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# LAW AS CINEMATIC APPARATUS: IMAGE, TEXTUALITY, AND REPRESENTATIONAL ANXIETY IN SPIELBERG'S *MINORITY REPORT*

CYNTHIA D. BOND<sup>1</sup>

## I. INTRODUCTION

In April 2005, Raytheon Company unveiled a new interactive “gesture technology”<sup>2</sup> it had developed for the United States Air Force in order to enable it to analyze and compile large databases of intelligence images.<sup>3</sup> This technology allows data analysts to organize and rapidly sort images on a large screen display simply by using their hands in an interactive virtual technology system.<sup>4</sup> Just another case of business as usual? In fact, Raytheon engineers were inspired by similar technology in Steven Spielberg’s 2002 futuristic film. Raytheon hired the scientific consultant for the film, John Underkoffler, to help develop the technology’s real life applications.<sup>5</sup>

Several industries have invoked *Minority Report* in examining the future of their own practices, including the publishing and advertising trades.<sup>6</sup> And the press frequently uses the film as a metaphor when discussing surveillance technology,<sup>7</sup> “thought crime” laws,<sup>8</sup> and visual technology. These articles suggest that the movie

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<sup>2</sup> Jonathan Karp, ‘*Minority Report*’ Inspires Technology Aimed at Military, WALL ST. J., Apr. 12, 2005, at B1.

<sup>3</sup> See *id.* (describing how Raytheon is devising new ways “to visually display and manage [military] data in a user-friendly way to quicken combat responses.”).

<sup>4</sup> See *id.* (explaining Raytheon’s “gesture technology”).

<sup>5</sup> *Id.* (describing Underkoffler’s role in *Minority Report* and the development of Raytheon’s new “gesture technology”).

<sup>6</sup> See Pamela Parker, *Interactive Ads Play Big Role in ‘Minority Report’*, www.internetnews.com/IAR/print.php/1369861 (June 21, 2002); Jim Krane, *Benneton Clothing to Carry Tiny Tracking Transmitters*, Associated Press (Mar. 11, 2003).

<sup>7</sup> See Justin Kestelyn, *Seeing is Believing: Should Data Generated by Video Surveillance be used for Commercial Purposes?*, 5 Intelligent Enter. 6 (Oct. 8, 2002).

<sup>8</sup> CNN News Broadcast (CNN television, May 11, 2005) (reporting on an alleged law in Cuba aimed at punishing “Precrime dangerousness.”) (transcript currently unavailable).

does not in fact depict a future scenario, but rather the current state of technology and legal privacy issues.<sup>9</sup>

Yet, on its surface, *Minority Report* purports to depict the future of American law. This future consists of a “Precrime” system of adjudication that relies solely on images and their interpretation, rather than on textual interpretation of case law or statutes. This is a legal system that is thoroughly “cinematized,” its representational terms entirely replaced by the representational techniques of film. The film presents a recursive history of the future. Although the film is set in the year 2054, it ends essentially where we begin—if not before—in a naturalistic cabin awash in books and golden light.

The submerged message of the film is that the legal future must return to the legal “past”—the legal system of the film’s audience—which is of course text-based. But given the film’s depiction of future legal and social power as fueled by image, textuality is rendered technologically quaint and therefore somehow beyond power, or at least beyond the abuses of power depicted under Pre-crime. This recuperation of text-based law “purifies” and symbolically reinstates the contemporary audience’s legal system, thereby effacing its means and ultimate goal: the maintenance of the status quo of power.

While *Minority Report* ultimately condemns a legal system that relies on the belief that events can be purely replicated in prescient images and thereby judged, it fails to condemn the system’s representational ideology. Instead it focuses on the human corruption to which it falls prey. The film obsessively thematizes vision, valorizing image over text,<sup>10</sup> and while it finally casts the return to text-based law in essentially positive terms, this recuperation is nonetheless nostalgic and “pre-technological” in a way that belies the film’s celebration of visual technology and representation.

*Minority Report* gives form to a broader cultural anxiety about the relationship between truth and representation, a critical piece

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<sup>9</sup> Raytheon’s use of film technology for military purposes is simply a logical extension of the interrelationship between military technology and film that Paul Virilio analyzes in *War and Cinema* (Verso 2000). As Virilio says, “There is no war . . . without representation . . .” *Id.* at 6.

<sup>10</sup> Certainly most mainstream fiction films can be seen as a valorization of image over text, a medium that relentlessly celebrates its immediacy and false presence. See DAVID BLACK, *LAW IN FILM, RESONANCE AND REPRESENTATION* 49 (1999) (examining the relationship between narrative techniques in law and film). However, *Minority Report* is self-reflexive in its focus on seeing, image, and spectator. Further, the enjambment of the visual thematic with the legal system invites a particular examination of the film’s economy of image and text.

of a largely unacknowledged ambivalence about the representational and narrative nature of law. Despite its effort to dissipate these anxieties, the film ends up maintaining its contradictions in a way that constructs the very culture it pretends to reject.<sup>11</sup> More importantly, while ultimately condemning the Precrime system it depicts, the film averts any critique of either the politics or the representational bind of the legal system by a kind of bait and switch process: the audience is immersed in a futuristic legal system that it must ultimately reject as corrupt, thus gratefully returning to embrace its own legal-historical moment in the last few scenes of the film. Thus, the film short-circuits the audience's potential critical recognition of the disjunction between reality and representation in film and in law and instead works to repress anxieties about the presence of that disjunction in the law.

