow of travelers across the border, protecting critical infrastructure, increasing cyber security, and so forth. The analysis that follows will instead focus on those key discourses identified in the sections above that were either unique to or shared by individual Canadian citizens, business interest groups, and other interest groups. In this way it should become clear which individual security discourses and problematizations from the consultation process are ultimately incorporated within the Action Plan.

#### ***Business Interest Group Discourses***

Prolific throughout the Action Plan are commitments to several of the suggestions made by business interest groups in submissions to the BBWG. In fact, business interest groups seem to have the majority influence (other than government) on how security is constructed within the Action Plan itself with



most business interest group concerns addressed and plans made to correct associated problematized behaviour. First, business interest groups of course primarily focused most of their submissions on compelling the government to work toward a more predictable border in order to facilitate supply chain management. This included requests to harmonize policies that are perceived to negatively impact supply chain management, remove redundant searches, establish more uniform immigration and security techniques, formalize officer discretion, eliminate random border exams, and move inspections away from the border. Underlying all the aforementioned discourses was an overarching assumption amongst business interest groups that while security is important to ensuring business prosperity, security should not trump trade and the economy. In this respect, business interest groups often advocated for a “lesser of two evils” approach to security in order to promote trade and profit rather than stymie it. Security itself is therefore mostly portrayed as a need of the state that often conflicts with the needs of individual businesses to increase profit. The Action Plan itself seems to adopt this construction of security, acknowledging that the state need for security should not trump the needs of businesses while also instituting the “lesser of two evils” approach to security. In the introduction to the section, “Part II: Trade Facilitation, Economic Growth and Jobs” the Action Plan explicitly states:

The free flow of goods and services between Canada and the United States creates immense economic benefits for both countries. As our two countries work to strengthen the security of our shared perimeter, we will take steps simultaneously to create more openness at the land border for legitimate travel and trade (GOC 2011a: 13).

The Action Plan therefore constructs security as a need of the two states involved in the Action Plan itself and also presents security in direct opposition to the flow of legitimate travel and trade.

Many of the solutions presented in the Action Plan to achieve these perceived opposing needs of security as well as trade and travel facilitation reflect many solutions to problematized behaviours identified by business interest groups. For example, business interest group requests to harmonize previous policies that are perceived to negatively impact supply chain management were met in the Action Plan. For instance, the Action Plan states that governments will “Align Canada’s Customs Self Assessment and the United States’ Importer Self-Assessment programs to the greatest extent possible...” (GOC 2011a: 14). The Action Plan also states that Canada and the United States will

Develop a harmonized approach to screening inbound cargo arriving from offshore that will result in increased security and the expedited movement of secure cargo across the Canada-United States border, under the principle of ‘cleared once, accepted twice’ (GOC 2011a: 6).

The “cleared once, accepted twice” discourse was consistently advocated for by business interest groups.

Also included in this regard were requests to remove redundancy. Again, these requests were met throughout the Action Plan. For instance, the Action Plan states,

We will develop an integrated, multi-modal customs and transportation security regime, which will reduce duplication and move activities away from the Canada-United States border (GOC 2011a: 6).

Here we see that two of the business interest group suggested solutions to problematized behaviours are incorporated – essentially that predictability of border security should be increased by removing duplicitous search activities as well as moving search activities away from the border itself. Similarly, the “cleared once, accepted twice” discourse is again repeated regarding removing redundancy, “Mutual Recognition of Air Cargo: We expect to reduce the number of air cargo loads rescreened to zero beginning in March 2012” (GOC 2011a: 7).

Regarding business interest group requests for more uniform immigration and security techniques as well as more formalized use of officer discretion, the following section of the Action Plan directly addresses many specific concerns:

By June 20, 2012, the [CBSA] and U.S. [CBP] will provide enhanced administrative guidance and training to their officers and enhanced operational manuals to achieve optimal operational consistency at all ports of entry on business traveller issues... We will review current administrative processes under which all categories of business travellers may request adjudication of employment and related petitions by the destination country’s immigration authorities to identify and resolve potential issues prior to the actual date of travel... By June 30, 2012, we will review the effectiveness of existing redress and recourse mechanisms for business travellers whose applications are denied... (GOC 2011a: 18).

This quotation incorporates many of the solutions to problematized behaviours championed by business interest groups. Business interest groups advocated for more formalized officer discretionary decisions to make the border more predictable, and at least one business interest group requested specifically that its employees be granted business immigration clearance before reaching the border to enhance predictability regarding the flow of employees across the border. Both of these measures were included in the Action Plan. Also notable in the above quotation is the fact that officers will receive training in order to make business traveller crossings more “consistent”. The inclusion of redress and recourse mechanisms for business travellers whose applications are denied by the state is interesting since it appears to be a measure not advocated for specifically in any of the obtained business interest group submissions, but is nonetheless

incorporated by the Canadian state as a measure to increase predictability and uniform decisions at the border.

Business interest groups also raised the collection of inspection fees as an unpredictable feature of border security regimes. In this respect, the Action Plan promises to reduce costs to businesses crossing the border and promote trade competitiveness by

Develop[ing] for each country an inventory of fees and charges at the border which sets out their purpose and legal basis, how they are collected, how much is collected, their intended use and the rationale for collecting them at the border; and commission[ing] a third party to conduct an economic impact assessment of such fees... on the competitive position of three economic sectors in Canada and the United States for which cross-border activity is important (GOC 2011a: 19).

The control of border security fees as well as the establishment of a commission designed to conduct economic impact assessments was again a potential solution championed directly by business interest groups.

Secondly, performance metrics and measures recommended by business interest groups were frequently mentioned throughout the document regarding measuring progress of the various new initiatives contained in the Action Plan itself. In this sense, the Action Plan adopts the business discourse that constructed security as measurable and subject to economic efficiency metrics. For example on the first full page of the document it is stated that “The framework will leverage existing forums, emphasize the need to economize resources and establish performance metrics” (GOC 2011a: 4). In commenting on establishing common approaches to screening travellers, the Action Plan states:

Canada will join the United States in tracking performance indicators, such as the number of inadmissible persons denied permission to travel, the number of high-risk targets identified and the number of subsequent enforcement actions taken that were facilitated by targeting (GOC 2011a: 10).

