The Pacification of Indigenous Resistance: An *Anti-*Security Analysis of Idle No More Protest Policing and Surveillance Operations

by

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Abstract

This thesis investigates the Canadian state's response to the Idle No More movement and associated direct actions that took place between December 2012 and March 2013. I critically examine Idle No More protest policing and surveillance operations carried out by a wide range of Canadian institutions as strategies of settler-colonial pacification. I offer evidence that the pacification strategies employed by law enforcement agencies, Aboriginal Affairs and Northern Development Canada, the Canadian Security Intelligence Service, and the Canadian military were coordinated through the Government Operations Centre and guided, at least in part, by the production of integrated intelligence that framed Idle No More as a national security threat. By taking an "anti-security" approach, this thesis contributes to a larger political and analytical project that aims to challenge the securitization of discourse surrounding the policing and surveillance of dissent emanating from Indigenous struggles for self-determination.

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Introduction

"This Idle No More movement is like bacteria, it has grown a life all of it's own across this Nation. It may be advisable for all, to have contingency plans in place, as this is one issue that is not going to go away."

The above quote is taken from an email sent by Royal Canadian Mounted Police Cpl. Wayne Russett, the Aboriginal and Ethnic Liaison Officer for the national capital region. The email was sent to Insp. Mike LeSage, the acting director general for National Aboriginal Policing on December 24, 2012 and passed on a few hours later to Carrie Ann McPherson, a senior analyst with the RCMP's Operations Intelligence Analysis Section. This quote is drawn from Col. Russet's site report from Attawapiskat Chief Theresa Spence's camp, which had been set up during her liquids-only fast on Victoria Island, within sight of Parliament Hill and the Supreme Court of Canada.

In addition to providing real-time details of the situation at Chief Spence's camp, which had become a hub of activity between December 2012 and January 2013, the report included the Aboriginal and Ethnic Liaison Officer's comments on the Idle No More movement itself. "There is a high probability," Russet writes, "that we could see flash mobs, round dances and blockades become much less compliant to laws in an attempt to get their point across." "The escalation of violence," he warns, "is ever near." While particularly ominous in tone, Corporal Russet's email is just one illustrative example of the numerous reports and assessments produced and circulated by senior police officers and government officials that characterized Idle No More as a source of

potential violence and insecurity.

Chief Spence began her hunger strike on December 11, 2012 and vowed not to eat until both Prime Minister Stephen Harper and Governor General David Johnston attended a meeting to discuss Aboriginal rights.[1] Around this time, a grassroots and Indigenous-led social movement known as Idle No More started to gain momentum, spreading across Canada through social media and community-based networks. Founded in November 2012 by four women in Manitoba to oppose Bill C-45, an omnibus budget bill that gutted environmental protections and threatened to undermine Indigenous self-determination, Idle No More quickly grew to become one of the largest mass movements for Indigenous rights and self-determination in Canadian history.[2]

The spring of 2013 was marked by an evolution in terms of Indigenous protests, as Idle No More specific events abated and land and environmental protests not necessarily associated with Idle No More gained prominence. Although Idle No More continued to inspire efforts to protect Indigenous lands and waters, as well as struggles for Indigenous self-determination, the emergence of new solidarity groups, alliances, and movements, such as Sovereignty Summer, had largely blurred the line between Idle No More protests and activities associated with other groups or movements. Nevertheless,

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[1] On January 23, after consuming only liquids for 44 days, Chief Spence ended her hunger strike. Although Chief Spence did not secure a meeting with the Prime Minister or Governor General, she agreed to end her strike after the federal NDP and Liberal caucuses, the Assembly of First Nations, the Native Women's Association of Canada and the leadership of other Aboriginal organizations agreed to support a declaration of commitment to carry on the struggle to protect Indigenous rights and self-determination.

[2] Dayna Nadine Scott, "Commentary: The Forces That Conspire to Keep Us 'Idle,'" *Canadian Journal of Law and Society / Revue Canadienne Droit et Société,* vol. 28, no. 03 (October 14, 2013): 25; Fyre Jean Graveline, "Idle No More: Enough Is Enough!," *Canadian Social Work Review,* vol. 29, no. 2 (2013): 293.

between December 2012 and March 2013, Idle No More endured as a distinct, largely

leaderless, and strictly non-violent movement that was further distinguished by its

geographic scope and diversity of actions and participants.

Idle No More direct actions consisted primarily of flash mobs, round dances,

peaceful gatherings in public spaces, and blockades targeting railways, highways and

border crossings. On December 21, for example, Idle No More protestors from

Aamjiwnaang First Nation set up tables, tents and vehicles on and around a CN Rail line

that crosses their reserve near Sarnia, Ontario. The objectives of the blockade, according

to the protestors, were to pressure Prime Minister Stephen Harper to meet with Chief

Spence, to demonstrate support for the Idle No More movement, and to draw attention to

Aboriginal issues. For thirteen days, they prevented an average of 450 cars a day of

ethylene, polyethylene, butane, propane, ammonium nitrate, nitric acid, methanol, and

other industrial freight from reaching the heart of Canada's "Chemical Valley,"

effectively starving the valley's petrochemical manufacturing plants of vital inputs.[3]

For the most part, Canadian authorities were applauded for their handling of Idle

No More.[4] However, in some cases, such as the Aamjiwnaang railway blockade, police

were sharply criticized for failing to maintain public order and uphold the law.[5] Recent

media reports have also accused the Royal Canadian Mounted Police (RCMP), the

Canadian Security Intelligence Service (CSIS), Aboriginal Affairs and Northern

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[3] Dayna Nadine Scott, "The Networked Infrastructure of Fossil Capitalism:
Implications of the New Pipeline Debates for Environmental Justice in Canada,"
Revue Generale de Droit, vol. 3 (2013): 64.
[4] Joe Warmington, "Cops acted properly at Sarnia rail blockade," *Toronto Sun*,
January 8, 2013.
[5] "Ontario police officer defends handling of Idle No More blockades on Youtube,"
The Canadian Press, January 15, 2013.

Development Canada (AANDC) the Canadian Armed Forces (CAF), and a little known

entity called the Government Operations Centre (GOC) of spying on Idle No More.[6]

Beyond defending and heralding the success of front-line operations, the

Canadian Government has provided few public statements on its handling of Idle No

More. When government officials have publicly responded to accusations that CSIS,

AANDC, the CAF, and the GOC were spying on Idle No More, they denied or

downplayed their involvement by claiming that Idle No More was merely captured in the

routine monitoring and reporting activities carried out by most government organizations.

Nevertheless, critical researchers, activists, and journalists have employed various

methodological strategies to investigate the role that national security agencies, the

military, and other departments and agencies played in the policing and surveillance of

Idle No More. Notably, I and other researchers have collected and shared internal

government records in the hopes of uncovering what was happening "behind the scenes."

Through an in-depth investigation of the state's responses to Idle No More, this

thesis aims to build on the work of Dafnos and contribute to a larger "anti-security

analysis" of the policing and surveillance of Indigenous activists and activism in Canada.

This thesis makes the theoretical claim that the protest policing and surveillance

operations surrounding Idle No More can be critically analyzed as strategies of settler

colonial pacification. Using open source texts and records obtained through access to

information and freedom of information (ATI/FOI) requests, I have pieced together a

backdrop of the state's responses to Idle No More protests and blockades, a response that

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[6] Justin Ling, "Snooping Idle No More," *Maclean's,* September 2, 2013; Jorge Barrera, "RCMP tracked movements of Indigenous activist from 'extremist' group: documents," October 17, 2014.

involved law enforcement agencies as well as a number of state agencies not usually associated with the policing of Indigenous protests. I contend that the state's response framed Idle No More as a *national security threat* rather than as a matter of law enforcement or maintenance of public order. This securitized response to Idle No More, I argue, is reflected in: the production and use of intelligence by law enforcement agencies; the involvement of national security agencies and the Canadian military; and the direct involvement of government organizations that do not have explicit security or law enforcement mandates.

As Dafnos argues, the entities and processes involved in the policing and surveillance of Indigenous activists and activism are constantly changing.[7] Since the national security apparatus of the Canadian settler state is not static, this thesis also attempts to identify the particular state institutions and strategies involved in the Idle No More pacification project. Notably, I offer evidence that the GOC played a central role in the overall pacification of Idle No More by coordinating a nation-wide surveillance program and providing integrated security intelligence to law enforcement, emergency management, and national security agencies, other government departments and agencies not usually associated with policing, as well as private sector "stakeholders." Although each government agency or department provided their own institution-specific rationalizations for collecting information on Idle No More, I demonstrate that the production, sharing, and use of integrated intelligence by the Government Operations Center and its partners was enabled by Canada's emergency management legislation and

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[7] Tia Dafnos, "First Nations in the Crosshairs: As Canada moves to protect resource extraction, agencies accelerate spying on Indigenous activists," *Canadian Dimension* vol. 29, issue 2 (March/April 2015).

justified primarily by emergency management and critical infrastructure discourses and legislation.

In order to show the scale and complexity of the state's responses, I consider the entities, processes, and relationships involved in the policing and surveillance of Idle No More at the federal, provincial, and municipal levels. Although I draw on other cases to strengthen my analysis, this thesis focuses on the state's responses to Idle No More protests that took place in and around Aamjiwnaang First Nation and Sarnia, Ontario. This geographic focus allows me to more easily highlight how coordinated and overlapping policing and surveillance practices blur the conventional scales of local law enforcement and national security.

This thesis is divided into 6 chapters. In chapter 1, I provide an overview of the anti-security approach and research design I use to examine Idle No More protest policing and surveillance operations. First, I explain why an anti-security approach is useful for critically engaging with security-related subject matter. Next, I describe Idle No More and the Aamjiwnaang railway blockade as the focus of my embedded case study on Indigenous protest policing and surveillance. Then, I discuss the primary method of data collection I employed to carry out my research: access to information (ATI) and freedom of information (FOI) requests.

In chapter 2, I develop settler-colonial pacification as the conceptual framework for my analysis of Idle No More protest policing and surveillance operations. First, I explain the conceptual utility of pacification and I establish settler colonialism as an appropriate lens for understanding the colonial and class relations that function primarily to repress, displace, and dispossess Indigenous peoples residing within the borders of the

nation-state now known as Canada. Drawing on Dafnos, I also consider how pacification's targets and political objectives are modified in the settler colonial context.

My analysis of the states' response to Idle No More is split into two parts. In the first part, I critically examine protest policing as a security mechanism through which threats to settler state sovereignty and capitalist accumulation are managed. In chapter 3, I consider the most visible aspect of the state's response to Idle No More: front-line Idle No More protest police operations. I offer evidence that federal, provincial, and municipal police deployed soft policing tactics when dealing with the vast majority of Idle No More protests. In chapter 4, I examine less visible aspects of the police response to Idle No More. I offer evidence that federal, provincial, and municipal law enforcement agencies gathered and shared intelligence on Idle No More. I contend that the soft approach taken by federal, provincial, and municipal police was backed up by the threat of coercive police intervention and guided by the use of intelligence produced through multi-agency collaborations that blurred conventional scales of Canadian law enforcement and national security.