## II. THE FILM'S STORY

*Minority Report* depicts a prototypical criminal legal system known as Precrime, which was developed through a combination of entrepreneurship and biotechnology. When the film opens, Precrime is in effect in the nation's capital and on the eve of being nationalized.<sup>12</sup> The system is one of crime prevention, though its function is essentially adjudicatory. Three mutant young people, known as precognitives or "precogs," foresee murders as a result of a congenital brain abnormality caused by fetal exposure to the drug neurontin, which is depicted in the film as the heroin of the future. The precogs live together, suspended in a kind of amniotic bath that evokes the brain-in-a-vat hypotheticals of a Philosophy 101 class. Before a murder occurs, the precogs experience a shared paroxysm while visualizing the events of the murder. That

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<sup>11</sup> Beyond the mere commercial ubiquity of Spielberg's films, their significance lies in their remarkably consistent performance of a particular contradictory American cultural symptomatic. Andrew Britton has noted a critical part of that symptomatic in the form of a persistent contradiction in Spielberg's 1980s films, which "attempt to reconcile the felt need to flee or disrupt America with the desire to believe that nothing is wrong with it." Andrew Britton, *Blissing Out: The Politics of Reaganite Entertainment* 31/32 Movie 1, 36 (Winter 1986). These films must "give form to the anxieties they address, even as they work to dissipate them." *Id.* at 20. The central contradictions in Spielberg's films go unacknowledged and are maintained without resolution, forming the repressed ideology of the films. This maintenance of contradiction echoes Spielberg's *modus operandi* in *E.T.* where, Britton observes, "[o]ne can have the culture, and one's privilege within it, and overthrow it too—all without the least sense of contradiction . . ." *Id.* at 39.

<sup>12</sup> *MINORITY REPORT* (Dreamworks Pictures 2002). The film cleverly suggests the political debate around the nationalization in the form of a commercial "public service announcement" supporting Precrime. *Id.*

vision is analyzed by the Precrime police, who are essentially preemptive enforcers charged with interpreting the images. These police track down and arrest the perpetrator before the crime is committed. The Precrime system bears some resemblance to the contemporary American adjudicatory system, in that a “verdict” appears in the form of wooden balls produced by the precogs’ vision. These wooden balls are imprinted with the names of both the victims and the perpetrators. In addition, two “corroborating witnesses” verify the precogs’ findings before the police enforce them.

The plot follows Chief of Police John Anderton (Tom Cruise), who is a true believer in Precrime. Anderton is identified as a pre-criminal himself and forced to go into hiding, where he tries to uncover the forces behind what he assumes to be a frame-up. Anderton discovers that one of the precogs occasionally produces a “minority report,” which is an alternate view of the crime. Anderton searches in vain for a minority report in the hopes that it will vindicate him of the murder he is supposedly about to commit. The action proceeds in a tense countdown to the time when Anderton is slated to commit the murder. The man Anderton is supposed to kill, Leo Crow, eventually does die, but Anderton doesn’t exactly kill him as predicted (Crow grabs the gun out of Anderton’s hand and shoots himself). Anderton eventually uncovers the foundational secret of Precrime—that its founder, Lamar Burgess (Max Von Sydow), killed Anne Lively, the mother of the female pre-cog, during the start-up days of the system and covered up the crime by manipulating the projection and retrieval of the pre-cog visions. Once Burgess is exposed, he commits suicide and the Precrime system is abolished.

### III. THE TYRANNY OF THE EYE

*Minority Report* depicts the Precrime legal system as profoundly visual and ultimately filmic. First, the initial “evidence” of a crime comes in the form of the visions experienced by the precogs. Then, the police project these disjointed images onto a screen in order to decipher the location of the future crime.<sup>13</sup> Through a holographic virtual reality technology, the police “detectives” sift and sort the images for interpretation (an act the film calls “scrubbing the image”), orchestrating them on a huge screen with the gestures of a concert conductor (though perhaps film editor is a more apt metaphor).

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<sup>13</sup> This is the technology that Raytheon sought to develop in reality. Karp, *supra* note 2.

Ancillary aspects of the Precrime system are also depicted as visual or image-driven. The precogs' visions are stored on media disks, which appear in the film as transparent lenses with holographic images floating within. When the police arrest a future perpetrator, they scan his eyes to identify him. Moreover, the prison system is a dreamscape panopticon<sup>14</sup> consisting of towers of individual glass pods in which prisoners are a captive audience to the perpetual screening of the images of their past crime. With the exception of the wooden "verdict" balls, no text-based application of the law appears in the film at all. There is no case law, no statutes, legal briefs, or any other documents of any kind.