In this respect, it is apparent that much as was the case for business interest groups, the Canadian state agrees that border security techniques can be subject to performance indicators to measure success and increase efficiency. Regarding trusted trader programs, the Action Plan proposes that Canada and the United States

...will identify and assess options to collect data in advance through streamlined and more efficient means that are more responsive to shippers' business processes... The Canada Border Services Agency and the U.S. Department of Homeland security will measure the increased membership in trusted trader programs, the associated increased volume of trade covered by the programs, and lower examination rates and processing times for members. We will assess the success of the pilots discussed above and whether they have expedited trade (GOC 2011a: 15).

In this respect, even trusted trader programs designed to increase information available to the state to aid in security and the flow of goods across the border is reducible in the context of the Action Plan to simple performance measurements. Even environmental improvements are offered as a benchmark or performance indicator for border security in the Action Plan: “Reductions in the environmental impact due to reduced border wait times will be measured in decreases and percentage decreases in tons of greenhouse gas emissions” (GOC 2011a: 20). In discussing alleviating border wait times in order to help the economy, the Action Plan states:

The Canada Border Services Agency and U.S. Customs and Border Protection will develop a plan to identify reasonable and achievable border wait-time service levels at major crossings... This may lead to increased efficiency and reduced delays at the border (GOC 2011a: 21).

Again, border security practices are portrayed frequently within the Action Plan as needing to be subject to performance indicators, efficiency metrics and measures, and so forth. This is very much in line with how business interest groups constructed security in their BBWG submissions.

Business interest groups also called for more direct benefits for those in voluntary trusted trader programs in continuing with their overarching discourse that security should not trump trade. The Action Plan again reciprocated this discourse. For instance, regarding advance data requirements for shippers, the Action Plan promises to,

Identify and evaluate options, by September 2012, under which trusted traders could use alternate processes and approaches to submit advance data elements, including examining whether and how existing program flexibilities can be enhanced (GOC 2011a: 6).

In the introduction to “Part II: Trade Facilitation, Economic Growth and Jobs”, the Action Plan states, “The Beyond the Border Action Plan enhances the benefits of programs that help trusted businesses and travellers more effectively across the border...” (GOC 2011a: 13). The Action Plan goes on to state that this will include harmonizing the Partners in Protection program with the Customs-Trade Partnership Against Terrorism program and offering new benefits, including an automated enrolment system and extending FAST benefits to the two aforementioned programs starting mid-2012 (GOC 2011a: 14). Business interest groups in their submissions to the BBWG made this specific request time and time again, and the Action Plan reciprocated. The Action Plan also addresses another business interest group request that FAST cards used by truck drivers be extended to also cover other specified security programs such as NEXUS (GOC 2011a: 15). It also accepts another business interest group suggestion that NEXUS client profiles contain

relevant immigration and other documents in order to expedite business traveler clearance across the border (GOC 2011a: 18).

In addition, risk-management techniques posited by business interest groups as *the* solution to border security and efficiency issues were also adopted in the Action Plan. For instance, “In addition, we will explore product-specific pilots aimed at lowering inspection rates for certain industry sectors based on regulatory compliance history” (GOC 2011a: 15). This met the business interest group request for lowered inspection rates as well as differential risk-based assessments of businesses based on their prior or current cooperation with the state. This section will not go into any great detail about risk-management techniques since – as mentioned at the outset of this section on the Action Plan – the use of risk by states was a discourse generally agreed upon in submissions by the three submission groups involved in the consultation process. Suffice it to say though, the Action Plan contains a great deal of risk-based discourse that specifically benefits private industry.

When it comes to business interest groups, it actually seems the only repeated discourse *not* specifically adopted by the Action Plan was the request that Canada and the United States eliminate random examinations because they are perceived to be ineffective and end up costing businesses money needlessly. While the Action Plan made no commitment to this effect, as mentioned above, the Action Plan did agree to provide an inventory of fees and allow for third-party study of the impact of these fees against economic regions (and perhaps ultimately their removal). In a sense then, the state may be taking steps in making random examinations less “painful” economically for businesses by removing the random examination inspection fees that businesses actively protested in their submissions, though it seems random examinations themselves will not specifically be removed anytime in the near future. Overall, the Action Plan adopts the overarching discourse amongst business interest groups that while security is important to ensuring business prosperity, security should not trump trade and the economy. The Action Plan also adopted many of the “lesser of two evils” approaches to security advocated for in business interest group submissions as potential solutions to problematized behaviours. In this sense, the Action Plan also therefore constructs security as a need of the state that often conflicts with the need of individual businesses to increase profits.

### *Individual Canadian Citizen and Other Interest Group Discourses*

Present in the Action Plan is a notion very similar to the law-abiding citizen appeal identified in the individual Canadian Citizen and other interest group submissions. In the Action Plan, the Government of Canada assures that in conjunction with the United States, border security techniques and technologies can effectively separate the law-abiding citizen from the criminal other (including also the immigrant or refugee other) and subject individuals to screening measures accordingly. For instance, in the introduction to the section “Addressing Threats Early”, the Action Plan states:

The Beyond the Border Action Plan will support this goal by developing a common understanding of the threat environment; aligning and coordinating our security systems for goods, cargo, and baggage; and supporting the effective identification of people who pose a threat, which will enhance safety and facilitate the movement of legitimate travellers (GOC 2011a: 3).

This quotation is congruent with the discourse supported by individual Canadian citizens that there are in fact law-abiding citizens and law-breaking citizens, and that these two groups need to be separated from each other at the border in order to facilitate security and “legitimate travel”. The Action Plan also included a new type of threat not identified in individual citizen, business, or other interest group submissions, namely homegrown extremism. Again, the homegrown extremist is presented as a criminal other in need of greater enforcement:

We will: Coordinate and share research on how people become radicalized and turn to violence; Share best practices and tools for law enforcement and corrections partners to detect, prevent and respond to this threat... Emphasize community-based and community-driven efforts. This will include collaborating on how to engage with communities and build their resilience against violent extremists who seek to target specific communities in our respective countries... (GOC 2011a: 5).