In the second part of my investigation, I consider surveillance as a security mechanism through which threats to settler state sovereignty and capitalist accumulation are managed. I provide evidence that the Government Operations Centre, the little-known hub of Canada's emergency management system, was responsible for coordinating the state's overarching response to Idle No More and preparing for an "escalation" of Indigenous resistance. In chapter 5, I examine how the GOC and Aboriginal Affairs and Northern Development Canada responded to Idle No More protests as "emergencies" affecting or emanating from Indigenous communities and critical infrastructure. In

chapter 6, I turn to examine how CSIS and the Canadian Armed Forces responded to Idle No More as a source of "Aboriginal extremism" and as a "threat" to domestic military operations.

In the final chapter, I share my concluding thoughts on the policing and surveillance of Idle No More. While keeping the political objectives of pacification in mind, I attempt to explain *why* police may have opted to use soft tactics when responding to Idle No More protests despite having demonstrated the willingness and capacity to forcefully end other peaceful, yet disruptive Indigenous protests. I also discuss the broader implications of my analysis for Indigenous struggles and dissent and highlight areas for future research on the policing and surveillance of Indigenous activists and activism.

Chapter   1: An *Anti*-Security Approach and Research Design

In this chapter, I outline the anti-security approach that I take to analyze Idle No More protest policing and surveillance operations. I also describe my reflexive mode of inquiry, which is grounded in previous research on protest policing and surveillance and informed by anti-colonial sensibilities. Next, I describe my research design and I position Idle No More and the Aamjiwnaang railway blockade as two units within my embedded case study on Indigenous protest policing and surveillance. Finally, I discuss the primary method of data collection I employed to carry out my research: access to information (ATI) and freedom of information (FOI) requests.

Anti-Security: A Critical Approach

In this thesis, I adopt an *anti*-security approach in an effort to critically engage with the concept *security*. By adopting an anti-security approach, I am involving myself in a political project that stands against the hegemonic tendencies of security. More specifically, I aim to contribute to a larger anti-security project that challenges the securitization of discourse surrounding the policing and surveillance of dissent emanating from Indigenous struggles for self-determination.

Anti-security is not a subtle term. However, its directness speaks to a desire to move critical assessments and challenges of security forward. By setting itself up against something, anti-security creates space to talk about security while also reducing the risk of being taken over by security logic and succumbing to its discourse. Yet, to be against security, even from a critical perspective, seems almost unthinkable. After all, as Rigakos pointedly asks, "how can anyone be against *social* security, *job* security, *personal*

security, or *health* security? What about *children's* security? How could anyone stand against *environmental* security?"[8] Even the most critical studies of security tend to treat security as a universal value or a fundamental human need. To understand why critical researchers should stand against security, it is helpful to critically assess security as a category of analysis and as it manifests itself under the capitalist mode of production.

The term security is not particularly useful for critical analyses. In their 2011 declaration of an anti-security political project, Neocleous and Rigakos even warn that security "is a dangerous illusion" that "has come to act as a blockage on politics."[9] Security acts as a blockage to critical analysis and politics by obscuring innumerable social relationships, de-politicizing discourse, and distracting us from the material conditions of various forms of oppression. Security functions as a hegemonic concept because it has a generally positive connotation – it is seen as something we should always want. Anything in the name of security appears to be for the greater good.

At the same time, there is no limit to the malleability of security or its ability to attach itself to human relationships. Once security colonizes a social issue, it is transformed into a technocratic problem with its own analytical neologism: hunger becomes 'food security,' globalization becomes 'supply chain security,' and imperialism becomes 'energy security.' Finally, once a social or communal problem has become "securitized," it becomes increasingly difficult to talk about imperialism, exploitation, and alienation.

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[8] George Rigakos, "To extend the scope of productive labour': Pacification as a police project," *Anti-Security*, eds. Mark Neocleous & George Rigakos, Ottawa: Red Quill Books (2011): 59.
[9] Mark Neocleous & George Rigakos, "Anti-Security: A Declaration," *Anti*-Security: 15

Instead of viewing security as a universal need or transcendental value, as Neocleous and Rigakos argue, critical theorists and activists need to understand security, or what passes under the discursive banner of security, as a mode of governing and as a mechanism of police power. To see security as a technique deployed in the exercise of police power, they argue, is to read security as a mechanism for the production or "fabrication" of social order that is amenable to capitalist accumulation.[10] In this thesis, I conduct an "anti-security" analysis of Idle No More protest policing and surveillance operations in order to examine how security is mobilized as a productive power to reproduce settler colonialism as an order that is amenable to processes of capitalist accumulation.

Reflexive mode of inquiry

Throughout the process of carrying out my research, I have attempted to adopt a reflexive mode of inquiry. This has involved facing a self-critical mirror and interrogating three sources of potential bias that may influence my knowledge claims: my social origins and coordinates; my position in the intellectual field; and the intellectualist bias. The social origins and coordinates (class, gender, ethnicity, etc.) of the individual researcher, as Bourdieu suggests, are perhaps the most obvious biases that "blur the sociological gaze."[11] For this reason, it is important that I consider my own social location and acknowledge that I occupy a relatively privileged position in my everyday life in Canadian settler society as a young, white, middle-class, gay, and able-bodied cisgender man. This privileged status has played a major part in allowing me attain post-

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[10] Mark Neocleous, "Security as Pacification," *Anti-Security:* 26.
[11] Pierre Bourdieu and Loic J.D. Wacquant, *An Invitation to Reflexive Sociology,* Chicago: The University of Chicago Press (1992): 39.

secondary education, an opportunity that is less accessible for lower socioeconomic and marginalized groups and individuals.

For the purposes of this particular study, it is important to highlight how I relate to the structure of Canadian settler colonialism. I cannot ignore the identification and corresponding social privileges of being a white settler person. As much as I may seek to "decolonize" Canada, the dualistic divide between Settler and Indigenous identities persists because we continue to live in a settler-colonial present. After all, the multiple institutions operating in settler society, as Barker and Pickerill argue, confer upon me, without my explicit consent, colonial privileges that may be unattainable for Indigenous peoples.[12] As well, as a settler, I must be conscious of my role as a non-Indigenous scholar and the risks of drowning out Indigenous voices as experts on their own experiences. In an effort to minimize this risk, I have chosen to focus my analysis on settler-colonial strategies, rather than on Indigenous experiences of colonialism and resistance.

Bourdieu's understanding of reflexivity also involves the interrogation of the scholastic point of view. According to Bourdieu there are two dangers associated with the set of dispositions and perspectives that is produced within the academic field. The first is an *intellectual bias* that entices researchers to "construe the world as a *spectacle,* as a set of significations to be interpreted rather than as concrete problems to be solved practically."[13] The second is a kind forgetting and erasure, whereby the scholastic view is privileged and considered to be a natural and objective of view. A reflexive approach

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[12] Adam J. Barker & Jenny Pickerill, "Radicalizing Relationships To and Through Shared Geographies : Why Anarchists Need to Understand Indigenous Connections to Land and Place," *Antipode* 44, no. 5 (2012): 1710.
[13] Bourdieu & Wacquant: 39.

then is oppositional towards the tendency of positivism, which requires that researchers ensure objective distance in order to produce "true" understandings about the particular social phenomenon being studied. Instead, a reflexive mode of inquiry encourages closeness and interaction with those under study.

Rather than distancing myself and claiming a stance of objectivity, I seek to intentionally blur the distinction between protestor-dissident and research-analyst. I have personally been a supporter of the Idle No More movement and its objectives. Although my involvement has been limited and peripheral, I have attempted to position myself as a settler-ally by attending protests and educational events surrounding Idle No More in Ottawa and Sarnia, Ontario. Although not directly related to Idle No More, I have also participated in protests against Bill C-51, an anti-terrorism bill tabled on January 30, 2015 that has already won the approval of the House of Commons.[14] I have participated in peaceful and lawful protests against Bill C-51 because I am concerned that the so-called Anti-Terrorism Act will increase government powers to monitor Canadian citizens and further securitize civil disobedience and protests movements, such as Idle No More.

Idle No More: A Single Case Study with Embedded Units

I use a case study methodology to examine the policing of Indigenous peoples in Canada. Below, I outline my approach by examining some common misunderstandings about in-depth case study research and identify my case study design: a single case study

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[14] Bill C-51 would change the Criminal Code to give law enforcement officials broader powers to make arrests if they suspect terrorist activity "may be carried out" (changing the wording from "*will* be carried out") and increase the period of preventative detention to seven days from three. The bill would also expand the no-fly list, bolster the Canadian Security Intelligence Service's (CSIS) abilities to "disrupt" suspected terrorist activities, make it illegal to "promote" terrorism, and make it easier for federal agencies to share information.

with embedded units. Next, I consider why a single embedded case study is the most appropriate design for this research project. I then provide some historical context and briefly describe the two key elements of my embedded case study: the nation-wide policing of the Idle No More movement and the localized policing of the CN railway blockade at Aamjiwnaang First Nation near Sarnia, ON. I conclude by explicitly positioning myself in relation to my case study in an effort to reveal any hidden biases or assumptions and to make it possible for my knowledge claims to be assessed in terms of the situated aspects of my social self.

I have chosen to use a case study methodology because, as Flyvberg argues, the social sciences could be strengthened by the execution of a greater number of good case studies. Despite several misunderstandings and oversimplifications that challenge the case study's status as a scientific methodology, I agree that the intensive, depth-oriented research of an event, process, or place is essential for building or explaining theories. As well, I believe that the context-specific knowledge produced through case studies is as valuable as the statistical and generalizable data produced by other means.[15] For the purpose of this study, I use context-specific to refer to the notion that knowledge is situated and makes the "knower accountable to his…position" in relation to the research undertaken.[16]

This study employs a case study with embedded units. In an embedded case study more than one unit of analysis is situated within a larger case study and incorporated into

[15] Bent Flyvbjerg, "Five Misunderstandings About Case-Study Research," *Qualitative Inquiry,* 12, no. 2 (2006): 224.
[16] J. Mansvelt &L.D. Berg, "Writing Qualitative Geographies, Constructing Geographical Knowledges," *Qualitative Research Methods in Human Geography,* ed. I. Hay, Don Mills, ON: Oxford University Press (2010), 338.

the research design. The use of an embedded case study enables researchers to analyze data within the sub-units separately (within case analysis), between the different subunits (between case analysis), across subunits located at different positions on the same scale (cross-case analysis), across scales (cross-scale analysis) within a larger case study. By allowing for such rich analysis, an embedded case study may illuminate the phenomenon of interest better than a single case study that lacks embedded objects of analysis. However, as a novice researcher, I must avoid the common pitfall wherein researchers analyze an individual subunit and fail to return to the global issue that they initially set out to address. [17]

Although my project examines the policing of Idle No More across the country, I have decided to complement my survey of Canadian settler-colonial policing practices by delving in-depth into a case study of the CN railway blockade at Aamjiwnaang First Nation near Sarnia, ON. I have chosen to include a case study because Idle No More was made up of a series of separate, albeit coordinated, direct actions. Given the movement's diversity and geographic scope, it is unlikely that each demonstration carried out under the banner of Idle No More would have elicited the same response from the same set of state institutions, especially when the scope of analysis is widened to include government departments and agencies that are not usually associated with the policing of Indigenous protests.

