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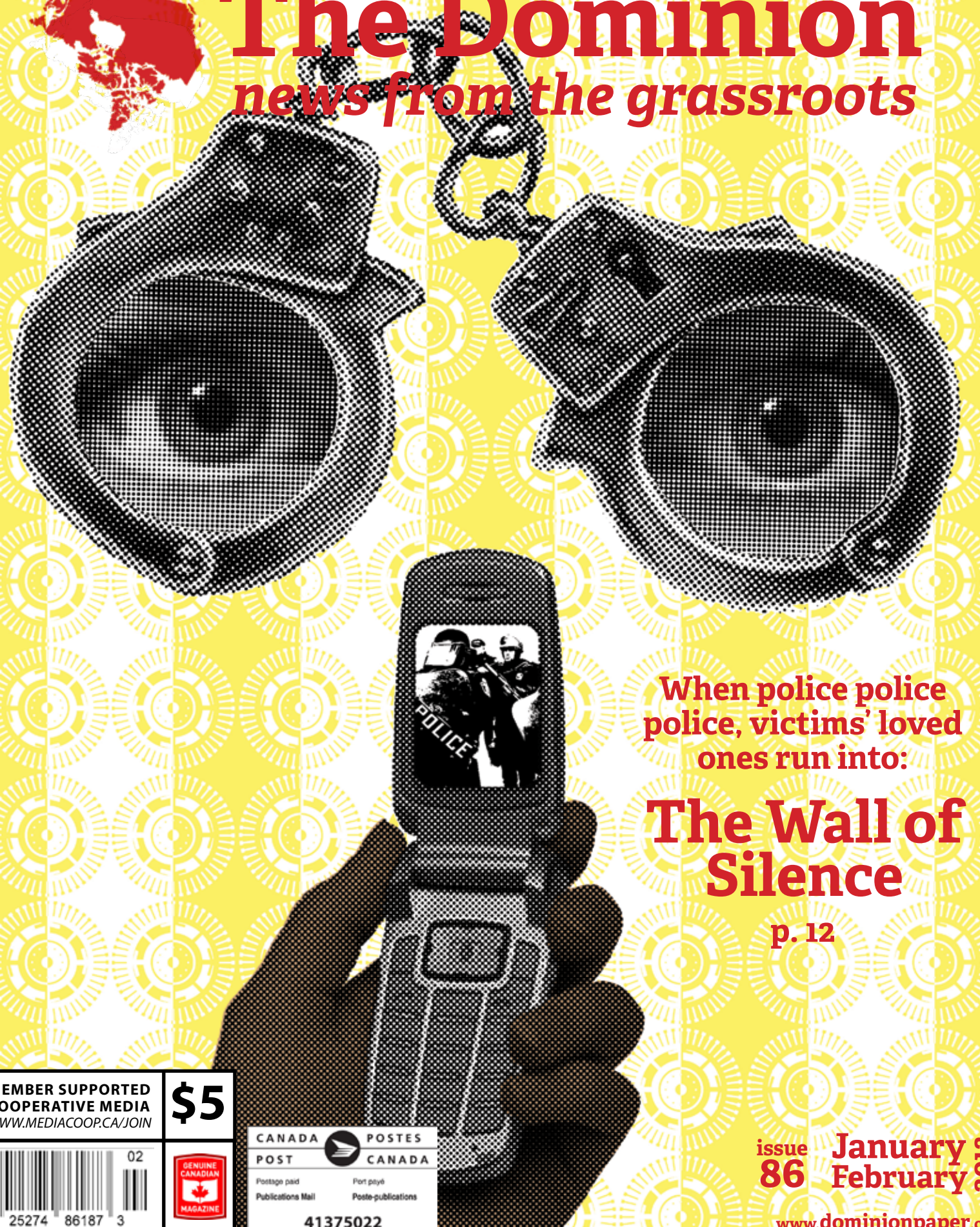
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The Wall of Silence

Systemic protection of police who kill leaves victims' loved ones in the dark

by Simon Van Vliet

MONTREAL—On the night of February 16, 2012, Josiane Millette called 911 because she feared her boyfriend, Jean-François Nadreau, was going to commit suicide. When five officers from the Montreal police showed up in the door, Nadreau panicked, picked up a machete and moved towards the officers shouting “Go away!” He was shot in the chest and died on the spot.