While point one seems to indicate that anyone can potentially become an extremist, points two and three seem to limit the class to those dealing with law enforcement and corrections officials (i.e. known criminals who have gone or are currently going through the penal system) and those who are “violent” and act in opposition to the goals and values of communities (i.e. the criminal outsider or other). In this sense, there is a clear distinction between criminal outsiders and law-abiding members of a community.

Also present is the “criminal immigrant” and “immigrant outsider” discourse in submissions made to the BBWG by individual Canadian citizens and other interest groups (most notably the Customs and Immigration Union). Largely absent in the Action Plan is any appeal to immigrant rights or refugee rights mentioned in submissions made by the Canadian Centre for Policy Alternatives and the Canadian Civil Liberties Association, among others. The Action Plan states:

Canada and the United States will screen travellers seeking to enter either country in order to: At the earliest point possible, identify individuals who seek to enter the perimeter for *mala fide* purposes and prevent them from travelling to Canada and the United States; Prevent individuals from assuming different identities between one country and the other; Identify those who have committed serious crimes or violated immigration law in the other country and enable informed decisions on visas, admissibility or other immigration benefits... (GOC 2011a: 9).

In this sense, migrants from outside of the perimeter are portrayed as criminal immigrants with *mala fide* purposes, deserving of attention and border security measures to keep them out of North America. Unlike the law-abiding citizen appeal mentioned above, the Canadian state does not make any mention of “legitimate migrants” like they do “legitimate travellers”. Therefore, there is no contrast between the criminal migrant and the law-abiding migrant – there is only the presentation of the discourse of the criminal migrant. In two more subsections, the Action Plan in talking about screening travellers again continues with the discourse of the criminal immigrant. For example,

We will... provide access to information on those who have been removed, or who have been refused admission to, or a visa from, either country, as well as those who have been removed from their respective countries for criminal reasons; and implement a systematic and automated biographic informing-sharing capability by 2013 and biometric information-sharing capability by 2014 to reduce identity fraud and enhance screening decisions... We also will explore opportunities to broaden asylum cooperation to address irregular migration flows (GOC 2011a: 10).

Again, there is only the construction of the migrant fraudster and the “irregular migrant” refugee, and no mention of any law-abiding deserving migrant or refugee. It appears in this quotation that while the Customs and Immigration Union’s request for greater ability to share information regarding immigration and refugee violators was met, the views of other interest groups regarding immigrant and refugee rights were largely ignored in the Action Plan.

What is also notably absent from the Action Plan is the human rights, freedoms, privacy, and democracy language that comprised many of the critiques and concerns about the Action Plan asserted by individual Canadian citizens and other interest groups. In fact, such language only appears on three pages of the 32 page main Action Plan document. Two of the instantiations occupy only one part of one sentence in two different places in the document. On page four the first such mention is made: “Promoting increased informal sharing of law-enforcement intelligence, information and evidence through police and prosecutorial channels consistent with the respective domestic laws of each country” (GOC 2011a: 4). On page nine, the second mention is made, “Share relevant, reliable and accurate information within the legal and privacy regimes of both countries, such as information contained in biographic and biometric national-

security watch lists, certain traveller criminal-history records and immigration violations” (GOC 2011a: 9). Ironically, the majority of such language can be found on page 32 – the very last page of the Action Plan main document. It is as if human rights, freedoms, privacy, and democracy concerns were an afterthought to the agreement, presented after the bulk of the border-related recommendations and just before the “Annex” section. Interestingly, this section appears on only half of page 32 and only after another section concerned with forming a steering committee to ensure the security and economic plans mentioned in the Action Plan progresses forward as detailed. The bulk of the discussion of privacy rights states,

Responsible sharing not only demonstrates respect for the rule of law but also facilitates and promotes the flow of accurate, relevant and necessary information to address threats to national security and conduct law enforcement while respecting citizens’ civil liberties. It is in this spirit that the *Beyond the Border* Declaration commits our two countries to protecting privacy in all the initiatives we are undertaking and to stating the privacy protection principles that will inform and guide our work in this regard (GOC 2011a: 32).

While this statement recognizes a “commitment” on the part of government to adhere to privacy law and principles, and the paragraph that follows states several ways in which this can be developed, the Action Plan contains no specific guidelines, privacy principles, or other provisions *legislating* or *ensuring* Canada and the United States adhere by their commitment. Furthermore, the Government of Canada states that in regard to the drafting of a joint statement of privacy principles, “Public Safety Canada, the Department of Justice Canada, the U.S. Department of Homeland Security and the U.S. Department of Justice will complete the statement by May 30, 2012” (GOC 2011a: 32). Thus, rather than reassuring private citizens as recommended by the Privacy Commissioner and other interest groups, the governments of Canada and the United States instead did not provide any privacy or rights provisions in the Action Plan itself, deferring it instead until May 30, 2012 while also highlighting throughout the entire document several ways both governments plan to use perceived intrusive techniques to invade privacy, disregard human rights, and sacrifice democracy all without checks or balances in place. While other measures in the Action Plan have benchmarks and projected dates of implementation and so forth, privacy rights are afforded only a non-binding commitment and a “due date” for a non-binding joint statement of privacy principles not actually even contained in the Action Plan itself.