I have selected the demonstration at Aamjiwnaang as a potentially critical and extreme case. As a critical case that permits logical deductions, I have picked the CN railway blockade because it was one of a number of direct actions that targeted

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[17] R. K., *Case study research: Design and Methods,* Thousand Oaks, CA: Sage (2003).

infrastructure that plays an important role in the government's resource development agenda. As well, the railway blockade will allow me to explore how the language of 'critical infrastructure' was invoked by Canadian security agencies to justify the surveillance of Indigenous protestors as threats to private property. As a critical case, it may be possible to make generalizations about other disruptive actions that targeted privately owned infrastructure in Canada and it may highlight more general characteristics of contemporary pacification strategies.

As a potentially extreme case that may reveal more information than a 'typical' case, I have chosen the railway blockade at Aamjiwnaang because it offers an exceptional opportunity to examine how front-line police operations are entwined with less visible activities – or practices not commonly identified as policing. Despite the fact that CN had obtained two court injunctions from an Ontario judge granting police the power to end the blockade, local police and the OPP chose not to make any arrests and were reluctant to forcefully remove the barriers that the demonstrators had erected on the commercial-rail corridor. Both Sarnia Police Chief Phil Nelson and Ontario Provincial Police Commissioner Chris Lewis were sharply criticized by CN and Ontario Superior Court Judge David Brown for their "passivity" in refusing to enforce injunctions. However, both Chief Nelson and Commissioner Lewis defended their decision by pointing to the "Framework for Police Preparedness for Aboriginal Critical Incidents" and stressing the importance of negotiation and the use of minimal force when dealing with Aboriginal protests. Using open source texts and records obtained through access to information requests, I examine how front-line police operations and the decision not to remove the blockade were entwined with the surveillance of demonstrators at Aamjiwnaang,

information-sharing between Canadian policing, intelligence and non-security agencies, as well as the possible "behind the scenes" preparation of OPP paramilitary units.

As someone who was born and raised in Sarnia, I maintain a close personal attachment to the city. Although it is unlikely that I will ever permanently reside in Sarnia, most of my close friends and family still live there. My perspective on the Aamjiwnaang railway blockade and how this and future disruptive direct actions may affect neighbouring Sarnia is complex. On the one hand, I am concerned about the economic, social, and environmental health of the city and the quality of life it is able to provide for its citizens. My concerns are compounded by the fact that the city has been struggling economically for a number of years and remains highly dependent on the oil and petrochemical industries that encircle Aamjiwnaang. Disruptive direct actions that target these industries, such as the CN railway blockade, have a real impact on businesses in the area, workers' livelihoods, and the city's ability to generate revenue and provide vital public services. Despite my concern for the wellbeing of my hometown and its residents, I was and remain a supporter of the Aamjiwnaang community members who set up the railway blockade and participated in other demonstrations as a part of the Idle No More movement, because I believe these sort of disruptive direct actions can serve as an effective form of non-violent resistance.

Access to, and Freedom of, Information Requests

I used access to information and freedom of information requests (hereafter ATI/FOI) as my primary method of data production.[18] I use the term "data production,"

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[18] In Canada, 'access to information' (ATI) is often used to refer to requests made under the federal Access to Information Act, whereas 'freedom of information' (FOI) is often used to refer to requests made under the various provincial acts.

as suggested by Larsen and Walby, to highlight the active role of the researcher (and other actors, such as ATI/FOI coordinators) in shaping the outcome of the ATI/FOI and the constructed nature of the textual data itself.[19] Although qualitative researchers often regard ATI/FOI research as a straightforward and noninteractive method, systemic ATI/FOI research is neither straightforward nor unobtrusive as it involves rapport building, negotiation and the occasional use of confrontational tactics to work with ATI/FOI coordinators or around denials of access.

ATI/FOI research typically involves submitting forms or a letter that describe the nature and scope of the records being sought. To initiate the search process, requesters may also have to pay a processing fee. Search and preparation fees may also be assessed while a request is in-progress. For example, there is a $5 application fee that must be paid at the time a request is made for all formal federal ATI requests. Additional fees are also applied to federal ATI requests that require more than 5 hours of search and preparation time.

Formal ATI/FOI requests are received by government analysts that are responsible for identifying and contacting the office(s) that have control over the records being sought (typically referred to as Office(s) of Primary Interest or OPIs), receiving the records that are responsive to the request, and processing materials in accordance with the law. ATI/FOI research often involves extensive interaction between the requester and the assigned analyst. These interactions may include requests for clarification or negotiations regarding the scope of a request. Depending on the nature of the request, the dynamics of

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[19] Kevin Walby and Mike Larsen, "Access to Information and Freedom of Information Requests: Neglected Means of Data Production in the Social Sciences," *Qualitative Inquiry,* 18 (1), 2011.

the negotiation process, and various other factors, requests may be completed before the statutory deadline (typically 30 days) or be subject to extensions and delays. Released records may contain redactions or excluded pages, corresponding to various clauses within ATI/FOI laws that allow for the withholding of certain information.

After an ATI/FOI package has been released, some respondent government agencies will post a summary of the completed request on their website. The federal government also hosts an online platform for searching through completed requests from a number of agencies. Using the assigned reference number, researchers can request records that have previously been disclosed. These informal requests, depending on the jurisdiction, can be submitted without an application fee and are not subject to the same extensions and delays as formal requests.

Although often overlooked as a means of data production in sociology, political science, criminology, and related disciplines, ATI/FOI requests can be highly rewarding in producing textual data about the activities of government, especially when dealing with government agencies that do not allow researchers entry (such as some security and intelligence agencies). However, the right to request information does not necessarily translate into the timely or comprehensive release of records. A number of in-built governance mechanisms mitigate against full disclosure, including the application of various legal exemption and redaction clauses, to the design of information management and access software, to the response tactics of ATI/FOI coordinators and resistance from offices of primary interest (OPI). For example, ATI/FOI coordinators can limit access through techniques such as amber lighting and red filing. Amber lighting involves the tagging of a request or requester as politically contentions while red filing involves the

stonewalling of request by the Minister or Prime Minister's Office who receive a weekly inventory of tagged requests.[20]

ATI/FOI requests also lend themselves naturally to an anti-security approach because they shed light on the activities of the security establishment itself, rather than on the activities of people that have been identified by the state as a security threat. This is important because research on Indigenous resistance and social movements could be accessed by security analysts and experts and used *against* Indigenous communities and protestors. Instead of inadvertently providing security experts and analysts with information about Indigenous protestors, in other words, ATI/FOI requests allow us to "spy on the spies."

I filed my first ever ATI/FOI requests in order to produce the data I thought was necessary to examine the policing of Idle No More. First, I consulted the Government of Canada's online portal for completed ATI requests. I made informal requests for copies of all records produced by federal government agencies or departments that had been previously released to the public relating to Idle No More. These agencies and departments included Public Safety Canada, the Royal Canadian Mounted Police, the Canadian Security Intelligence Service, Aboriginal Affairs and Northern Development Canada, the Department of National Defence and the Canadian Border Services Agency. Since these records had already been collected and approved for release, I was able to receive most of them in a timely fashion.

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[20] Ann Rees, "Sustaining Secrecy: Executive Branch Resistance to Access to Information in Canada," *Brokering Access*: *Power, Politics, and Freedom of Information Process in Canada,* eds. Mike Larsen & Kevin Walby, Vancouver: UBC Press (2012): 36-37.

These records included emails, media monitoring reports, intelligence reports, briefing notes, meeting minutes, and PowerPoint presentations. Although I received them quite quickly, there were still challenges involved in examining these documents. For example, many of these records, especially those dealing directly with Idle No More security matters, were heavily censored. As well, the release packages themselves were not organized in any logical fashion. Notably, the release packages did not specify what types of documents were included, when they were produced, or where they originated from within the department or agency. In order to make sense of each document, I had to do extra research just discern where they were produced and under what authority.

Next, I prepared my own formal FOI requests with the Sarnia Police Service and the Ontario Provincial Police. My requests with the Sarnia Police were relatively straightforward. On August 24, 2014 I submitted requests for any records from December 1, 2012 to December 1, 2013 concerning the policing of Idle No More and/or Aboriginal protests. In my request, I highlighted the CN rail blockade at Aamjiwnaang First Nation that occurred from December 21, 2012 to January 2, 2013 and the Bluewater Bridge blockade that occurred January 5, 2013. After a few months, I received incident reports, or field notes, that had been prepared by officers that were present at both Idle No More protests. Shortly after, I received a letter from the Sarnia Police Service indicating that intelligence records relating to Idle No More had also been created, but that these records could not be released under Ontario's Freedom of Information Act.

The FOI requests that I filed with the OPP were anything but straightforward. Instead, my experience with the OPP demonstrated that ATI/FOI requests can be highly obtrusive, interactive and mediated. In August 2014, filed five separate requests with the

OPP that each targeted different parts of the organization and different types of documents relating to Idle No More. Nearly three months later, I received a fee estimate of nearly $40, 000 from the OPP to process these requests. I then embarked on a long negotiation process with the FOI coordinator responsible for my file.

This process involved extensive rapport building by email and over the phone. In the end, in order to reduce the cost of my request, I conceded to the coordinators demands and combined and revised my original requests. As a result, the scope of my request with the OPP was narrowed. Rather than requesting documents relating to the policing of Idle No More across the province as I had originally intended, I was forced to request a narrow set of documents from the Lambton OPP detachment, which is the closest detachment to Aamjiwnaang First Nation. Eventually I paid $200 in order to obtain incident notes and a few emails relating to Idle No More from the Lambton OPP detachment. Although these documents were extremely useful, I can't help but think that – as a novice researcher – I was talked out of pursuing a few well-prepared requests and ultimately blocked from producing even more useful data.

Despite the challenges of using formal ATI/FOI requests to produce data, I was still able to obtain a wide range of useful government records relating to Idle No More. Using these records, along with newspaper articles and publicly available policy and court documents, it became possible to piece together a backdrop of the state's response to Idle No More. In the next chapter, I describe the conceptual framework that I use to examine these records, to make sense of the state's response and to contextualize and politicize the policing and surveillance of Idle No More.

Chapter   2: Indigenous Resistance and Settler Colonial Pacification

In this chapter, I demonstrate how anti-colonial researchers and activists could benefit from an anti-security approach and its analytical concept of pacification. More specifically, I suggest that there is a political and analytical value to studying Idle No More protest policing and surveillance operations through the lens of settler-colonial pacification. I also contend that Idle No More and the Canadian state's responses to the movement should be understood as a part of the larger, dialectical relationship between pacification and resistance that sustains the insecurity inherent to both capitalism and settler colonialism.

This chapter is divided into three sections. In the first section, I define and explain my use of the key concepts underlying my anti-security analysis. I demonstrate the utility of pacification as a concept for critically engaging with security-related subject matter and for examining the operation of police power. Next, I briefly consider the various ways in which the on-going processes of primitive accumulation are experienced and resisted in the context of settler colonialism. I also show how pacification vis-à-vis Indigenous peoples is ultimately grounded in a logic of elimination.