“There shouldn’t be anymore lives destroyed,” Millette wrote in a statement issued on October 19, 2012, as part of the Justice for Victims of Police Killings Coalition campaign to end police violence and impunity. “No one should be victim of such a tragedy. No one deserves this.”

Several incidents in Quebec, including severe injuries during the student protests earlier in 2012, have raised public awareness of the abusive use of force by police. In a press conference on November 13, 2012, civil society groups asked for a public, independent inquiry into police operations during the student strike, with a larger mandate of creating a transparent and impartial civil surveillance system over police work.

Though police brutality was particularly obvious during the recent social turmoil in Quebec, police violence and impunity have existed for decades throughout the country. In 2012, police-related incidents leading to serious injuries or deaths were reported from Nova Scotia to British Columbia.

“This doesn’t happen to ‘criminals,’” Julie Matson told *The Dominion* at this year’s annual October 22 commemorative vigil for victims of police killings in Montreal. “It happens to regular people.”

Her father, Ben Matson, died of restraint-associated cardiac arrest in custody of Vancouver police in 2002. Despite evidence of severe beating, the investigation resulted in no criminal charges for the officers involved and the Coroner’s Office inquest concluded that the death had been accidental. The case was closed, without

closure for Matson’s family.

Mainstream media generally look at these events as isolated incidents. The Justice for Victims of Police Killings Coalition have, however, documented at least 60 police-related deaths since 1987 in Montreal alone. No comprehensive statistics on police-related deaths exist in Canada, but the Coalition listed names of some 180 people who have died—in Quebec, Ontario, Manitoba and British Columbia—either during police operations or in custody.

A closer look at the documented cases indicates a general pattern. Victims of

“It is not in the State’s interest to have police officers charged; the State needs the police to maintain itself. The police [are] not there to protect the safety of people, but to protect the security of the State.”

Jean-Claude Bernheim, criminologist

police killings tend to fit a certain profile of poverty, drug or alcohol intoxication, homelessness or mental health issues or belong to ethnic, religious or social minori-

ties. Events start with a routine police intervention, then escalate and end with use of lethal force by officers.

Several cases illustrate this pattern. Farshad Mohammadi, a homeless refugee with mental health issues under a deportation order to Iran, was killed in the Montreal metro on January 6, 2012. Mario Hamel, a man with a heavily psychiatrized background, was shot to death in downtown Montreal on June 7, 2010 (a bystander, Patrick Limoges, was also hit and killed by a stray bullet during that incident). Fredy Villanueva died on August 8, 2008, after a police officer had attempted to arrest his brother, Dany—on charges of illegal betting during a dice game—in a Montreal North park.

In 1983, Sergeant Dennis Tueller of the Salt Lake City Police Department conducted a distance experiment and concluded that “an average healthy adult male” can cover a distance of approximately 21 feet in 1.5 seconds, about the time it takes for an officer to draw out his handgun, aim and shoot. Based on Tueller’s “How close is too close?” theory, most North American police academies instruct officers to shoot when a potential assailant with an edged weapon enters the 21-foot danger zone and refuses to disarm.

Each Canadian province has its own policies regarding police abuse and illegitimate violence. The Ontario Special Investigations Unit (SIU) was the first civilian investigation mechanism into police conduct and has become a model for jurisdictions elsewhere in Canada and abroad interested in oversight on police work. On November 29, 2012, the Quebec Minister of Public Safety proposed a bill to create an independent investigation bureau, a civilian-run agency inspired by the SIU.

But important gaps remain in the



Ontario system, Dominique Peschard, president of the Rights and Liberties League, told *The Dominion* at the November 13, 2012 press conference. “There are many former police officers involved [with the unit] and there is solidarity between the investigators and the [officers] who are being investigated,” he said. According to official SIU statistics, 3,822 incidents—including 523 deaths—have been investigated by the SIU since 1990. Charges have been laid in only 102 cases.