Also notably absent are any mechanisms addressing the numerous complaints filed to the BBWG by individual Canadian citizens and some other interest groups that the consultation process was fraudulent or that citizen remarks would be largely ignored in the Action Plan itself. In this sense, the construction of



security was problematized in that it presented as a state or corporate construction that ultimately did not reflect the views and needs of individual Canadian citizens. As mentioned above, it does seem several of the problematized behaviours identified by individual citizens and other interest groups were in fact ignored by the Canadian state in drafting the Action Plan. The very absence of any comments about these problematized behaviours seems to show the Canadian state's lack of enthusiasm for listening to, addressing, and correcting non-business and non-government concerns brought forth in the BBWG public consultation process. Furthermore, throughout the entire Action Plan, regarding implementing the various measures outlined in the document, the Action Plan makes mention of consulting only government agencies (entire document) and private business stakeholders (pages 14, 18, 22, 28, 29) as the process moves forward. There is no mention of any further public or NGO participation on any of the mechanisms throughout the entire document. Particularly, there is no mention of further public, NGO, or Privacy Commissioner consultation regarding these groups' main areas of concern, namely human rights, privacy, freedom and democracy issues. There is also no mention of further public, NGO, or Privacy Commissioner consultation in the anticipated joint statement of privacy principles. Furthermore, several individual Canadian citizens and some other interest groups maintained that the construction of security would be unilateral or based on a construction designed by the United States with no reference to the consultation process. Some other interest groups similarly brought forward the issue that the Government of Canada had largely failed to address Parliament about the Action Plan and had thus also failed to allow for any relevant democratic debate.<sup>13</sup> Other than mentioning that "appropriations to support implementation will be sought through the normal budgetary process of each country" (GOC 2011a: II), there is no mention made anywhere in the document of the Government of Canada planning to provide Parliament with any status reports, consult Parliament on any of the future issues related to the Action Plan, or involve Parliament in any other way in the process whatsoever. A few sections mention filing "public reports", but it is unclear whether or not Parliament will ultimately be consulted on or debate these reports, or if the reports will simply be released on government websites. The fact that the Action Plan contains no further public consultation or parliamentary oversight mechanisms stands in stark contrast to a statement made in a Government of Canada document summarizing the submissions made by interest groups to the BBWG, which stated:

This report is the beginning of the process, not the end. As the Action Plan is developed and implemented, there will be ongoing discussions with Canadians. Some measures may require further, detailed consultation, including parliamentary oversight. Overall, the Government of Canada believes that the input Canadians have provided will ensure an Action Plan that better aligns with the interests of Canadians, and of Canada (GOC 2011b: 5).

While this statement provided a firm commitment toward further consultation of Canadians as well as parliamentary oversight, and both Canada and the United States mentioned a firm commitment to human rights, privacy, freedoms, and democracy in their *Joint Declaration for a Shared Vision for Perimeter Security and Economic Competitiveness*, the Action Plan itself contains little-to-no mechanisms to address or ensure these concerns are met or that the Canadian public was or will be consulted and their concerns addressed and met in regard to the Action Plan.

Lastly, it also appears that no mechanisms were introduced in the Action Plan to deal with the individual Canadian citizen discourse that further integration with the United States could serve to increase Canada's risk of terrorist attacks or other security issues rather than decrease such a risk. There is no mention whatsoever of the United States' foreign policy record and ethics violations that were often raised by individual Canadian citizens. In this sense, the Action Plan promises to forge ahead with deeper integration while offering no measures to allay existing Canadian fears. In short, it should be evident that while a vast majority of business interest group discourses surrounding security were adopted in the Action Plan document, individual citizen and other interest group discourses were far more selectively incorporated, if at all. From the findings above, a discussion about what governmentality can therefore be discerned follows.

### **What Governmentality Can Be Discerned?**

#### ***Business Interest Group Security Discourses***

First and foremost, the business fascination with risk, predictability, minimizing risk (especially in the supply chain), efficiency models and metrics, and overall profitability reflects the proliferation of neo-liberalism. This shift in economic policies ultimately has resulted in corporations that are essentially obsessed with risk management, single-focused on reducing costs and maximizing profit, and resistant to any form of government management or regulation that might act to negatively influence the supply chain or profit potential of businesses and business groups (Snider 2000). This neo-liberal discourse was echoed time and time again in business interest group submissions to the BBWG. In a sense, the corporate world

has used the neo-liberal obsession with risk and precautionary logic characterized in Ericson (2007) to effectively problematize government intervention in the economy. According to Ericson (2007), neo-liberalism is juxtaposed to social liberalism, which is seen to emphasize too much security (Ericson 2007: 5). Neo-liberalism therefore attempts to transform risk from being a technique of social security (under the liberal social imaginary) to a responsibility to be assumed by individuals, corporations, or other self-governing entities (Ericson 2007: 5). As stated previously then, under a neo-liberal economic model, the state should only be serving as a facilitator and enabler of self-governed entrepreneurial risk-taking. Any action that acts to curb or otherwise disrupt entrepreneurial risk-taking is – as Snider (2000) points out – effectively resisted, repealed, disobeyed or evaded as corporations “educate” citizens and government about the virtues of free markets and government non-intervention.

As a result of the spread of neo-liberalism as an economic mantra and way of doing business generally, there has been a subsequent spread of techniques such as the “just in time” philosophy of manufacturing.<sup>14</sup> In this respect, “time” has become a key risk factor negatively influencing costs associated with supply chain management. In controlling risk factors, Peck (2006) describes the commonly studied business practice of “Agile Six Sigma” that was put forward by Christopher and Rutherford (2004).<sup>15</sup> Most important to this notion is the principle that risk or redundancy (such as time) “should be held in reserve to counteract or overcome exceptionally disruptive events” (Peck 2006: 133). Business interest groups constantly voiced these kinds of concerns in their submissions to the BBWG – that unpredictable time-related border security activities should be counteracted or completely overcome in order to ensure that the supply chain remains unimpeded by government regulation. This included calls for faster processing times and reduced procedures for trusted trader companies, offsite inspections so that goods can move seamlessly through the border itself (and not therefore add unpredictable time burdens on supply chain management predictions), the end of unpredictable random examinations that delay goods at the border, and so forth.

Regarding border security specifically and its associated risks to business, Globerman and Storer (2009) highlight how much previous research has indicated that there are direct damaging costs to Canadian businesses due to the indirect consequences of longer and less predictable waiting times for shipments to cross from Canada into the United States (Globerman and Storer 2009: 172). We see these concerns echoed time and time again in the sample submissions to the BBWG. There is the prevailing notion among business

interest groups that profitability concerns in terms of supply chain management, reducing time-related variables, reducing costs, and maximizing profit are paramount and indeed should not be superseded by state border security activities that are perceived to negatively affect the economy.