In the second section, I consider the wide range of strategies that have been deployed historically by the Canadian state and settlers in pacifying Indigenous peoples. I discuss the central role that physical violence played in the initial dispossession of Indigenous peoples and I highlight some of the policing and legal strategies that have been deployed to pacify Indigenous peoples over the centuries in order demonstrate the interconnectedness of seemingly unrelated policing practices across time and space.

Settler Colonial Pacification – A Conceptual Framework

Building on the work of Dafnos, I use settler colonial pacification as a conceptual framework to examine the policing and surveillance of Idle No More. In developing this framework, Dafnos herself draws on the works of Neocleous and Rigakos and their analytical concept of pacification. While recognizing that pacification has "an historical-materialist basis in imperialism and colonialism," Dafnos convincingly argues that pacification is modified in the settler-colonial context to operate in a manner consistent with the logic of elimination.[21] In this section, I unpack pacification as a concept for critically engaging with security-related subject matter and for examining the operation of police power. I also describe settler colonialism as a specific type of colonialism. Bringing these two strands together, I then explain how pacification in the settler colonial context aims to ultimately eradicate Indigenous societies in order to establish a new capitalist society on the expropriated land base, rather than transforming existing societies to achieve a permanent condition of management and exploitation.

Pacification: Critically Engaging with Security

To avoid succumbing to the discourse of security and being taken over by its logic, Neocleous and Rigakos have re-appropriated and developed the concept of pacification. Pacification in this context is understood as the ongoing process through which police and war power, both of which exist along a continuum of state power, are deployed in the fabrication and maintenance of capitalist social relations. Pacification can be further understood as a form of "war" against domestic and imperial resistance. As both a destructive and productive process, pacification encompasses a wide range of

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[21] Tia Dafnos, "Pacification and Indigenous Struggles in Canada," *Socialist Studies* 9, no. 2 (2013): 58-59.

strategies, which as Dafnos observes, include the simultaneous deployment of sovereign (repressive), disciplinary and governmental modalities of power.[22]

Pacification is not a new term, but it has come into new usage as a critical concept for grasping the nature of security politics. Indeed, Neocleous has effectively developed the genealogy of pacification as a project associated with the development of international relations as early as the sixteenth century, as the control of colonial subjects, and as a euphemism for conquest and the suppression of resistance during the Vietnam War. However, in re-appropriating the term, Rigakos and Neocleous place pacification at the core of an analytic project for anti-security. [23]

Pacification, as Rigakos explains, has four characteristics that make it a particularly useful concept for critically engaging with security-related subject matter and for examining the operation of police power. [24] First, pacification problematizes the objectives of security by opening space to consider *who* is being targeted for pacification and to consider *why* they are being pacified. Unlike security, which is seen as being universally desired, the term pacification presupposes a negative connotation. While rational individuals may want to be secured, would they necessarily want to be pacified?

Second, pacification builds analytical connections instead of masking them by emphasizing the interrelationship between a wide range of seemingly distinct policing institutions and practices and by exposing false binaries that security discourse has constructed. For example, pacification insists on conjoining war and police power in a way that is opposed to the mainstream tendency that thinks of war and policing as two

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[22] Dafnos, "Pacification and Indigenous Struggles," 59.
[23] Neocleous & Rigakos, "Anti-Security: A Declaration," 15.
[24] Rigakos, "To extend the scope," *Anti-Security:* 61-63.

separate activities, conducted by two separate institutions (*the* police and *the* military), and at two different levels (domestic and international). Since security constructs both internal domestic and external foreign enemies, pacification sees policing as occurring within and across state borders, or as "a continuous warfare that is both domestic and international."[25] By challenging these and other binaries in security discourse, such as "hard" vs. "soft" interventions and public vs. private, it becomes possible to see how a wide range of techniques and discourses have converged in particular historical contexts to crush or contain resistance and fabricate bourgeois order.

Third, pacification helps displace the reach of security because there are limits to security's ability to attach itself to human relationships and categories of investigation. While it has become commonplace to talk about food security, supply chain security, and energy security, there is no such thing as food pacification, supply chain pacification, or energy pacification. These analytical neologisms would be nonsensical because pacification resists the ubiquity of security discourse.

Finally, pacification presupposes war or at least an ongoing counter-insurgency against some sort of resistance. By presupposing war and resistance, pacification reveals what security seeks to mask: that security is concerned first and foremost with the protection and violent imposition of property relations. Unlike security, which presents itself as being passive or reactive to disorder, pacification makes it clear that we are studying police and military interventions aimed at rendering populations and territories more productive or exploitable to the benefit of capital.[26]

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[25] Rigakos, "To extend the scope," *Anti-Security:* 63.
[26] Rigakos, "To extend the scope," *Anti-Security:* 61-63.

Since capital is global, pacification should also be viewed as a global process. Although capital requires a global system of pacification to enable continued accumulation, the exact nature of pacification, its specific techniques, its modus operandi, its technologies, its justifications, will always vary from state to state but also within each state depending on the precise level and nature of resistance and how organized such resistance might be at any one time. Pacification, as Neocleous suggests, highlights the global or universal nature of the process but also allows some nuance for the particularities.[27]

Settler Colonialism: Understanding the Canadian Context

In order to examine the particularities of pacification in the Canadian context, particularly pacification vis-à-vis Indigenous peoples and nations, I draw on insights from the field of settler colonial studies. Settler colonial studies is a field of inquiry that examines a type of colonialism that is premised on land acquisition and population *replacement*.[28] Settler colonialism is a therefore a social formation that is distinct from colonialism, neo-colonialism, and post-colonialism. Whereas colonialism aims towards a permanent condition of management and exploitation of Indigenous labour and resources, settler colonialism aspires to acquire territory and erect a new colonial society on the expropriated land base. As Cavanagh and Veracini also point out, it is not (yet) possible to speak of neo-settler colonialism or post-settler colonialism because settler colonial

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[27] Gülden Özcan and Ersin Vedat Elgür, "A Taste for the Secret: Interview for Neocleous," *Critical Legal Thinking (*October 6, 2014).

[28] Patrick Wolfe, "Settler colonialism and the elimination of the native," *Journal of Genocide Research,* 8, no. 4 (2006): 388.

formations rarely end and are as much a thing of the present as they are of the past. [29] After all, unlike colonials in South Asia and Africa, settlers in what is now known as Canada did not "return" to the metropole. Instead, settler colonizers stayed, and have sought to replace Indigenous societies with their own. Invasion, as Wolfe puts it, is a "structure, not an event."[30]

Wolfe uses the term "logic of elimination" to refer to a tendency specific to settler colonialism that seeks to eliminate a territory's owners or inhabitants in order to make way for colonial settlement.[31] This logic contains both negative and positive elements that operate in unison with each other. Negatively, it demands the liquidation of Indigenous societies and the erasure of their political existence. While the logic requires the elimination of a territory's original inhabitants, it does not prescribe any particular method to doing so. Elimination may therefore be carried out through a wide range of strategies reflecting the centrality of land, including termination, displacement, and assimilation, all of which have been favoured and pursued under particular historical circumstances by the Canadian state and settler society.[32]

Positively, settler colonialism strives to create a new society and establish an independent post-colonial state on the expropriated land base. However, since Indigenous people have survived and resisted the colonial project of land appropriation and settlement, the historical development of settler colonial society itself has been, and continues to be, informed by the logic of elimination. In other words, since settler

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[29] Edward Cavanagh and Lorenzo Veracini, "Editors statement," *Settler Colonial Studies* 3, no. 1 (2013): 1.
[30] Wolfe: 388.
[31] Wolfe: 387.
[32] Wolfe: 388.

colonialism is a "failed" or "incomplete" project, elimination should be viewed as an organizing principle of settler-colonial society, rather than a one-time, superseded occurrence. In Canada, the ongoing repression of Indigenous peoples and efforts to eliminate autonomous source of Indigineity continue to structure settler-colonial society.[33]

Since there is a significant amount of overlap between pacification and elimination, it is useful to make a clear distinction between these two processes. While pacification seeks to fabricate and maintain a social order conducive to the accumulation of capital, elimination aims to liquidate Indigenous societies and establish a new settler-colonial society on the expropriated land base. Pacification is inherently transformative, but not invariably eliminatory. In other words, pacification can be achieved without eliminating a territory's original inhabitants. At the same time, elimination does not *inevitably* or *necessarily* lead to the establishment of a new social order conducive to the accumulation of capital. To better understand how pacification operates in the settler colonial context, it is useful to consider how on-going processes of primitive accumulation are experienced and resisted by Indigenous peoples.

Settler Colonial Order: An Order of Land Insecurity?

At a fundamental level, as Neocleous reminds us, the order of capital is an order of social *insecurity* because the bourgeoisie cannot exist without constantly revolutionizing the instruments and relations of production and them the whole relations of society. This uninterrupted disturbance of social relations under capitalism gives rise to a *politics of security*, and it is through this politics of security, as Neocleous theorizes,

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[33] Wolfe: 388.

"that the constant revolutionizing of production and uninterrupted disturbance of capitalist order is fabricated, structured and administered."[34]

In this thesis, I suggest that settler colonial order – like the order of capital – be understood as an order of *insecurity*. However, I contend that settler colonial order is above all an order of *land* insecurity since, as Brown observes, settler possession of land is *precarious*.[35] Although the settler state claims political and territorial authority over Indigenous peoples and their lands, as Geoman observes, dispossession has failed to "bind land to settler states" and "expunge Indigenous sense of place."[36] As a result, Indigenous peoples maintain an "ontological" or "inalienable relation to land" that constitutes an Indigenous subject position. As Moreton-Robinson explains:

> Our ontological relationship to land marks a radical, indeed incommensurable, difference between us and the non-Indigenous. This ontological relation to land constitutes a subject positions that we do not share, and which cannot be shared, with the postcolonial subject whose sense of belonging in this place is tied to migrancy…This subject position cannot be erased by colonizing processes which seek to position the Indigenous as object, inferior, other, and its origins are not tied to migration.[37]

This ontological relationship to land, she continues, "is omnipresent and continues to unsettle non-Indigenous belonging based on illegal dispossession."[38] This unsettling

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[34] Neocleous, "Security as Pacification": 24.

[35] Nicholas Brown, "The Logic of settler accumulation in a landscape of perpetual vanishing," *Settler Colonial Studies* 4, no. 1 (2014): 6.

[36] Mishuana Geoman, "From Place to Territories and Back Again: Centering Storied Land in the discussion of Indigenous Nation-building," *International Journal of Critical Indigenous Studies* 1, no. 1 (2008): 25.

[37] Aileen Moreton-Robinson, "I Still Call Australia Home: Indigenous Belonging and Place in a White Postcolonizing Society," *Uprootings/Regroundings: Questions of Home and Migration,* eds. Sara Ahmed, Claudia Castaneda, Anne-Marie Fortier, and Mimi Sheller, Oxford: Berg Publishers (2003): 31.