Not only does the film depict the Precrime system as image-driven, it portrays a culture organized around visual surveillance and surveillance of the visual—a culture that essentially defines its citizens by what they consume, which is correlated with what they see. For example, the cinematic advertising billboards project filmic advertisements in every public space, specifically targeting consumers by scanning their eyes and addressing them by name. This form of eye-scanning is a means of social and political control, in that the Precrime system also uses eye scans to find and identify potential criminals. All aspects of the culture are cinematized: newspapers bear moving images rather than photographs; telephones are videophones; logos on cereal boxes are moving pictures; and cameras are ubiquitous.

The irony in this depiction of the relation between image, vision, and spectator, is that Spielberg is in the business of doing exactly what the technology and society in his film purports to condemn—creating viewing subjects.<sup>15</sup> The plot projects subjectivity as a process of reverse objectification, in which images read people. The film inverts subject and object. The viewing subjects within the film do not see, but rather are seen. They are scanned, identified, and surveilled by various technological apparatuses within the film. Similarly, Spielberg's films are commercial commodities that "scan," thereby constituting the viewer as a consuming subject.<sup>16</sup>

<sup>14</sup> For an excellent discussion of the film's resonance with the Benthamite panopticon and its Foucauldian implications, see Mark Garrett Cooper, *The Contradictions in Minority Report*, 28 *FILM CRITICISM* 24 (Dec. 22, 2003).

<sup>15</sup> See *id.* (discussing the film's enactment of its own commercial culture within the plot of the film itself).

<sup>16</sup> Again, Britton traced this movement in Spielberg early on:

Spielberg's is the attitude of someone who thinks of the audience not as being simply there, for this as for other films, but as a collection of consumers to whom a specific commodity must be sold and in relation to whom, therefore, it is essential to know 'what works and what doesn't'.

Perhaps the most telling metaphor of this in the film is that eyes are literal commodities, bought and sold on the street for those seeking to avoid eye scan detection.

This doubling of the film's plot and its formal techniques could be fertile ground for a self-conscious critique of the commodification of film form. However, the film maintains the classic Hollywood style of continuity of editing and other aspects of "invisible style,"<sup>17</sup> thus concealing its essentially fragmented technical base<sup>18</sup> in the service of maintaining the illusion of the unitary viewing subject. This enables the film to foster traditional audience identification with its characters.

*Minority Report* is a particularly interesting study in the concealment of the cinematic apparatus because it relentlessly depicts images of visual and essentially cinematic technologies as part of its plot. Like arguably all films, the film is in part *about* film. However, given the overwhelming themes of vision and cinematization, *Minority Report* is able to cover its essentially fragmented and ideological nature by displacing recognition of that status onto the technology depicted in the film. That is, the film depicts the filmic as a means of oppressive social control manipulated by political and corporate power. Because that theme is posited as the film's content or plot, the film deflects any recognition of its own role in exercising social and commercial control. Thus, the film is able to conceal its own objectifying function by shifting the focus from its own agency in constituting an audience to the openly malevolent

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Britton, *supra* note 14, at 33. In our current historical moment, this passes as a fair description of the majority of film makers within the conventional Hollywood system. But in 1986, when this statement was made, it was perhaps more revelatory.

<sup>17</sup> This is Robert Ray's name for various formal aspects of classic Hollywood film-making style, such as shot-reverse-shot set ups and editing continuity, which give the illusion of an uninterrupted flow over scene cuts. Such techniques are now commonplace and largely invisible to the average viewer. See ROBERT B. RAY, A CERTAIN TENDENCY OF THE HOLLYWOOD CINEMA, 1930-1980 38-39 (1985).

<sup>18</sup> Jean-Louis Baudry argues that "film . . . lives on the denial of difference: difference is necessary for it to live, but it lives on its negation." JEAN-LOUIS BAUDRY, IDEOLOGICAL EFFECTS OF THE BASIC CINEMATOGRAPHIC APPARATUS, IN FILM THEORY AND CRITICISM 345, 349 (1999). That is, the fragmented nature of shots and discontinuities of time inherent in film production are effaced by the traditional Hollywood "invisible style." This denial is effected through the concealment of the technical base, i.e. the apparatus of cinema production. In other words, formal conventions in film are used to naturalize the appearance of film space and time. This technique, Baudry argues, brings about an ideological effect that is the opposite of critique. Of course, a significant aspect of that effect is an uncritical maintenance of the idea of the unitary subject, and the production in the audience of identification with screen characters. The title of this article is inspired by Baudry.

gestures of a society that turns seeing subjects into objects of the surveilling gaze. The film offers this manipulation of vision as ideological in one context (the depiction within the film of an oppressive society) and neutral in another (the film's own constitution and manipulation of the viewing audience).