According to Ericson (2007), it is in these very neo-liberal conditions where risk, prediction, and uncertainty tend to become more prominent tools of governmentality. We see this in the business interest group submissions to the BBWG in which state border security techniques are constructed as a barrier to economic security, which in turn increase the level of risk necessary for the private industry to do business, stimulate the economy, and create jobs – conditions of the liberal social imaginary. As such, the state is ultimately blamed for stagnation of the economy and is tasked with a mandate to remove those problematized policies, practices, and risks in order to make border security more predictable, less unknowable, and therefore subject to the *laissez-faire* economic risk calculations and metrics as posited by Foucault (2008). Again, these problematizations are not rendered as a result of neutral language and interpretation, but rather are focused via political lenses and processes where, in this particular case, economic considerations and economic benefit so characteristic of the neo-liberal economic order reign supreme and are *the* considerations whereby all interpretations are made. All things are therefore rendered governable by economics. Risk analysis therefore becomes *the* platform whereon the state places the Action Plan on Perimeter Security and Economic Competitiveness, increasing various measures of data collection – including the use of biometrics and voluntary participation in information-based security programs like NEXUS, C-TPAT, PIP, FAST, and so forth – in order to accelerate the prevalence of risk calculations, focus security practices, and thus allow a theoretically more free flow of people and goods across the border in order to achieve the physical security needs of the state while also particularly working to correct those problematized security techniques constructed as barriers to the economic goals of businesses.

#### ***Individual Canadian Citizen and Other Interest Group Security Discourses***

An appreciable number of private citizens supported the risk-based policies and techniques of the state in terms of border security, and a few citizens also supported an increased flow of trade across the border in order to stimulate the economy and job growth. However, it is also the case that the vast majority of citizens as well as other interest groups were concerned in some way about violations of human rights, privacy, freedoms, and democracy. Since these concerns were rarely reflected in government publications

or in business interest group submissions to the BBWG, but are featured prominently in the submissions from private citizens and other interest groups, one must question what present governmentality ultimately contributes to such discourses being ignored.

While it was mentioned above that individual Canadian citizens and many other interest groups had a “security as liberalism” construction of security – namely that the state need for security should not trump liberal notions of human rights, privacy, freedom, and democracy – ultimately neo-liberalism instead fosters a “security as illiberalism” construction of security. As citizens request greater rights, privacy, and freedom of mobility regarding border security practices, risk-based techniques ultimately increase in order to meet the private citizen, industry, and other interest group joint demand to separate the law-abiding citizen or shipper from the risky individual or group. In this respect, surveillance of the so-called law-abiding citizen or shipper must also increase in order to make this separation theoretically possible. In this respect, the state is compliant in terms of listening to and adopting the neo-liberal citizen demands for separation of groups by criminality and thus differential levels of enforcement. From there, a cycle develops in which increased surveillance leads to more and more surveillance to continue making this distinction possible. Ericson and Haggerty (1997) explain this cycle essentially as a private citizen backlash to neo-liberal risk-based techniques. They state that

...privacy is constituted by what escapes institutional risk management surveillance... The quest for privacy results in part from structural features of risk society. The more people fear the risks of public involvement, the more they withdraw into a privatized lifestyle. The more people are risk-profiled according to their population identities, the more they feel individualized and separated from those not so identified (Ericson and Haggerty 1997: 117).

In this sense, privacy is only attainable through trust, which can only be made attainable through surveillance (Ericson and Haggerty 1997: 117). What this ultimately means is that the more surveillance mechanisms are used, the greater the realization becomes that trust is difficult to obtain. Therefore, “The greater the presumption of distrust, the greater the space for surveillance, and so on, in an amplifying spiral” (Ericson and Haggerty 1997: 117). In essence then, while the neo-liberal subject advocates for risk profiling of “criminals” or non-law-abiding citizens, he or she is also inevitably advocating for greater risk profiling against the presumed law-abiding citizen in order to theoretically identify him or her as a “law-abiding citizen”. Greater and greater techniques of risk must then be used to establish trust and gauge risk. This then creates the pushback for rights, privacy, freedoms, and democracy so characteristic of individual Canadian

citizen and other interest group submissions to the BBWG and also the demand that “innocent” people be treated as law-abiding citizens. This also included individual citizen submissions to the BBWG calling for the greater employment of technology to aid in the identification of “risky” people while also simultaneously advocating that law-abiding citizens be left alone. This again results in further surveillance and risk profiling of every citizen in a cyclical manner. Therefore, while citizen constructions of security focus heavily on liberal notions of human rights, privacy, freedom, and democratic protections, it is the case that neo-liberal constructions of security dominate the construction of security presented in the Action Plan itself in that risk and surveillance beget further risk and surveillance and thus draw away from liberal discourses in favour of neo-liberal ones.

### ***Action Plan Security Discourses***

Of the submissions received by the Government of Canada from individual Canadian citizens, business interest groups, and other interest groups, it is apparent that security is constructed within the context of the Action Plan on Perimeter Security and Economic Competitiveness in an overwhelmingly neo-liberal way. Of all the unique discourses identifying problematized behaviours derived from private citizen, business, and other interest group submissions to the BBWG, those behaviours that are specifically problematized under a neo-liberal focus are almost universally adopted in the Action Plan. The Action Plan also subsequently universally ignores those behaviours that are not specifically problematized under a neo-liberal focus. It can be concluded then that the construction of security presented in the Action Plan systematically differed from constructions offered in the consultation process in patterned ways. While the consultation process contained a variety of different discourses regarding the construction of security, problematized behaviour, and subsequent remedies used, the Action Plan was much more selective and discriminate in its selection of discourses. In this sense, the neo-liberal submissions made by business interest groups to the BBWG ultimately meshed nicely with the continuing neo-liberal *laissez-faire* relationship between private industry and government that developed through the latter portion of the 20<sup>th</sup> century and into the 21<sup>st</sup> century, as described, for example, by Harvey (2005). In terms of the Action Plan, while the governments of Canada and the United States pursue the liberal imaginary of security provision for their respective populations, this goal is not balanced against neo-liberalism but rather measured and actively controlled by neo-liberal economic concerns. In this respect, security is constructed as neo-liberal

in that it may be subjected to performance and efficiency metrics characteristic of the neo-liberal economic order itself.