[38] Moreton-Robinson, "I Still Call Australia Home": 24.

effect on non-Indigenous belonging, she argues elsewhere, contributes to a constant settler anxiety about dispossession.[39]

This constant anxiety about dispossession, or permanent insecurity, gives rise to a particular politics of security that is *centered on land*. In the context of Canadian settler colonialism, I contend that it is through this land-centered politics of security that the conjoined processes of Indigenous dispossession and settler repossession are managed. In this sense, as Brown argues, dispossession is better under as a structure rather than an event.[40]

To better grasp the operation of this land-centered politics of security, it is useful to consider how the interests of capital, settlers, and the state aligned in the moment of *initial* dispossession in Canada. As Harris argues in relation to the dispossession of Indigenous peoples in British Colombia, "combine capital's interest in uncluttered access to land and settlers' interest in land as livelihood and the principal momentum of settler colonialism comes into focus."[41] In British Colombia, and the rest of Canada, capital has been, and continues to be, far more attracted to opportunities of Indigenous land than to the surplus value of Indigenous labour. Of course, when labour is scarce, capital does seek out Indigenous workers. Ultimately though, capital's primary concern vis-à-vis Indigenous peoples has been to dispossess them of their land in order to gain unfettered

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[39] Aileen Moreton-Robinson, *Sovereign Subjects: Indigenous Sovereignty Matters,* Crows Nests, New South Wales: Allen & Unwin (2007): 96.
[40] Brown: 3.
[41] Cole Harris, "How Did Colonialism Dispossess? Comments from an Edge of Empire," *Annals of the Association of American Geographers* 94, no. 1 (2004): 179.

access to the land, fish, forests, and minerals that form the basis of an industrial primary resource economy.[42]

Settlers also contributed in their own particular ways to the initial dispossession and repossession of Indigenous lands. Settler involvement in the theft of Indigenous lands can be understood as a direct and indirect function of capitalism's historical development at the colonial frontier and the imperial center. On the one hand, even though settler and capital interests were different and often antagonistic, many settlers were closely implicated with frontier capital. Some of these settlers were wage labourers dependent on employment on the industrial labour market. Others migrated to the colonies to try to become capitalists themselves. On the other hand, some settlers migrated to the colonies to avoid the work relations of industrial capital and to forge livelihoods associated with new, land-based opportunities. In some settler colonies, the availability of agricultural land allowed former wage earners to become independent producers who worked for themselves instead of capital.[43] In the end though, regardless of how deeply settlers were implicated with capital, the impetus for colonialism in Canada appears to be associated with the interest of capital and settlers in acquiring Indigenous lands.

While the momentum to dispossess in settler colonies derived from the interest of capital in profit and of settlers in forging new livelihoods, as Harris argues, "the initial ability to dispossess rested primarily on physical power and the supporting infrastructure of the state."[44] Before the creation of settler colonies in North America, physical violence had played a significant part in mediating the trade-based relationship between

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[42] Harris : 173.
[43] Harris : 173.
[44] Harris : 179.

Indigenous and non-Indigenous peoples. However, the creation of settler colonies

brought a new level of organization and calculation into the equation of violence: the

police and military institutions of the imperial – and eventually – settler state. Over time,

the balance of power shifted decidedly to the state. From that point on, threats and

ostentatious displays of police or military power were often sufficient for the state to

impose a monopoly of violence.[45]

Once the power of violence had been demonstrated, the state took on a central

role in fabricating, structuring, and administering a settler colonial order amenable to

capitalist accumulation. In this role, the state imposed a framework for the "ordered"

dispossession and repossession of land and strategically deployed and displayed police

and military power to support the *elimination* Indigenous societies while simultaneously

transplanting a capitalist society onto the territories over which it claimed authority.[46]

Although it would be ideal to present a brief summary on the political economy of

Indigenous resistance in Canada from the moment of initial dispossession to today, such

an over-arching narrative would over-simplify a complex political terrain, especially

given the great diversity in Indigenous-settler contact histories and the reality that settler,

state and capital interests have diverged and converged at different times and places.

Nevertheless, as Pasternak argues, there is a continuity to settler colonialism in Canada

that rests on the production of space under capitalism. In this context, pacification vis-à-

vis Indigenous peoples has functioned to repress, displace, dispossess – and ultimately

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[45] Harris : 179.
[46] Harris : 169-170.

eliminate – those nations, bands, grassroots groups and individuals who get in the way of the staple state model of economic development and challenge settler state sovereignty. [47]

Even though overtly coercive strategies tend to take a backseat to political and ideological techniques of pacification in Canada today,[48] land struggles, assertions of treaty rights, and struggles for self-determination continue to bring Indigenous peoples into disproportionate contact with policing institutions. Since the removal of *Indian Act* prohibitions on political activities in the 1960s, Indigenous peoples have engaged widely in acts of civil disobedience and political dissent, often in the form of public demonstrations, blockades, and land reclamations. Prior to the Ipperwash Inquiry, which was carried out after the fatal shooting of protestor Anthony "Dudley" George by the OPP at the 1995 Ipperwash reclamation, there had never been a systemic study of the causes, features, and policing of Indigenous protests in Canada. Reliable statistics on Indigenous protests are still hard to find, making it difficult to determine how many have occurred in recent history. Wilkes estimates that there were roughly 100 incidents between 1968 and 2000.[49] Alternatively, Clairmont and Potts, using a much broader definition, estimate that there were 616 protests or occupations between 1951 and 2000.[50] Despite arriving at different figures, both investigations found that mainstream and Indigenous media began reporting on Indigenous protests in the 1960s, with the number

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[47] Shiri Pasternak, "On Jurisdiction and Settler Colonialism: The Algonquins of Barriere Lake Against the Federal Land Claims Policy," PhD Dissertation, University of Toronto (2013): 173.

[48] Dafnos, "Pacification and Indigenous Struggles": 59.

[49] Rima Wilkes, "First Nation Politics: Deprivation, Resources, and Participation in Collective Action," *Sociological Inquiry* (Nov. 2004): 570-589.

[50] Don Clairmont & Jim Potts, "For the Nonce: Policing and Aboriginal Occupations and Protests," Toronto: Ipperwash Inquiry (2006): 20

of reports growing in the 1970s, spiking in the late 1980s, dropping in the early 1990s, and then increasing again in the final years of the 20th century.

Indigenous protests have varied in size, form, and duration and, with the exception of a few confrontations with police, have been characterized by little or no violence originating with the protestors themselves.[51] These protests have occurred in urban areas, rural areas, and in remote northern communities. While some protests have been primarily concerned with internal community issues, such as reserve elections, the allocation of band resources or benefits, or band policies or resource development agreements, most protests have been directed toward Canadian governments, policies, or institutions. Even protests arising from local band issues, as Commissioner Linden noted in the Ipperwash Inquiry's final report, should be seen as a part of the tension between Indigenous and non-Indigenous peoples over the control, use, and ownership of land. While the immediate catalyst for most public demonstrations, blockades, and reclamations is a dispute over a land claim, a burial site, resource development, or harvesting, hunting, and fishing rights, the fundamental conflict, he claims, "is usually about land."[52]

Indigenous peoples are not the only ones who engage in civil disobedience, but they may be more likely (or perhaps even predisposed in the settler colonial context) to participate in acts of political dissent in public places or disruptive direct actions for two reasons. First, as Sparks' conceptualization of dissident democratic citizenship suggests, Indigenous peoples may choose to contest prevailing power arrangements through

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[51] Sidney Linden, "Primer on Aboriginal Occupations," *Ipperwash Inquiry Report, Volume 2, Chapter 2* (2007).
[52] Linden: 15.

noninstitutionalized practices that augment or replace institutionalized channels because those channels are inadequate, unavailable, or inaccessible.[53] This view fits well with the Commissioner Linden's conclusion that Indigenous peoples usually only engage in protests, blockades, and land reclamations when all other avenues for resistance have been exhausted.[54]

Alternatively, Indigenous peoples may engage in acts of civil disobedience or disruptive direct actions because all other "legitimate" means of engaging in political contestation in Canada reproduce and reinforce the colonial institutions of the settler state, institutions whose legitimacy protestors seek to challenge. After all, as emphasized elsewhere by a number of Indigenous scholars, Canada's liberal democratic political, legal, judicial, and police intuitions are *colonial* institutions whose existence is predicated on the elimination of Indigenous societies.[55] Even though the police may no longer play the *lead* role in the repression, displacement, and dispossession of Indigenous peoples, acts of political dissent in public places and disruptive direct actions persist as spaces of interaction between Indigenous peoples and the police. In parts 1 and 2 of this thesis, I attempt to examine how policing and surveillance operations were mobilized to the state to eliminate the real and perceived threats that Idle No More protests and direct actions posed to Canadian settler state sovereignty and capital accumulation.

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[53] Holloway Sparks, "Dissident Citizenship: Democratic Theory, Political Courage, and Activist Women," *Hypatia,* 12, no. 4 (Autumn 1997): 83.

[54] Linden: 16.

[55] Taiaiake Alfred, *Wasase: Indigenous Pathways of Action and Freedom*, Peterborough: Broadview Press (2005); Jeff Corntassel, "Toward Sustainable Self-Determination: Rethinking the Contemporary Indigenous-Rights Discourse, *Alternatives* 33 (2008): 105-132; Glen Coulthard, "Subjects of Empire: Indigenous Peoples and the 'Politics of Recognition' in Canada," *Contemporary Political Theory* 6, no. 4 (2007): 437-460.

Part 1: Idle No More Protest Policing as Pacification

In part 1, I critically examine protest policing as a security mechanism through which threats to settler state sovereignty and capitalist accumulation are managed. More specifically, I consider how Idle No More protest policing operations – including front-line and intelligence-gathering activities carried out by Canadian law enforcement agencies – were deployed to pacify Indigenous resistance. Rather than attempting to balance the rights of protests with ensuring "public safety" – or security – I argue that Idle No More protest policing operations were concerned first and foremost with neutralizing threats to capital accumulation and settler state sovereignty without causing an escalation of disruptive direct actions.

In chapters 3 and 4, I contrast the "soft" policing of Idle No More and the Aamjiwnaang railway blockade with the coercive policing of the Indigenous-led anti-fracking protest that occurred in New Brunswick in October 2013. On the surface, my assessment of the RCMP, OPP, and Sarnia Police response at the Yellowhead, Tyendinaga, and Aamjiwnaang *suggests* that Canadian law enforcement agencies simply followed official policy on Aboriginal protest and occupation policing when responding to Idle No More. However, my examination of the less visible aspects of the police response to Idle No More –including the gathering of intelligence on the movement and the possible standing up of militarized police units in preparation for the forceful removal of protestors at Aamjiwnaang – indicate that there was more to the police response than the straightforward implementation of a negotiation-based approach.

Chapter   3: Idle No More – A Matter of Local Law Enforcement?

Historically, the police have played a central role in the repression, displacement, and dispossession of Indigenous peoples in the nation-state now known as Canada. Indeed, the Canadian state's use of coercive, intrusive police power to outlaw Indigenous social and cultural practices, enforce residential school policies, and violently quash organized Indigenous resistance throughout the 19th and 20th centuries has been examined extensively.[56] While generally acknowledged by Canadian officials (and Canadians in general) as unfortunate aspects of Canada's "colonial past," today, these historical policing practices are viewed as being at odds with the norms of contemporary Canadian settler society, which is characterized as being post-colonial, liberal, and democratic.[57] However, even if overtly coercive strategies have, as Dafnos suggests, taken a "backseat to political and ideological techniques of pacification,"[58] the question remains: What role do police play in the contemporary pacification of Indigenous resistance?