#### IV. THE HISTORY OF THE FUTURE

Despite its surface claims, *Minority Report* does not purely operate as a story about the future. In discussing historicity in the context of another text by Philip K. Dick, Fredric Jameson suggests that it may no longer be possible to successfully project a scenario of the future in film or literature.<sup>19</sup> Paradoxically, due in part to the incorporation of ideas of futurology into the “now,” “any global vision of [the future] as a radically transformed and different system” is “block[ed] and forestall[ed] . . . .”<sup>20</sup> Accordingly, “imaginary near futures . . . no longer strike us with the horror of otherness and radical difference” previously possible.<sup>21</sup> That is, the future ain't what it used to be. Jameson suggests that “we can no longer imagine the future at all . . . [whether] Utopian or catastrophic.”<sup>22</sup> This breakdown, in a sense of historicity, makes us incapable of seeing our own society as being somehow in the past.<sup>23</sup>

This impaired sense of history is embodied in *Minority Report* through the enjambment of futuristic gadgets with recognizable items of today. The most obvious reason that the film's futuristic technology seems plausible and evokes a shudder of recognition is because it is fully foreseeable from our present historical moment. The film depicts a mere refinement of the overwhelmingly commercial social space increasingly saturated with images that we encounter everyday. *Minority Report* simply depicts a more complete cinematization of our modern day experience of that social space. The film leads the viewer to enjoy the concepts and special effects on display, with the frequent jolt of recognition of present time. For example, interactive billboard advertisements for businesses such as Lexus, the Gap, Aquafina, and American Express figure prominently throughout the film. These ads are a threat to Anderson's survival because they identify him, announcing his name as he passes, while he is in hiding from the police. Yet there is also a sub-

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<sup>19</sup> See FREDRIC JAMESON, POSTMODERNISM, OR, THE CULTURAL LOGIC OF LATE CAPITALISM 285 (1991).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 286.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*



current of amusement underlying this surveillance and exposure of Anderton by the surrounding social space. For example, in one scene he walks through electronic billboards that “read” him and offer him a virtual Guinness beer. We are ostensibly in on the joke: the future society of the story is really our society. The corporate product placement needs of the film need not be finessed as in other commercial films because the products are in fact *plot content* rather than distractions from the narrative.

To project this sociotechnological future as alternately amusing and dystopic is to suggest that the technology itself is neutral, what might be called the “ethics” of Industrial Light and Magic. Again, the film continues the agenda of seamless Hollywood film form by asserting a neutral, asocial, and positivistic space for technology and “movie magic.”<sup>24</sup>

The overlapping of present and past in the film has special implications for its legal theme. The film forestalls any possible vision of a truly and radically different legal future, such as a future that might provide more equality of access to legal institutions and more social justice.<sup>25</sup> And in its alternate neutrality toward, and celebration of, visual technology, the film sets up the audience for a similarly uncritical reaffirmation of its own legal culture at the end of the film.

## V. LAW AS FILM

Trial practice relies on representation to recreate a “reality” capable of being judged. This representation takes the form of witness testimony, textual documentation, evidence, and even case law. It has become increasingly commonplace to observe these competing stories—as opposed to a version of objective reality—are actually the issues on trial in a courtroom.<sup>26</sup> In “Law in Film,” David A. Black draws out parallel economies of trial law and fiction film, arguing that both law and film are inherently representational and narrative.<sup>27</sup> Black also argues that there would be significant social discomfort if Americans confronted the idea that trials essentially operate by judging narratives and information that are essentially

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<sup>24</sup> Much has been written about the socialization of vision via technology. See, e.g., JONATHAN CRARY, *TECHNIQUES OF THE OBSERVER* (1990) (invoking Gilles Deleuze in remarking that technology does not exist as neutral, positivistic phenomena but is “always a concomitant or subordinate part of other forces.”).

<sup>25</sup> See JAMESON, *supra* note 22, at 285-86.

<sup>26</sup> See, e.g., *LAW’S STORIES* (Peter Brooks & Paul Gerwitz eds., Yale Univ. Press 1996).

<sup>27</sup> BLACK, *supra* note 10, at 49.

representational, rather than actually judging the truth of absent events.<sup>28</sup>

Black argues that while the narrativity of both trial law and film rely largely on language, both deny the centrality of language to their enterprise.<sup>29</sup> In film, the denial of language stems from the emphasis on visual immediacy and insistence on a projected "presence" of absent events.<sup>30</sup> In law, the denial of language stems from the need to establish that language can actually be equivalent to absent events.<sup>31</sup> That is, while a trial is actually a trial of language and stories, it is presented and understood as if actual events are present in the courtroom.<sup>32</sup>

Another aspect of the identification of an event with its representational narrative is the imputation of veracity to witnesses, both at trial and in film.<sup>33</sup> While a trial witness only really delivers impressions of an event, which can be unreliable for any number of reasons,<sup>34</sup> the jury is encouraged to see her as capable of replicating actual events. Likewise, the camera acts as a metaphorical witness in the filmic regime, purportedly recording what is actually happening—while in fact entirely constructing what we see and do not see on the screen. The filmic and legal witness help create an identification between absent events and truth—an identification that suppresses its own representational foundation.<sup>35</sup>

In *Minority Report*, the adjudicatory representation of past events is replaced by filmic representation. Implicit in this device is the belief that the visual representation of absent events is superior to textual and linguistic representation, because visual representation is a more reliable medium to deliver the truth. Consequently, *Minority Report* transfers film's method of denying language to the legal system. The film's analog to the courtroom is the Precrime visionary moment, where the "actual" events of the future crime are

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<sup>28</sup> *Id.* Such discomfort might be expected at least from a jury, or possibly laypersons. However, Black fails to account for the perception of lawyers and other legal professionals, who are generally much more conscious of and comfortable with the notion that trials involve the construction of stories.