In earlier government publications prior to the release of the Action Plan, and in the Action Plan itself, it seems that both the governments of Canada and the United States recognize that while security is a primary concern for North America, much like it was in the 1970s according to Harvey (2005), economic benefits and job growth are also a concern. Since the beginning of the economic downturn in 2008, the governments of Canada and especially the United States began scrambling to “jump start” the economy and stimulate job growth. While discussion of a perimeter security arrangement existed long before 2008, the Action Plan is ultimately predicated on an economic neo-liberal discourse that serves to directly address concerns related to increasing business profits with the concomitant promise of also jump starting the economy and stimulating job growth. Perhaps this is why eleven pages of the Action Plan are dedicated to measures designed to accomplish the goals implicit in the title of the section: “Part II: Trade Facilitation, Economic Growth and Jobs,” while human rights and privacy issues are afforded half of a page on the last page of the document. These goals coincide nicely with the goals of jump-starting the economy and stimulating job growth characteristic of state economic needs found after the economic downturn in 2008. Submissions made by business interest groups to the BBWG to this end proposed that essentially the best way to achieve the dual goals of security and economic benefit laid out in discussions of such an Action Plan is for states to subject security to performance measures and remove or harmonize those policies and practices that are particularly inefficient. This was exemplified in business interest group requests for more formalized officer discretionary decisions, removal of redundant and random searches, and so forth that were all perceived to be state security practices that presented a barrier to international trade and the pursuit of profits. By removing these perceived inefficiencies there is also a concomitant promise of increased flow of goods and people across the Canada-U.S. border in business interest group submissions. Accordingly, the state’s behaviour is problematized and the state is also tasked with implementing solutions to the identified problematized behaviour. The state then will focus only on those security practices that are most “effective” and thus also simultaneously allow businesses greater control of supply chain management. The perceived greater control of the supply chain exists when border barriers are inherently removed, thus decreasing costs for industry and implicitly leading to increased job growth and economic production the state so values

under the liberal social imaginary. And as can be evidenced by business interest group submissions to the BBWG, these neo-liberal means are portrayed as the “only game in town” – the only logical way for governments to simultaneously increase both the state need for security and the economic stability and profits so valued by businesses. Ultimately, as reflected in the Action Plan, states construct security around this very notion. In this sense, security is constructed as a neo-liberal economic notion within the Action Plan.

In a sense then, there must also be a discussion of what exactly is routinized through the neo-liberal risk model of security. As mentioned above, it is apparent that neo-liberalism leads to the routinization of risk itself through a self-fulfilling tautological relationship. It is quite obvious from the Action Plan that neo-liberal economic conceptualizations of security are routinized, but there is also the necessity to examine how what is *not* discussed in the Action Plan is therefore routinized as unimportant to the discourse of security.

The absence of human rights, privacy, freedom, and democracy language throughout the Action Plan implies that such concerns are routinized as not being key features of the discourse of security. In fact, in examining House of Commons Hansard Reports from the February 2011 *Joint Declaration* until February 2012 after the Action Plan had been released, the official government (Conservative Party of Canada) discourse surrounding border security is to continuously emphasize how the Action Plan will ultimately benefit the economy and create jobs. After almost every opposition question regarding human rights, privacy, freedom, and democracy the Government of Canada reminded the opposition member and Canadians about the economic benefits of the Action Plan while not specifically answering the question directly, often even accusing the opposition of fear mongering in turn.<sup>16</sup> In this sense, the Government of Canada through the Action Plan and through parliamentary debate has portrayed the discourse surrounding security as an overwhelmingly economic and neo-liberal form of security, while also routinizing risk-based security techniques that are portrayed to increase efficiency and security generally. Through the increasing routinization of risk there is also a simultaneous routinization of the exclusion of human rights, privacy, freedom, and democracy as well as a host of other liberal concerns as potential variables in the discourse of security.



Risk identification demands more risk calculation *ad nauseam*. Risk, as Ericson (2007) alluded to, is essentially a self-fulfilling prophecy in that the more risk there is, the more uncertainty is created, resulting in greater reliance on risk to conquer the unknowable. This ultimately leads to the assumption that in order to achieve liberalism and freedom, neo-liberal notions of risk and surveillance must reign supreme. The security discourse becomes economized at the exclusion of all potential variables that cannot be measured or that act in opposition to neo-liberal economic goals. Security becomes, in effect, neo-liberal.

### **What are the Implications for Governmentality Studies?**

The above findings have key implications for governmentality studies in two particular ways. Methodologically, the results of this thesis have important implications for future governmentality studies. Namely, by considering all interest groups involved in the BBWG consultation process this thesis was able to show that the construction of security in the Action Plan “tidy text” systematically differed from constructions offered in the consultation process in patterned ways. While the consultation process contained a variety of different discourses regarding the construction of security, problematized behaviour, and subsequent remedies used, the Action Plan was much more selective and discriminate in its selection of discourses. As was found above, security in the Action Plan involved an overwhelmingly neo-liberal construction in that a vast majority of business interest group discourses surrounding security were adopted while individual Canadian citizen and other interest group discourses were far more selectively incorporated. This is an important finding for the field of governmentality studies given that official tidy texts are found to be subject to the political process of selection characterized in Ericson (2007) in which some harms are given attention while others are effectively ignored. As such, governmentality studies must adapt away from simply examining official texts to move beyond implicit assumptions about how security is constructed within contemporary society by delving into the broad kaleidoscope of constructions provided by the independent and interconnected views of states, private industry, private citizens, NGOs, other interest groups, and so forth. Only then can governmentality studies truly locate the changing nexus of power/knowledge behind the constitution of a distinctive *dispositif de sécurité* and its associated “security technologies and practices operating according to their own particular logic” (Foucault 2007 as cited in Dillon 2008: 311). In the case of this thesis, only by moving beneath official “tidy texts” (Lippert and Stenson 2010) was this thesis able to truly understand how certain conduct was rendered problematic, and

how these problematic activities were remedied through a political process involving the Action Plan itself. In short, this thesis should inform governmentality studies in that to simply examine tidy texts is to essentially ignore “the historically sedimented underpinnings of particular problematizations” (Barry et al., 1996: 5 as cited in Lippert and Stenson 2010: 477).