In this chapter, I examine the response by front-line police forces to Idle No More protests and blockades. Through this investigation, I demonstrate that federal, provincial, and municipal law enforcement strategically deployed soft policing tactics manage Idle No More protests and blockades. While the evidence presented in this chapter *suggests* that the police response framed Idle No More protests as matters of local law

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[56] Toni Williams and Kim Murray, "Commentary: Police-Government Relations in the Context of State-Aboriginal Relations," *Police and Government Relations: Who's Calling the Shots,* eds. M. Beare and T. Murray, Toronto: University of Toronto Press (2007): 172-182; Les Samuelson and Patricia Monture, "Aboriginal People and Social Control: The State, Law, and 'Policing,'" *Marginality and Condemnation: An Introduction to Criminology,* eds. C. Brooks and B. Schissel, Blackpoint, NS: Fernwood Publishing (2008): 200-219.

[57] Andrew Crosby & Jeffrey Monaghan, "Settler governmentality in Canada and the Algonquins of Barriere Lake," *Security Dialogue* 43, no. 5 (2012): 422.

[58] Dafnos, "Pacification and Indigenous Struggles": 59.

enforcement, I argue over the next two chapters that the "soft" approach was consistent with a national security framing of events. Despite the appearance that police merely implemented official policies on public order and Aboriginal protest policing, as I demonstrate in chapter 4, this soft approach was guided by the production and use of intelligence that framed Idle No More as a threat to national security and backed up by the omnipresent threat of coercive police intervention.

This chapter is divided into two sections. In the first section, I provide some context for my analysis by identifying the law enforcement agencies that carry out front-line police operations in Indigenous and non-Indigenous communities across Canada. I then briefly consider the RCMP, OPP, and Sarnia Police's *official* approaches to public order and policies on Aboriginal protest and occupation policing. In the second section, I draw on publicly available policy documents, media reports, and court records to examine the most visible aspect of the state's response to Idle No More: the front-line policing of protests and blockades. Using the responses by the RCMP, the OPP, and the Sarnia Police to blockades that occurred near Portage la Prairie, Manitoba, Belleville, Ontario, and Aamjiwnaang First Nation as examples, I demonstrate that front-line officers generally followed a soft approach to policing Idle No More.

Before exploring the policing of events and protests associated with the Idle No More, it is useful to identify the institutions that are responsible for front-line services and public order policing in Indigenous communities. Under the Constitution Act, the federal government is responsible for criminal law and for the enforcement of federal statutes nation-wide, while under Section 92(14) each province is responsible for enforcing the Criminal Code and provincial statutes within their own borders. In practice,

however, responsibility for law enforcement is neither divided neatly between two levels of government nor shared uniformly across the country. Instead, Canada's police system consists of a patchwork of partially overlapping public and private authorities for law enforcement that "seek to use police power to assure the democratic order while respecting the rule of law."[59]

Public Order Policing in Canada

De Lint uses the term public order policing to refer to "the use of police authority and capacity to establish a legitimate equilibrium between governmental and societal, collective and individual, rights and interests in a mass demonstration of grievance."[60] Public order policing in Canada is carried out largely by public sector police forces associated with and commissioned by the federal, provincial, and municipal levels of government. Most urban areas outside of Newfoundland and Labrador, Yukon, the Northwest Territories and Nunavut have been granted the authority to maintain their own police force. These municipal police forces are largely responsible for public order policing within the boundaries of a single municipality (e.g., Sarnia Police Service in Ontario), several adjoining municipalities that comprise a region (e.g., Durham Regional Police in Ontario), or a metropolitan area (e.g., Montréal Urban Community). Municipalities that do not have their own police force contract out their front-line

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[59] Council of Canadian Academies, *Policing Canada in the 21st Century: New Policing for New Challenges,* Ottawa: The Expert Panel on the Future of Canadian Policing Models, Council of Canadian Academies (2014).
[60] William de Lint, "Public Order Policing in Canada: An Analysis of Operations in Recent High Stakes Events," *Ipperwash Inquiry* (2004), 2.

services to a provincial police force or to the Royal Canadian Mounted Police (RCMP), Canada's national police force, which is commissioned to the federal government.[61]

Ontario and Québec are the only two provinces in Canada that maintain provincial police forces that are responsible for enforcing the Criminal Code and provincial statutes within all areas of a province not served by a municipal police service: the Ontario Provincial Police and Sûreté du Québec, respectively. In Newfoundland and Labrador, on the other hand, the Royal Newfoundland Constabulary provides front-line policing services to the three largest municipalities (St. John's, Corner Brook, and Labrador City) as well as to Churchill Falls. However, unlike in Ontario and Québec, Newfoundland and Labrador contracts the RCMP to provide front-line policing services to the province's remaining municipalities and the rural areas.

Despite playing a relatively minor role in Canadian law enforcement more broadly, Canada's private railway police cannot be overlooked when discussing public order policing, especially given the prominence of railway blockades as a form of protest within the Idle No More movement. Railway police forces have a long and deep history stretching back into pre-Confederation British North America. Today, Canada's two largest railway companies, Canada National Railway and Canada Pacific Railway also

[61] In addition to providing provincial/territorial and front-line policing services in many parts of Canada, the RCMP retains responsibility for the enforcement of federal statutes in each province and territory, including in Ontario Quebec. As Canada's national police service, the RCMP also has responsibilities that are entirely separate from its federal law enforcement and contract policing activities at the local and regional levels. These responsibilities include delivering a number of centralized support services made available to municipal and provincial police as well as collecting and analyzing criminal information and intelligence. One of the outcomes of the RCMP's multifaceted role in Canadian policing is that, although the RCMP plays a role in policing all Canadians, its responsibilities vary across the country.

maintain two private police forces: the CN Police and the Canadian Pacific Police

Services, respectively. These private police forces differ greatly from most private

security companies. Under the Railway Safety Act, federal judges appoint railway

constables employed by the CN Police or the Canadian Pacific Police Services to prevent

crimes against the company and protect goods, materials, and public rail transit being

moved on their rail systems. These constables are charged with enforcing federal and

provincial laws as well as Part 3 of the *Canadian Transportation Act* in areas within 500

metres of property owned, used, or managed by the railway. Unlike other private security

companies, railway police officers receive police training, are granted authority to carry

firearms, and have the same powers of arrest as any other 'Peace Officers' under Section 2

of the Criminal Code of Canada.

Any assessment of the policing of events and protests associated with the Idle No

More Movement must also take into consideration the unique policing arrangements that

exist in many First Nation and Inuit communities today.[62] Although many Indigenous

people live in urban areas and communities that are policed by federal, provincial, or

municipal police forces, today a number of Indigenous communities have their own

police forces that are responsible for public order policing. Up to the 1960s, the RCMP

was exclusively responsible for policing of reserves. Although the RCMP did use 'native

assistants' for local detachments and even as informal band constables to enforce band

by-laws, they were not considered to be members of the RCMP and there was no set

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[62] For a detailed overview of the policing of Indigenous communities in Canada, see
Don Clairmont, "Aboriginal Policing in Canada: An Overview of Developments in
First Nations," Toronto: Ipperwash Inquiry (2006).

policy to guide these practices.[63] Over the next decade, the OPP and SQ gradually

replaced the RCMP and began handing the policing of reserves in Ontario and Quebec

respectively.[64] Although some First Nations, such as the James Bay Cree in Quebec, won

their own autonomous police services as a part of contentious land claim negotiations,[65] it

wasn't until 1991 that the federal government introduced the Indian Policing Policy– now

referred to as the First Nation Policing Policy – as the framework for the negotiation of

policing arrangements between the federal, provincial or territorial governments and First

Nation and Inuit communities[66] and created the First Nations Policing Program (FNPP),

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[63] Don Clairmont, *Case Studies of Effectiveness in First Nations Policing: Development of a Research Framework*, Atlantic Institute of Criminology: Dalhousie University (2000): 17.

[64] Around this time, First Nations began to demand more involvement in policing their communities. Indian and Northern Affairs Canada responded in 1965 by initiating a more formal Band Constable Program, where Aboriginal constables served as a supplement to the RCMP, OPP, or SQ. In 1971, INAC began phasing out supplementary band constables while the RCMP, OPP, and SQ began their own special Indian constable programs. Although hiring arrangements and the status of Indian constables differed, none of these programs considered Indian constables as full officers or force members. See Clairmont, "Aboriginal Policing in Canada."

[65] During this period, a number of other First Nations started to take on greater policing roles, by more native staff, native control, and community-based policing within the RCMP, OPP, and SQ. Nevertheless, as the Head Report (1989) and the Indian Policing Policy Review Task Force (1990) highlighted, Indigenous staff and officers were still treated unequally within the federal and provincial police services and Band Constable programs continued to be under-supported.

[66] The FNPP is intended to provide First Nation and Inuit communities on reserve, Crown land, or land set-aside for their use with access to police services that are "professional, effective, culturally appropriate and accountable." Accountable to the "communities they serve," these police services "enhance" rather than replace those services already provided by federal or provincial police. See Public Safety Canada, "2009-2010 Evaluation of the First Nations Policing Program," Evaluation Directorate, Public Safety Canada (2010).

which is managed by the Aboriginal Policing Directorate (APD) at Public Safety Canada and serves as the funding vehicle for the framework.[67]

The FNPP currently supports four different policing arrangements available to First Nations and Inuit communities. Two of these arrangements are legacy programs that existed before the adoption of the FNPP: the Band Constable Program and the Aboriginal Community Constable Program. Under the Band Constable Program, First Nation band constables enforce by-laws and refer to the RCMP or provincial police cases involving the Criminal Code or offences under other federal or provincial legislation. Under the Aboriginal Community Constable Program, the RCMP designates peace officers to serve the First Nation or Inuit community full-time. These peace officers do not replace general duty RCMP constables, but rather enhance their work by providing tactical, enforcement and investigational support to other RCMP officers if required.

Along with maintaining these legacy programs, the FNPP also created two new arrangements that are negotiated between the First Nation or Inuit community, provincial or territorial governments, and the federal government: Self-Administered Agreements and Community Tripartite Agreements. Under Self-Administered Agreements, communities are responsible for managing their own police service, which is primarily staffed by officers of First Nation or Inuit descent. Under a Community Tripartite Agreement, the First Nation or Inuit community has dedicated officers from an existing police service, typically the Royal Canadian Mounted Police (RCMP).

Front-line policing in Canada is unique both in its complexity and geographic asymmetry. With public sector police forces associated with and commissioned by three

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[67] Public Safety Canada, "2009-2010 Evaluation of the First Nations Policing Program," Evaluation Directorate, Public Safety Canada (2010).

levels of government, private police, and autonomous Indigenous police services, there are several types of police forces involved with the policing of Indigenous and non-Indigenous people, depending on where they live. Having identified the public institutions and private actors involved, I turn now to review their official approaches to public order and Indigenous protest policing.