<sup>29</sup> *Id.* at 48-50. Film's dependence on language comes from its need for verbal synopsis to be commercially viable. *Id.* at 42-43. Law's adjudicatory dependence on language stems from its reliance on testimony and other forms of verbal and written narrative as stand-ins for absent events at trial. *Id.* at 49.

<sup>30</sup> *Id.* at 48-49.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 49.

<sup>33</sup> BLACK, *supra* note 10, at 101.

<sup>34</sup> *Id.* Black notes with approval the research of Elizabeth Loftus on the unreliability of trial witnesses. *Id.* at 100.

<sup>35</sup> *Id.* at 101.

projected on a screen as the stand-in for those events. Therefore, the immediacy of filmed events is inserted into the truth-finding function of a trial and made to represent an equivalence of representation and truth. The language of “trial” becomes the language of image, i.e., the precogs’ visions.

The film depicts a perfect overlap of the representational agendas of law and film, one which Black identifies as the law’s dependence on representation to reenact absent events and film’s obsessive insistence on its own visual “presence.” The visual—the precogs’ visions—becomes the primary method of legal representation. Thus, film’s suppression of its own essentially fragmented and constructed nature is overlaid on the seamless legal narrative. Paradoxically, the result of this doubling of the absences of law and film is an increased insistence that the absent events depicted in the visions actually took place. Visual representation thus equals reality.

The film establishes this equivalence at the outset. *Minority Report* opens in the middle of a precog vision of murder, placing the audience in the position of judging future events as if they were happening in the plot of the film, until it becomes clear that the depicted events have not yet happened. This trick perfectly illustrates the film’s method of identifying the film audience with the “adjudicatory audience.”<sup>36</sup> We see the opening scene and believe it is actually happening in the film’s story; so we subsequently join detective Anderton in approving the arrest of the perpetrator of the murder depicted in the vision. Accordingly, from the outset, film’s representational apparatus is used to reinforce the notion that law’s adjudicatory function is to find the truth.

Interestingly, the possible existence of a minority report—a key plot point—does not in any way undercut the film’s assertion of the reliability of the Precrime visionary moment. That is, the events depicted in the majority report when Anderton kills Leo Crow actually do occur.<sup>37</sup> However, as with the crucial report of Anne Lively’s murder, events are incompletely presented. Thus, both majority and minority reports are simply deceptively “edited” versions of real events.

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<sup>36</sup> See Jessica Silbey, *Patterns of Courtroom Justice*, in LAW AND FILM 97 (Stefan Machura & Peter Robson eds., Blackwell Publishers 2001) (discussing law films’ constitution of the legal subject/audience member).

<sup>37</sup> The reality of Crow’s murder varies from the precog vision. The precog vision does not show that Crow grabs Anderton’s pointed gun and forces the trigger, thus committing suicide.

Most importantly, the truth-telling limitations of the Precrime system are not depicted as inherent in representation itself, filmic or otherwise. Rather, the system only becomes corrupt as a result of human intervention. Therefore, to input filmic representation into adjudicatory representation is to re-inscribe the contemporary legal system's belief in representation's ability to be a transparent vehicle of meaning. Although the Precrime system is ultimately discarded as unjust, there is no critique of its inherent representational veracity. Instead, the film condemns human error and deceit.

Despite the "Big Brother"-like quality of the Precrime system, its visual technology and methodology of adjudication emerge as essentially positive.<sup>38</sup> Spielberg's own commentary on the potential viability of such a system in reality provides further proof of the positive valence the film lends the representational aspects of the Precrime legal system.<sup>39</sup> Spielberg says that if such a system was technologically possible, constitutionally anointed, and voted in by the people, it would be desirable. This statement reaffirms that the surveillance of public space depicted in the film only becomes a dystopic element if the legal system fails to function accurately, or is corrupted by a human operator. Again, the representational ideology of the film escapes critique.<sup>40</sup>

## VI. SUPPRESSION OF THE ORIGINARY TEXT

It is interesting that a film that so relentlessly suppresses the technology of written texts and textual representation, supplanting them with visual technology, emanates from a text itself—Philip K. Dick's story "The Minority Report."<sup>41</sup> Even more significant is that the plot differences between Dick's story and the film emanate in part from the movie's suppression of the textual and linguistic as such.

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<sup>38</sup> See Cooper, *supra* note 14, at 24.

<sup>39</sup> MINORITY REPORT COMMENTARY (Universal Studios 2002).

<sup>40</sup> Interestingly, a contemporary criminal law casebook echoes Spielberg's approval of the system, posing the question that, assuming the adjudicatory technology depicted in *Minority Report* were possible and reliable, "[I]s there any reason why a society should not use the criminal law in this manner?" JOSHUA DRESSLER, CASES AND MATERIALS ON CRIMINAL LAW 123 (3d ed., West 2003). One possible implication of that question is that there is really no significant question regarding the status of representational techniques in judging what is true.

<sup>41</sup> PHILLIP K. DICK, THE PHILLIP K. DICK READER 323 (1987). Obviously, most films have some textual origin in the form of a screenplay. However, not all films are based on pre-existing texts nor do all such films so suppress a recognition of their textual base or of the textual in general.