Second, it should be noted that in keeping with the theme of governmentality and the Foucauldian understanding of security, as well as the conflicting presentations of security discussed in the Literature Review section of this thesis, that the construction of an economized, risk-based, neo-liberal security consistent with the Action Plan on Perimeter Security and Economic Competitiveness is *only* relevant in this particular examination. While this thesis has contributed to the criminological literature by examining the construction of security within a specific context, it is also the case that this thesis should serve as impetus for future research to examine the construction of security in different contexts in order to further develop our understanding of security as it pertains to the field of governmentality. It is essential to realize the *dispositif de sécurité* identified in this thesis is only relevant given the power/knowledge nexus behind the broad kaleidoscope of constructions provided by the independent and interconnected views of government, private industry, private citizens, and other interest groups involved in consultations on the Action Plan on Perimeter Security and Economic Competitiveness *specifically*. In other words, it is entirely conceivable and probable that the *dispositif de sécurité* will differ greatly in this context compared to another context involving a different complex of social actors and thus also different constructions surrounding security. In this respect, the purpose of this thesis was not to provide a construction of security to be applied to all contexts indiscriminately, but rather to perhaps stimulate future governmentality studies that move beyond standardized or preconceived constructions of security and focus instead on how constructions change on a case-by-case basis depending on how different complexes of competing social actors contribute to shaping individual constructions of security in specific contexts.

## 7. CONCLUSION

A Foucauldian governmentality analysis relies on how certain forces, events, or authorities act to problematize the conduct of persons, or, in other words, how certain actions or non-actions of individuals come under the scope of governmental control to achieve certain ends. In this sense, governmentality looks beyond the state as the sole contributor of what behaviours become problematized and instead considers the state as only a part of a complex whereby various other social actors provide input and mediate what is defined as problematic as well as the best way for remedying such conduct. Through a Foucauldian discourse analysis, this thesis moved beyond the “official tidy texts” (Lippert and Stenson 2010) to discover the language and other signifying systems that are elements in forming and shaping realities and subjectivities, which in turn render reality governable (Rose et al. 2006: 89). By using the governmentality perspective described by Rose (1999), Dillon (2008), and Lippert and Stenson (2010), and posited in Foucault (2007), this thesis has examined the Canada-United States Action Plan on Perimeter Security and Economic Competitiveness consultations to identify how particular actors construct security, the realization of particular forms of conduct as problematic and in need of remedy, and the remedies proposed. This ultimately led to the determination of how security was constructed within the specific context of the Action Plan itself and whether the various constructions were represented there.

In the context of the Action Plan it was discovered that neo-liberal discourses tended to dominate the construction of security. Neo-liberal discourses largely originated from business interest group submissions to the Beyond the Border Working Group suggesting that overall, business interest groups had the most influence designating behaviours as problematic and suggesting potential remedies. However, it must also be noted that individual citizens and other interest groups also contributed to the construction of security. The neo-liberal claims of individual citizens and other interest groups were often incorporated in the Action Plan directly, such as the notion that immigration is problematic and that increased enforcement is necessary to remedy this problem. However, the analysis above determined that in examining all social actor discourses, the neo-liberal construction of security found in the “tidy text” of the Action Plan systematically differed in patterned ways from the constructions offered by the various interest groups involved in the consultation process. The neo-liberal construction of security found in the Action Plan was but one of many constructions of security offered by the various interest groups. Ultimately, while neo-

liberalism formed the cornerstone of the construction of security in the Action Plan, other discourses were ultimately ignored. This finding allowed this thesis to therefore make a key conclusion about the construction of security in relation to the Action Plan that otherwise would have been absent if only the Action Plan (a tidy text) had been examined. As such, this thesis should serve as further impetus for governmentality studies to move beyond official tidy texts to identify the governmentality and power relations present.

In addition, this thesis demonstrated that the construction of an economized, risk-based, neo-liberal security consistent with the Action Plan on Perimeter Security and Economic Competitiveness is *only* relevant in this particular examination and that this thesis should serve as impetus for future research to examine the construction of security in different contexts in order to further develop our understanding of security as it pertains to the field of governmentality. In this way, the purpose of this thesis was not to provide a construction of security to be applied to all contexts indiscriminately, but rather to perhaps stimulate research so that the literature can move beyond standardized or preconceived constructions of security and focus instead on how constructions change on a case-by-case basis depending on how competing social actors contribute to shaping individual constructions.

It should be noted that certain limitations apply to this examination of the construction of security. Particularly, the researcher was limited to the documents provided by the Government of Canada, business interest groups, and by other interest groups. While the submissions received are generally representative of the types of various groups involved in the consultation process, it is impossible to generalize these findings to the Canadian population as a whole; individual businesses, business groups, or other interest groups not explicitly mentioned as consultation partners; or potential other parties involved in shaping public policy such as lobby groups, NGOs, and international partners. Therefore, findings mentioned above are confined in that they represent the views of groups that submitted to the BBWG directly. Furthermore, in this same respect, while making comparisons between frequently occurring discourses both between and within groups as well as in the Action Plan itself was accomplished in this thesis, it is difficult to make conclusions about specific discourses that were infrequently mentioned by interest groups and the state. For instance, while environmentalism, Aboriginal self-governance, health care, poverty, and the exclusion of Mexico from this Action Plan are examples of discourses occasionally but infrequently mentioned in constructions

of security, it is difficult to conclude whether these discourses were largely excluded from the Action Plan given that they were potentially routinized as unimportant to the neo-liberal construction of security, or if these discourses were simply excluded because of their infrequent mention in submissions made to the BBWG. In essence, while this thesis was able to examine what was explicitly present in the consultation documentation as well as the Action Plan document, it is difficult to reach informed conclusions about those discourses that are in fact not present or otherwise infrequently present.