Canadian criminologist Jean-Claude Bernheim doubts civilian investigations into police-related events can be effective. “It is not really independent,” he said in a November 8, 2012 feature interview broadcast on CISM 89.3 FM, referring to the fact that most civil inquests rely on information provided by the police.

Secrecy surrounding police inquiries not only keeps information away from the public, but keeps civilian investigators out of the loop, as the investigation into the death of Levi Schaeffer has proven. An Ontario Provincial Police (OPP) officer shot Schaeffer in 2009.

The officer involved in the shooting and the only witness—another officer— withheld their notes until they had been counselled by an OPP Association (OPPA) attorney. The Ontario Court of Appeal ruled last year that such police note vetting contradicts provincial regulations, but the OPPA attorneys will ask the Supreme Court to overturn the decision next April.

“I have no information base I can rely upon,” SIU Director Ian Scott said upon closing the Schaeffer investigation. “Because I cannot conclude what probably happened, I cannot form a reasonable doubt that the subject officer in this matter committed a criminal offence.”

Since there are no criminal charges,



No comprehensive statistics on police-related deaths exist in Canada. Groups across the country are fighting to access to this kind of information to increase police accountability. Illustration by Nadine Wiepning



Secrecy surrounding police inquiries keeps both civilian investigators and the general public out of the loop. Illustration by Nadine Wiepning

there will be no more investigation into Schaeffer's violent death. The Coalition Justice for Levi sees in the Supreme Court case an "opportunity to challenge long-standing, deeply-defended OPP practices of lawyer note vetting and the retaining of the same OPPA lawyer for both subject and witness officers implicated in a Special Investigations Unit investigation."

Bernheim thinks that the overall ineffectiveness of police oversight bodies in charging police officers with criminal offenses is by design. "Governments put in place ineffective mechanisms," he said. "It is not in the state's interest to have police officers charged; the state needs the police to maintain itself." To Bernheim, the harsh truth no one wants to tell is that "the police are not there to protect the safety of people,

but to protect the security of the state." In return, he argues, governments protect the police.

For example, in 2008, the Ontario Ombudsman recommended changes to the province's oversight system. He asked that the SIU hire more investigators unaffiliated with the police and that the government forcefully respond to police non-cooperation. Dismissing these recommendations, the Ministry of the Attorney General decided, "largely due to vehement police opposition," not to enforce "the recommended legislative changes in the near term," the Ombudsman said last year.

The penal justice system is "a political institution," refracting change and complicit with the police, Bernheim explained. Relatives of victims across Canada face a wall of silence protecting police officers who abuse the force with which they are entrusted. Outside that wall, families of victims are left with nothing but their grief and unanswered questions about the causes and circumstances of the death of their loved ones.

Take the family of Anas Bennis, killed in 2005 by Montreal police. Bennis allegedly attacked an officer with a knife while coming home from prayer at the local mosque. Three years later, a public coroner's inquest into his death was ordered, but the Montreal Police Brotherhood filed proceedings to have it cancelled. It took two years before the Quebec Superior Court ruled against the Brotherhood's request.

Quebec's Coroner's Office and Ministry of Public Safety refused to cover the Bennis family's legal fees and denied the Justice for Anas Coalition's request to be recognized as an interested party. As a result, the inquiry was held without participation of the family or the Coalition who had been demanding it for five years. Only lawyers representing the police and the City of Montreal participated—after the latter had opposed it from the start, arguing it would be a waste of time and of taxpayers' money.

Seven years after Bennis' tragic death, his family continues the fight for truth and justice—alongside other relatives and supporters of victims—in the hope that, eventually, police violence will no longer go unpunished.

Simon Van Vliet is a Montreal-based community journalist and member of Association des journalistes indépendants du Québec. He works and volunteers with CISM 89.3 FM, Coopérative de journalisme indépendant and the Montreal Media Co-op.



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