Dick's story develops the idea of the Precrime system as one with significant linguistic and textual components. As in the film, Dick's Precrime is an essentially preventative legal system comprised of a synergy of three precognitive mutants and high-tech machinery that deters criminals by preventing crime before it occurs. However, Dick's description diminishes the role of the precogs and the visionary. At one point in the story, Anderton takes a new assistant on a tour of Precrime headquarters: "Ahead of them rose impressive banks of equipment—the data-receptors, and the computing mechanisms that studied and restructured the incoming material. And beyond the machinery sat the three precogs, almost lost to view in the maze of wiring."<sup>42</sup> Instead of projecting visual images of the future, the precogs in Dick's story "babble" and "gibber." Their speech is then recorded and transcribed by machines onto computer cards, which are then interpreted by Precrime detectives.<sup>43</sup>

While the film depicts the Precrime system as essentially unitary, the Precrime of Dick's story is essentially multiple from the beginning. The existence of a divergent prediction, or so-called minority report, is the norm rather than the exception in Dick's story. The precogs are analogized to computers who double- and triple-check each other's results. Anderton's successor, Witwer, announces upon Anderton's escape that "unanimity of all three precogs is a hoped-for but seldom-achieved phenomenon . . . it is much more common to obtain a collaborative majority report of two precogs, plus a minority report of some slight variation . . . from the third mutant."<sup>44</sup> In the pre-vision of the murder Anderton is to commit, both the majority and the minority report are genuine,<sup>45</sup> but simply out of sync, the result being that the majority report reads the minority report as reality rather than another possible version of the future.<sup>46</sup>

Conversely, in the film, while the precogs' visions are depicted as fragmentary, they are finally constituted and projected in a way that creates a unitary point of view consistent with the classic Hollywood unitary viewing subject.<sup>47</sup> In contrast, Dick's foundational story describes the precogs' premonitions as multiple and unreliable, thus rejecting the notion of a unitary, foreseeable future, so

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<sup>42</sup> *Id.* at 324-25.

<sup>43</sup> *Id.* at 325.

<sup>44</sup> *Id.* at 337.

<sup>45</sup> *Id.* at 342.

<sup>46</sup> The Precrime system is built on the idea of "multiple-futures," or the belief that more than one "time-path" exists so that the future can be altered.

<sup>47</sup> See BAUDRY, *supra* note 18, at 349.

dear to the movie's central metaphor of visual precognition. Unlike the movie, with its emphasis on a one-to-one correspondence between visual image and future reality, Dick's story presents future time as containing multiple possibilities and thus as essentially unknowable.

Finally, Dick's story makes no effort to hide its focus on the social and political. While Spielberg's version revels in the technological aspects of the legal system, Dick's story is a paranoid conspiracy involving the government, the army, and the police. In the story, Anderton ultimately sacrifices himself for the Precrime system. Upon discovering that the army is manipulating the relationship between the minority and majority reports in an effort to expose Precrime as fallible, Anderton willfully commits the murder he is slated to commit. Anderton's anti-heroic choice is to behave consistently with institutional expectations of him, even though they are based on false information and are inconsistent with his will, in order to preserve the future social order. In obvious contrast, the film follows the standard Hollywood formula of foregrounding and valorizing the struggles of the individual against the social system.

#### VII. MOURNING THE LOSS OF DETECTION: THE RETURN TO RIGHTS

Both the aesthetic and thematic elements of *Minority Report* are awash in film noir nostalgia. Examples include the persistent use of dark shadows and a bleached-out, bluish color palette, evocative of black and white film; the focus on the lone, hunted man in a hostile world; the prevalence of underworld figures and criminality; and even the screening of a noir film in the eye doctor's lair.<sup>48</sup> This film noir tone evokes the detective genre. Detective films frequently involves a reconstitution of fragments to solve a mystery and establish a central identity—typically the perpetrator of a crime.

Despite its noirish detective motifs, *Minority Report* lacks an essential plot element of the genre: detection. Analysis of fragmentary pre-cog visions aside, the Precrime system removes the need to sift through post-event evidence to identify a criminal suspect. And on one level, *Minority Report* is built on a suppressed mourning of

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<sup>48</sup> In the Universal DVD bonus disc, the producers acknowledge their debt to the stylistic of film noir. MINORITY REPORT COMMENTARY, *supra* note 41.

this loss of detection.<sup>49</sup> Thus, the film noir motifs actually mark and mourn the *absence* of the mechanisms of detection upon which detective noirs rely.

But consistent with its depiction of the recursive nature of the future, the film revives and returns to the contemporary model of crime detection. At a crucial turning point in the film, when the Precrime system has clearly broken down because of the precogs' failure to accurately predict the murder of Leo Crow, Witwer and the Precrime police arrive at the scene of the murder and are forced to compile clues to determine what happened. Suddenly, albeit for a brief moment, the film takes the form of a standard criminal detective narrative where the characters must examine the traces of past events to determine the truth.