As well, since much of the consultation of individual municipalities, provinces, territories, and other agencies of government occurred behind closed doors, orally, and without any written publicly available or otherwise attainable records, it was near impossible to determine just how governments constructed security in regard to the Action Plan during the consultation process. Other than the Action Plan itself and Hansard Reports from the House of Commons, it is very difficult to protract the “government discourses” in any meaningful way except on a *post hoc* basis. Future research on the Action Plan itself or government policy generally should seek to find ways to understand how government discourses ultimately mediate constructions and influence public policy directly and in coordination with other interest groups *prior to* the actual formation of policy. Lastly, it should be noted that as stated in the Action Plan itself, “Nothing in this Action Plan is intended to give rise to rights or obligations under domestic or international law; this Action Plan is not intended to constitute an international treaty under international law” (GOC 2011a: II). In other words, while the constructions of security in the Action Plan on Perimeter Security and Economic Competitiveness point to important conclusions about the relationship between the state and various interested parties, this particular construction of security may only remain an “in theory” construction unless the Canadian and U.S. governments actually collaborate together to implement the discourses, solutions to problematized behaviour, and so forth included in the Action Plan itself. In this sense, this thesis is limited to strictly the “planned” construction of security, and further research will only be able to assess the construction of security in reality if and only if the Action Plan becomes policy and thus also “realized” in order for the *planned* construction of security to become the *practiced* construction of security.

## NOTES

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<sup>1</sup> These agreements include the Smart Border Declaration and Action Plan of 2001, the Safe Third Country Agreement of 2004, and the continued existence of Integrated Border Enforcement Teams and ongoing cross-border operations.

<sup>2</sup> “The supply chain encompasses all activities associated with the flow and transformation of goods from raw materials stage (extraction), through to the end user, as well as the associated information flows. Material and information flow both up and down the supply chain. Supply chain management (SCM) is the integration of these activities through improved supply chain relationships to achieve a sustainable competitive advantage” (Handfield and Nichols 1999 as cited in Seuring and Muller 2008).

<sup>3</sup> NEXUS is a risk-based program administered by Canada and the United States that is designed to expedite the border security process for low-risk, pre-approved travellers into Canada and the United States.

<sup>4</sup> Partners in Protection (PIP) is a CBSA program that involves the voluntary cooperation of private industry to enhance border and supply chain security. Members agree to adhere to higher principles of security management in exchange for lowered inspection rates at the physical border and other benefits.

<sup>5</sup> Free and Secure Trade (FAST) is a joint CBSA / CBP program that involves the voluntary cooperation of private industry to enhance border and supply chain security. All FAST program participants must undergo a risk assessment and be designated as low-risk in order to accelerate crossings at the physical border.

<sup>6</sup> While the Access to Information Request asked for all 1000 individual citizen responses, Industry Canada provided these approximately 432 individual responses and then filed an extension under the Access to Information and Protection of Privacy Act for the approximately 550 other pages of documentation amounting to about 568 responses. The 432 individual responses had previously been provided based on another ATI request and was therefore available to be sent immediately to the researcher. Industry Canada said that the rest of the files could not be processed in time and due to staffing and other constraints had to file the extension on the remainder. At the time of publication, the files included in the extension had still not been provided.

<sup>7</sup> At the time of publication, those charged with Driving Under the Influence (DUI) or Driving While Intoxicated (DWI) in the United States may be prohibited from entering Canada under Canadian immigration law. This also applies under U.S. immigration law to Canadians with similar charges attempting to enter the United States.

<sup>8</sup> For explanations of the societal CSI effect as well as the presentation of technology as being naturally infallible, see for example Muller (2004), Campbell (2010), Durnal (2010), Huey (2010), Elerbrok (2011).

<sup>9</sup> The North American Free Trade Agreement (NAFTA) is a regional agreement between the Government of Canada, the Government of Mexico, and the Government of the United States of America to implement a continental free trade area.

<sup>10</sup> Under the Schengen Agreement, transiting from one member country to another within the Schengen Zone is done without border controls. Visa requirements only apply when entering the Zone and freedom of movement prevails afterwards.

<sup>11</sup> Maher Arar is a dual Syrian and Canadian citizen who was detained in the United States on a layover upon returning from a vacation overseas. The U.S. INS was acting on faulty intelligence supplied by the RCMP that Arar was a national security risk involved in terrorist activities. The U.S. used extraordinary rendition to deport Arar to Syria (even though his home was in Canada) where he was tortured. The RCMP and Government of Canada have since acknowledged they provided inaccurate information to U.S. officials ultimately leading to Arar’s torture.

<sup>12</sup> The Personal Information Protection and Electronic Documents Act (PIPEDA) governs how private sector organizations in Canada collect, use, and disclose personal information.

<sup>13</sup> See submissions mentioned in this thesis made by the Council of Canadians, the Canadian Centre for Policy Alternatives, as well as submissions made by individual Canadian citizens concerned about state constructions of security.

<sup>14</sup> Just in time is characterized by a rapid and smooth delivery rate that leaves no idle inventory present anywhere in the supply chain and no unnecessary lead times (Svensson 2002). Just in time manufacturing

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relies inherently on the tenants of neo-liberalism to function accordingly, namely, the desire to reduce inefficiencies in the supply chain in order to maximize profit.

<sup>15</sup> The essential understanding of Agile Six Sigma is that it is a means to reduce risk and therefore improve supply chain management by systematically squeezing out time-related variability (Peck 2006: 133). The overall position of Agile Six Sigma is that as reliability improves in terms of time-related activities in the supply chain, overall cycle times can also be reduced thus improving customer responsiveness and reducing costs to the business and consumer (Peck 2006: 133).

<sup>16</sup> See for example House of Commons Hansard Report debates about border security and Canada-U.S. relations from 2011: June 13, September 19, October 6, October 25, November 28, November 29, November 30, December 6, December 7, December 8, December 9, December 11, December 12, December 15.

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## **VITA AUCTORIS**

Patrick C. Lalonde was born in 1988 in Windsor, Ontario. He graduated from Belle River District High School in 2006. He then obtained a B.A. (Hons) degree in Criminology with distinction and with a minor in Psychology from the University of Windsor in 2010. He is currently a Master's degree candidate in Criminology at the University of Windsor and will be graduating in June 2012.