"Soft" Aboriginal Protest and Occupation Policing

In the late twentieth century, Canadian police forces began instituting formal policies and guidelines reflecting a shift towards a "soft" approach to public order policing. This *official* shift towards soft policing took place in the context of the emergence of liberal legalism in the late 20th century, which was symbolized by the enshrining of *individual* rights in the 1982 Constitution through the inclusion of the Charter of Rights and Freedoms. Typically contrasted with a "hard" approach, which is characterized by immediate enforcement through coercive force, soft policing enables police to exercise discretionary power that allows protests to occur in a manner that maintains the safety and security of all involved.[68] This "soft" approach emphasizes communication and negotiation with protestors and aims to avoid violence and to balance the rights of protestors with the need to ensure public safety, a balance that is seen as desirable according to liberal democratic ideals.[69]

In the 1990s, the RCMP officially adopted what it calls a "measured approach," which Clairmont and Potts define as "a strategy that is layered as long as possible at the

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[68] Roger Hopkins Burke, *Hard Cop, Soft Cop: Dilemmas and debates in contemporary policing,* Portland: Willan Publishing (2004).
[69] Steve Uglow, *Policing Liberal Society,* New York: Oxford University Press (1988).

less forceful end of the scale."[70] Having emerged in the context of the RCMP responding

to labour-management conflicts and other social movements of the period, the "measured

approach" emphasizes respect, communication, and openness to the authenticity of

claims and interests of different actors involved in a conflict. A disinterested approach to

substantive issues in a given conflict and a commitment to upholding peace and order and

avoiding harm within the law further underline this approach. Around this time, the OPP

also officially adopted a "gradual application of force" approach, which allows officers

managing crowds to "continuously assess the situation and select the most reasonable

options" in order to ensure that "only the minimum use-of-force necessary is used."[71]

  This "shift" in public order policing in Canada, as Dafnos suggests, has been

particularly associated with the policing of Indigenous peoples' protests, blockades, and

reclamations.[72] Following violent confrontations over land rights at Ipperwash[73] the

RCMP and the OPP began instituting formal "Aboriginal protest and occupation"

policies and guidelines that reflected the broader adoption of a "soft" approach. The

RCMP's official policy position on Indigenous protests is formally articulated in the

Public Safety Cooperation Protocol Between the Assembly of First Nations and Royal

Canadian Mounted Police. The national-level protocol, which was negotiated with the

Assembly of First Nations (AFN) in 2004, outlines the RCMP's collaborative approach

to responding to Indigenous protests and occupations. The Public Safety Cooperation

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[70] Clairmont & Potts: 12, 31.
[71] Ontario Provincial Police: OPP Public Order Units: A Comparison of 1995 to 2006, Toronto (2006): 2.
[72] Dafnos: 62.
[73] The shooting of Anthony " Dudley" George by the OPP during the 1995 Ipperwash was a significant catalyst in the formalization of the OPP's negotiation-based public order policing approach. See Dafnos, "Pacification of Indigenous Struggles": 63

Protocol's stated purpose is to avoid escalation and violence and to facilitate communication and the peaceful negotiation of issues underlying occupations and protests.[74] The RCMP's official position was further developed in that year's statement on strategic priorities and associated outcomes, which gave a central place to "achieving safer and healthier Aboriginal communities" and highlighted the RCMP's commitment to "find ways to prevent/resolve conflict by focusing on crime prevention partnerships, restorative justice processes, and a holistic, culturally sensitive approach to problem solving."[75]

In 2006 the OPP also released two documents outlining the force's official policy position on Indigenous protest policing: A Framework for Police Preparedness for Aboriginal Critical Incidents and Aboriginal Initiatives Building Respectful Relationships. Together, these documents outline the guiding principles of the OPP's negotiation-based approach to Aboriginal protest policing, which include building trust and enhancing communication in order to improve the prospects for avoiding violent confrontation. Underlying these principles is an assumption that the lack of direct communication – hindering police knowledge of potential protests and negotiation over their parameters – increases risk and thus the potential for violence. The release of these two documents was also accompanied by the introduction of Aboriginal Relations Teams (since renamed Provincial Liaison Teams) and Aboriginal liaison officers (likewise renamed Provincial liaison officers).[76]

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[74] Clairmont & Potts: 30-31.
[75] Clairmont & Potts: 23.
[76] Dafnos "Pacification and Indigenous Struggles": 63.

The Sarnia Police, which is responsible for providing front-line police services for Aamjiwnaang First Nation, also has its own policy and procedure document regarding Aboriginal protests and occupations. However, unlike the RCMP and the OPP, the Sarnia Police Service has not made this document available to the public and refused to release it under a Freedom of Information request I filed in September 2014.[77] Although it may not be possible to make conclusive claims about the Sarnia Police's official approach to managing Indigenous protests, the Sarnia Police have received Provincial Liaison Team (PLT) training, which is required for all OPP PLT personnel, and provided to other municipal, provincial and federal law enforcement agencies interested in applying the Framework approach as part of conflict situation response. Evidence of close coordination between the two police services in relation to the Aamjiwnaang railway blockade, discussed below, further suggests that the Sarnia Police's approach is closely aligned with the OPP's negotiation-based approach.

Having considered the RCMP, OPP, and the Sarnia Police's official approach to public order and policies on Aboriginal protest policing, I now turn to compare these organizations' official policies with the actual *practices* of front-line police forces that

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[77] On September 8, 2014, I filed two separate freedom of information request with the Sarnia Police seeking records relating to the policing of protests associated with Idle No More and the CN railway blockade at Aamjiwnaang. On December 1, 2014, one of my requests was denied in its entirety under sections 8(1)(c), 8(1)(g), 8(2)(a), and 14(2)(f) of the Municipal Freedom of Information and Privacy Protection Act. After appealing the decision to the Information and Privacy Commission of Ontario, I received a "representation" from the Sarnia Police Service that provided a detailed justification for the denial. Although the representation acknowledged the existence of a policy and procedure document regarding Aboriginal Protests and Occupations, it also asserted that the document was exempt from being disclosed because it contains "investigative techniques or procedures that are not widely known and remain in current use," and because the document "was created solely for the purpose of preparing and guiding officers for their policing duties."

responded to Idle No More. For the most part, the Government of Canada, mainstream

media, and protest participants have characterized the response by front-line police

officers as being restrained. A presentation prepared in late January 2013 by the

Government Operations Centre, for example, stated that Idle No More protests had been

"well handled" by municipal, provincial, and federal authorities. As a result of this

effective management, the presentation stressed, the vast majority of the protests that had

occurred up to that point remained "peaceful and uneventful." [78] A second presentation

prepared by the Government Operations Centre and delivered to the Committee of

Deputy Ministers[79] in March 2013, likewise suggested that Idle No More had remained

"non-violent" thanks in part to the "highly successful" response by federal authorities.[80]

A closer investigation of three protests that occurred near Sarnia, Ont., Belleville,

Ont., and Portage la Prairie, Manitoba in December 2012 and January 2013 suggests that

front-line officers followed a "soft" policing approach that is broadly consistent with the

official policy positions of the corresponding federal, provincial, and municipal law

enforcement agencies. In all three cases, CN Rail had been granted court injunctions to

prevent or end on-going blockades that had been set up by Indigenous protestors on the

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[78] Public Safety Canada, *GC Contingency Planning Scenario – FN Protests & Potential Escalation* (Presentation Slides), Janaury 2013. Obtained through ATI request to Public Safety Canada, no. A-2012-00438: 10 & 17.
[79] According to the Federal Emergency Response Plan (2011), the Committee of Deputy Ministers provides a forum to address public safety, national security, and intelligence issues during non-emergency (day-to-day) operations. During an emergency, the Committee coordinates the Government of Canada's response and advises Ministers. Although the nature of the emergency determines the Committee's membership, it is likely that Deputy Ministers from Public Safety, AANDC, TC, and DFO were in attendance.
[80] Public Safety Canada, *Presentation to DM* Breakfast: Preparedness for First Nations Issues (Presentation Slides), Marc 2013, Obtained through ATI request to Public Safety Canada, no. A-2013-00160: 331.

company's rail lines. All three court orders requested that police assist in the removal and arrest of protestors if the injunctions were disobeyed. However, in an unusual demonstration of police discretionary power, the Sarnia Police, OPP, and RCMP ignored all three court orders by refusing to forcefully remove the blockades and arrest protestors.

The Sarnia Police Service and the Aamjiwnaang Railway Blockade

The protest near Sarnia began on the morning of December 21, 2012 when Aamjiwnaang community members blockaded a CN Rail line that carries an average of 450 rail cars a day of ethylene, polyethylene, butane, propane, ammonium nitrate, nitric acid, methanol, and other industrial freight across their reserve lands to the petrochemical manufacturing plants located at the heart of Canada's "Chemical Valley."[81] Within hours, at the request of CN Rail, Justice David Brown of the Ontario Superior Court, a judge based in Toronto, issued an injunction against the protestors blocking the railway. The next morning, CN police served protestors with an injunction ordering them to dismantle the blockade, but the protestors refused to leave. Citing the need to maintain "the goodwill of the aboriginal community" in the hope of finding "a peaceful solution," both the Sarnia Police and the OPP refused to enforce the injunction by removing and arresting protestors.[82]

On December 27, Justice Brown changed his original ruling from an immediate injunction to a thirty-day injunction. This meant that taking down the blockade and immediately setting it up again would no longer satisfy its terms. The same day, CN Rail also brought a civil contempt of court motion against one of the protestors as well as a

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[81] Scott, "The Networked Infrastructure of Fossil Capitalism": 64.
[82] Ontario Superior Court of Justice, D.M. Brown J., *Canadian National Railway Co. V. Plain et al.,* December 27, 2012, ONSC 7356.

motion requiring Sarnia Police Chief Phil Nelson to appear in court and explain what steps had been taken to enforce the injunction. Interestingly, Justice Brown refused CN's two additional motions, stating that the position of the police "had already been made clear" and that a contempt motion should not be filed against protestors "in the absence of any confidence" that the police would enforce the court's orders. [83]

On January 1, 2013, CN's contempt motion against protest spokesperson Ron Plain was successfully brought before Justice Dessoti of the Ontario Superior Court. The next day, Plain appeared in court along with Aamjiwnaang's band council chief and the Sarnia chief of police. At the hearing, Justice Dessoti pressured the Sarnia Police to take steps to enforce the injunction and "encouraged" Plain to assist in dismantling the railway blockade and otherwise ordered him to stay away from the CN line except for normal travel. That same day, Plain helped negotiate a peaceful end to the blockade, which was taken down that evening with protestors and Aamjiwnaang community members gathering for a pipe ceremony.[84]

Occurrence reports filed by front-line officers that responded to the blockade, and subsequently obtained through a FOI requests with the Sarnia Police, provide further insight into the "soft" approach taken by the police as well as the closely coordinated response by the Sarnia Police and CN Police. Although the CN Police served the injunction on the next morning, according to a report filed on the 21st, the Sarnia Police had accompanied the CN police to established contact with the protestors within a few hours of the blockade having been erected. CN Police had requested that the Sarnia

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[83] *Canadian National Railway Co. V. Plain et al.,* ONSC 7356.
[84] The Canadian Press, "Protestors remove Idle No More blockade in Sarnia, Ont. on judge's orders," *CTV News,* January 3, 2013.