While in the broader context of the crime drama genre this type of scene is unremarkable, in *Minority Report* the scene takes on an uncanny quality that emanates from a simultaneous sense of origin and return. That is, the future must return to the techniques of the past in order to make sense of reality. This movement reaffirms and legitimates the legal historical moment of the film audience. It is as if the scene says, "See, we've been doing it right all along." The broader message is that any imaginable future of law holds nothing better than what we already have.<sup>50</sup>

Significantly, this scene directly follows the scene in which Anderton cheats the precogs' envisioned future and refuses to shoot Crow. Instead, in an emotional moment, a teary-eyed Anderton haltingly reads Crow his Miranda rights. Anderton's reading of the Miranda rights functions as a return to positivistic and textual law. Their incantation evokes a memorized text, a textual fragment from the past, offered to replace the oracular, visionary adjudication of the precogs. The same sense of the historical uncanny operates here; this is the first moment in the film where the audience's contemporary legal world is explicitly invoked. Moreover, Anderton's recitation of Miranda rights emerges in the context of an oppressive legal system run amok. The scene thus presents a

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<sup>49</sup> The act of mourning and the enactment of loss may be axiomatic in any film about law if one extrapolates from Austin Sarat's article about "The Sweet Hereafter" which traces the mechanism of dread, loss, and mourning in the film and other texts regarding law and the father. Austin Sarat, *Imagining the Law of the Father: Loss, Dread, and Mourning in the Sweet Hereafter*, 34 LAW & SOC. REV. 3 (No. 1 2000).

<sup>50</sup> As discussed in Section IV above, this is the type of blocked and forestalled future that Jameson remarks upon. A forestalled legal future is consistent with and reinforced by the film's overall vision of the future as simply a more exaggerated version of the present.

kind of legal foundational moment, a symbolic reenactment, as it were, of the promulgation of the Constitution itself.<sup>51</sup> The film offers this return to rights as both necessary and transcendent. Rights discourse is produced as unproblematic corrective to the overweening power of the future legal system depicted. The film returns to the invocation of Fourth and Fifth Amendment rights as if these legal forms from the past were the ultimate (and only) vehicles for justice in the future. Despite all of its imaginativeness, the film fails to imagine a positive legal future capable of progressing beyond our historical moment.

Critically, this return to rights is enacted through the drama of the patriarchal family.<sup>52</sup> Leo Crow is posing as a child kidnapper who allegedly molested and killed Anderton's son. Anderton's initial impulse to kill Crow emanates from his anger and grief at the loss of his son. In addition, Crow ultimately reveals that the only reason he has gone along with the ruse to eliminate Anderton was to provide money for his family after his death. Moreover, this entire exchange takes place in the presence of piles of photographs of children, as the female precog looks on. Thus, at its core, this scene is a battle between two fathers.

But Anderton and Crow are not true adversaries. Rather, they act from the same patriarchal impulse to protect their families. Their connection is further emphasized by the fact that they both hold the shifting positions of both perpetrator and victim—initially, Anderton is the prospective murderer and Crow the future victim. However, by the end of the scene, Anderton is established as the victim of a set-up and Crow the perpetrator of “murder” on himself. It is the law in the form of rights that ostensibly separates them as criminal and cop through Anderton's reading of the Miranda rights. Again, the film presents this moment as a kind of triumph of justice and a correction of legal roles. But interestingly, the reading of the Miranda rights is actually meaningless at the plot level because Crow is in fact not guilty of the crime Anderton seeks

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<sup>51</sup> There is a ghostly resonance here of a scene in another Spielberg film, *Amistad*. In the film's climactic scene, John Quincy Adams (Anthony Hopkins) invokes the founding fathers and the Declaration of Independence as the origin of some supposed anti-slavery sentiment, which the film tries to imbricate into the origin of the United States in place of the historical and economic reality of slavery in this country. *AMISTAD* (Dreamworks 1997). See Catherine Gunter Kodat, *Saving Private Property: Steven Spielberg's American DreamWorks*, 71 REPRESENTATIONS 77, 80-83 (2000).

<sup>52</sup> Britton identifies this Spielberg thematic in the early films: “Spielberg's films are ostensibly committed to the renewal of patriarchal domesticity...” Britton, *supra* n. 8, at 40.



to charge him with. Thus, the revival of rights, offered as transcendent justice, in plot terms amounts to no more than a hollow display. Ultimately then, despite the film's offer of rights as a panacea to an oppressive legal system, rights do not actually define the film's legal subject but are merely a performance of justice.

The film depicts the legal system as ultimately patriarchal and familial from its outset. Lamar Burgess is called the "father" of Pre-crime while biotechnologist Doris Hinneman is the absent "mother" of the system, found in the film attending to her greenhouse garden. Therefore, it obviously follows that the pre-cogs are the "children" of this system; they are in fact fetal, still floating in their amniotic, somnambulant womb.<sup>53</sup> In addition, Anderton's relationship to Burgess is essentially a father-son relationship, albeit a corrupt one, as evidenced by Burgess' manipulation of the Pre-crime system. And at the end of the film, Burgess kills himself as a kind of atonement for his failure to faithfully represent the law of the father.<sup>54</sup>

Regardless of either the positive valance the film grants to rights discourse, or the negative subtext underlying this discourse, the film ultimately portrays law as a system whose power originates in a "natural" order of biology and family. Certainly there is much truth in the notion that law emanates from this traditional, patriarchal model.<sup>55</sup> However, the potential for that observation to become a critique of power, the traditional family, and law is, in typical Spielberg fashion, short-circuited by the "happy ending" of the film's last act.

#### VIII. CONCLUSION: THE NATURAL AS ORIGIN AND RETURN

Consistent with *Minority Report's* dynamic of repression, the explicit family drama of Anderton's loss of his son and estrangement from his wife is initially presented as sub-plot. But at the film's end, the major themes of law and surveillance are subsumed into the

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<sup>53</sup> The entire film is, in fact, awash in water. The opening credits are haunted by the shadows of waves; the precog pool dominates the Pre-crime headquarters; the image of the drowning of Anne Lively, one of the precogs' mothers, is repeated throughout the movie. *MINORITY REPORT* (Dreamworks Pictures 2002). Anderton's son is lost in a swimming pool and towards the end of the film, Anderton runs to his estranged wife at her home on the shore. *Id.* All this water is of course a kind of maternal, primordial soup, the generative source of the characters and the law, a charged transitional space between human and machine. *Id.*

<sup>54</sup> See SARAT, *supra* note 49, at 13-17 for a discussion of the origins of the Judeo-Christian paradigm of father as both follower of law and giver of law.

<sup>55</sup> See *id.*

narrative of family.<sup>56</sup> The reconstitution of the patriarchal family and the recovery of the natural is offered as safe haven from social control, positive law, and surveilling visual technology.

Ultimately, despite the dehumanizing by-products of the biologically-based Precrime system (the confinement that amounts to torture of the precogs, the antiseptic warehousing of pre-criminals, etc.), and, despite the film's frank revel in the pleasures of technology, both as content and in film form, the film ends with a celebration of nature and the natural. Nature is affirmed not only as origin (the biological family and the 'biological' Precrime system) but as the ultimate future destination. Once Anderton's voiceover tells us—somewhat perfunctorily—that Precrime has been abolished, the film closes with two crucial scenes which operate as replacement future for the dystopic future depicted in the film. First, Anderton stands at a window, reunited with his now-pregnant wife, looking out at the rain. Finally, the film ends with the three precogs, their hair grown out, reading books together (the first appearance of books are depicted in the film) in a cabin flooded with golden light, situated somewhere in the wilds of nature.

These final scenes operate as much more than the obligatory Hollywood happy ending. Both scenes represent a re-appropriation of the law as natural, biological imperative, a system expunged of the "taint" of filmic representation. Anderton and his wife are reunited around a new child, the actual fetus displacing the fetal pre-cogs. And the pre-cogs, former oracle, are depicted seeking knowledge through books. Books here represent for the precogs a retreat from envisioning the future, a freedom from adjudication. And in this return to the book, (which is, in the film's terms, a return to the past, the historical present of the audience), the essentially representational nature of texts is elided. The image of the precogs reading is meant to suggest a kind of pure acquisition of actual knowledge, a "relief from their gift" of pre-knowledge, as the voiceover intones.

Thus, textual representation is presented as somehow more "natural" and transparent than visual representation and less prone to social control than the images of Precrime adjudication. What is depicted in the demise of the precog apparatus of adjudication is

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<sup>56</sup> Spielberg's interest in the family amounts to an obsession that is fascinating to trace from earlier films like the *Extra-Terrestrial* (1982) and *Close Encounters of the Third Kind* (1977), up to *Artificial Intelligence* (2001); and even including, to some extent, *Munich* (2005). His framing of the family is typically traditional and sentimental, yet he frequently manages to tap into the true zeitgeist of the American family.

the demise of power, represented in the film as residing in visual representation and technology. We of course know that linguistic texts are just as representational in nature as visual texts. And we know that power is wielded in a legal system that relies on textual production and interpretation—our legal system—just as fully as it is in the future legal system depicted in the film. But again, the film ultimately condemns the visual technology it revels in and retreats to a different fantasy future, one that more closely resembles a fantasy of the past. And while the film doesn't directly address what legal system will replace Precrime, it seems clear that it will very much resemble the one of the contemporary film audience. The feeling at the end of the film is of a kind of natural calm that renders any system of law outside of the patriarchal order, symbolized by Anderton and his pregnant wife, unnecessary.

These scenes are offered as a happy ending, a kind of awakening safely, but in a world that resembles the past, free from the nightmare of the future. That past is of course our present, reimagined as a place of intact, patriarchal, heterosexual family; a naturalism expunged of the corrupt power of the Precrime legal system. A place where subjects are free to look (out the window or at books) without being looked at. A place where representation is somehow pre-technological<sup>57</sup> and textual, and law is purged of its power and function to form the truth. It is essentially a world without a future; a static existence dependent, in fact, on the death of the future. This escape from the future is depicted, in classic Spielberg reactionary style, as liberation.

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<sup>57</sup> Of course, all forms of representation rely on technology, whether cave painting techniques or blue screen computer images. But the ability to slip the bonds of representation is central to the film's contradictory notions of transparent truth.