Police officers attend in order to keep the peace while CN Police spoke with protestors to ascertain the purpose and expected length of the protest and to identify contact people should any problems arise.[85]

From December 21 onwards, the Sarnia Police appear to have designated a liaison between CN Police and Sarnia Police on the one hand and the protestors on the other. Contact was also established at this time between the Sarnia Police and the CN Police and Aamjiwnaang Chief Christopher Plain. Both the protestors and Chief Plain advised officers that the protest would last "as long as it takes", but would be strictly non-violent. At this time, the Sarnia Police also informed the CN Police that they would not enforce the impending injunction, as long as the protests remained peaceful.

The remaining occurrence reports, filed up to the removal of the blockade, highlight the Sarnia Police's preoccupation with maintaining open communication with protestors, securing their cooperation, and preventing any violent escalation. Notably, officers appear to have made frequent visits to the blockade to interact and speak with several protest participants. In a report filed on the final day of the blockade, for example, the Sarnia Police note that they had advised protestors that there would be an increased police and tactical presence in the Sarnia area responding to a missing person's report that "was not to be utilized to have anything to do with the blockade." Police also advised protestors that they did not have an arrest warrant for Ron Plain and that his presence in court that day would be voluntary. The Sarnia Police also informed the protestors that there were no warrants for anyone at the blockade and that it was the position of the

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[85] The occurrence reports referred to here were obtained through FOI request to the Sarnia Police Services, no. 14-0238.

Sarnia Police that they "would not be pursuing charges against anyone involved in the blockade."

Although the blockade eventually came to a peaceful conclusion, Sarnia Police Chief Nelson came under heavy criticism from Judge Brown, who had originally issued the court injunction against the Aamjiwnaang demonstrators. In a statement issued on January 7, Brown highlighted his "astonishment" with the Sarnia Police and said that courts need to be able to rely on police agencies to assist in enforcing court injunctions against demonstrators who won't stop unlawful acts.[86] Still, Police Chief Nelson defended his actions, claiming that the injunction allowed for police discretion and stating that Aboriginal policing still takes place in the shadow of Dudley George and the Ipperwash Inquiry.[87]

The Ontario Provincial Police and the Tyendinaga Railway Blockade

The approach taken by the Sarnia Police in response to the Aamjiwnaang blockade was not unique. This "soft" approach was be repeated by the Sarnia Police's provincial and federal counterparts in response to court injunctions issued to blockades that took place soon after near the Tyendinaga Mohawk Territory and Portage La Prairie. At 4:00pm on January 5, a small number of protestors from the Tyendinaga Mohawk Territory blockaded a portion of CN's main rail line near Belleville, effectively halting passenger and freight travel between Toronto and Montreal. At 9:30pm that evening, CN once again requested an injunction to have the tracks cleared, which was granted by Justice Brown. Given the high volume of traffic on this line and the damage caused to

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86 Ontario Superior Court of Justice, D.M. Brown J., Canadian National Railway Co. V. Doe et al., January 7, 2013, ONSC 115.
87 Cathy Dobson, "Judge critical of Sarnia police actions to enforce court injunction," *Sarnia Observer, January* 8, 2013.

CN, Justice Brown issued a time sensitive injunction that was to be served immediately by the local sheriff, with assistance from the OPP, and fully enforced by midnight.[88]

The CN line between Montreal and Toronto was indeed cleared by midnight, but to Judge Brown's frustration, it wasn't because of the injunction he had issued. After receiving a copy of the injunction around 10:30pm that evening, the local sheriff contacted the OPP officer on the scene of the blockade, who told her it was "too dangerous" to serve the injunction that night on the 15 protesters present. Rather than enforcing the time-sensitive injunction, the OPP informed the sheriff that they would reassess the situation and attempt to serve the injunction the next morning, well past the midnight *enforcement* deadline ordered by Judge Brown.[89]

Although protestors still ended the blockade around midnight, Judge Brown also levelled direct criticism at the OPP for its handling of the situation. In the same January 7 statement where he expressed his frustration with the Sarnia Police, Brown commented that the OPP's passivity "was most disappointing," "undercut the practical effect of the injunction order," and led him to doubt that a future exists "for the use of court injunctions in cases of public demonstrations." Responding to these criticisms in a video posted on YouTube on January 15, OPP Commissioner Chris Lewis defended his actions, saying that the OPP response to Idle No More blockades and demonstrations fit with an overall strategy developed in the aftermath of the 1995 police shooting death of Dudley George at Ipperwash Park, which stresses negotiation and minimal use of force.[90] The

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[88] Canadian National Railway Co. V. Doe et al., ONSC 115.

[89] The Canadian Press, "Judge slams Ontario police for not ending First Nations rail blockade," *CTV News,* January 7, 2013.

[90] The Canadian Press, "OPP chief defends management of Idle No More protests," *CBC* January 15, 2013.

overall strategy he refers to is undoubtedly the OPP's Framework for Police Preparedness for Aboriginal Critical Incidents.

The Royal Canadian Mounted Police and the Yellowhead Blockade

The RCMP took a similarly soft approach when responding to a protest near Portage la Prairie that took place on January 16, 2013. Late that morning, community members from nearby Long Plain, Roseau River and Sandy Bay First Nations gathered at a CN rail line crossing on Highway 16, a major east-west highway that connects Canada's four western provinces that is also known as the Yellowhead Highway. The day before protestors blocked road and rail traffic, CN had already requested and been granted an injunction by Justice Donald Bryk of the Court of Queen's Bench, Manitoba's Superior Court. The injunction declared that all blockades on CN rail lines in Manitoba between January 16 and 24 would be illegal, ordered all Indigenous protestors to leave CN property, and requested that RCMP make arrests if the injunction was disobeyed.[91]

Even though the RCMP served protestors with the injunction early that afternoon, protestors remained on the rail line for a further 6 hours without any arrests being made. In an article published in the Winnipeg Free Press, Peter Yellowquill, former chief of the Long Plain First Nation, is reported to have told the RCMP that the protestors intended to keep the rail blockade in place indefinitely and that protestors were ready to be arrested. After consulting amongst themselves, RCMP officers, led by the local detachment

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[91] The Court of Queen's Bench, Manitoba, Donald Bryk, *Canadian National Railway Co. v. Terrance Nelson, John Doe, Jane Doe, et al.,* No. CI 13-01-81569.

inspector, are reported to have told protestors that they did not intend to arrest them and that they would instead focus on diverting traffic away from the area.[92]

In his decision to extend the province-wide CN injunction to February 19, Justice Bryk directly criticized the police authorities' handling of the demonstration near Portage La Prairie, stating that he found the lack of responsiveness to a direct court order by the RCMP to be "perplexing."[93] However, like the OPP and Sarnia Police, the RCMP defended its actions and issued the following statement:

> The RCMP's objective is to balance the right (Charter) to peaceful demonstration as well as the safety of officers, the public, and demonstrators involved. In managing any type of demonstration, the RCMP will always take a measured response where open dialogue with organizers is favoured and the use of force is always a last resort.[94]

In an article published later that year in the *Gazette,* the RCMP's quarterly law enforcement magazine, the RCMP's measured and collaborative approach to Idle No More is credited for having kept protests "safe and peaceful for everyone."[95]

My assessment of the RCMP, OPP, and Sarnia Police's response to Idle No More blockades suggests that police framed these events as matters of local law enforcement or maintenance of public order. However, to stop there and only engage in a comparison between law enforcement agencies' policies and the actions of front-line forces would

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[92] "Protestors end CN rail blockade near Portage la Prairie," *Winnipeg Free Press,* January 16, 2013.
[93] Dan Grummet, "RCMP responds to Manitoba judge comment," *Global News,* January 25, 2013.
[94] Grummet, "RCMP responds to Manitoba judge comment."
[95] Sigrid Forberg, "Demonstrations of Moderation," *Gazette Magazine* 75, no. 2 (2013). Accessed online on June 20, 2015 at http://www.rcmp-grc.gc.ca/gazette/vol75no2/cover-dossier/protest-manifestation-eng.htm

limit my analysis to official rhetoric and the most visible and easily studied aspects of the state's response to Idle No More.

In the next chapter, I attempt to overcome this limitation by examining some of the less visible practices mobilized by police in response to Idle No More. By broadening the scope of my analysis beyond the overt actions of law enforcement agencies and revealing what was happening behind closed doors, I demonstrate that the state's responses, including the response by Canadian law enforcement agencies, primarily framed Idle No More as a security threat.

Chapter   4: An "Intelligent" Approach to Indigenous Protest Policing

On October 17, 2013 the RCMP served an injunction at an anti-fracking camp

near Rexton, NB, where community members from nearby Elsipogtog First Nation were

blocking a highway and holding exploration vehicles used by SWN Canada, a Houston-

based energy firm, to search for shale gas deposits in New Brunswick. Soon after, RCMP

tactical units, with some officers clad in black or wearing camouflage and wielding

assault weapons, raided the camp. The raid immediately triggered violence between the

Mi'kmaq and their supporters and the RCMP. One shot was fired, which the RCMP said

did not come from its officers, and a Molotov cocktail was thrown at police during the

initial stages of the raid. By the end of the day, the RCMP had arrested 40 protesters and

seized hunting rifles, ammunition and crude explosive devices.[96]

Before establishing the camp, Mi'kmaq from Elsipogtog and other nearby

Indigenous communities, with support from Acadians and Anglophones in the area, had

led a months-long fight against SWN Resources Canada throughout the region's

highways and back roads. The protests had been driven by concerns that the discovery of

shale gas would lead to hydraulic fracturing. Although these environmental protests fall

outside of the scope of my investigation,[97] the RCMP's use of coercive policing tactics

against Indigenous protests in New Brunswick still raises the question: What guides the

use of soft and hard protest policing tactics by Canadian law enforcement agencies?

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[96] Jorge Barrera, "Ottawa prepared for nation-wide protests following RCMP
Elsipogtog raid: documents," *APTN National News,* January 8, 2014.
[97] The environmental protests in New Brunswick were frequently linked in the
media and government reports to Idle No More. Although Idle No More likely
influenced the protests near Elsipogtog, this thesis is focused on Idle No More
specific events between December 2012 and March 2013.

In this section, I examine the less visible activities – or practices not typically associated public order policing – that were entwined with front-line Idle No More protest police operations. I offer evidence that federal, provincial, and municipal law enforcement agencies gathered intelligence that framed Idle No More as a potential source of violence and serious criminal activity. I also demonstrate that the "soft" approach taken by front-line police forces was guided by the use of intelligence produced through multi-agency collaborations that blurred conventional scales of Canadian law enforcement and national security.

This chapter is divided into two sections. In the first section, I consider the universal adoption in Canada of an approach to law enforcement called "intelligence-led policing" and the role that intelligence plays in the contemporary policing of mass demonstrations. Next, I consider how anti-terror legislation and the proliferation of multi-agency collaborations involving law enforcement and intelligence agencies have blurred the boundary between security and criminal intelligence work.

In the second section, I use records obtained through access to information and freedom of information requests to examine less visible aspects of the police response to Idle No More. I explore the intelligence-gathering activities carried out by the RCMP, OPP, and Sarnia Police in relation to Idle No More. I also highlight the RCMP and OPP's use of incident reports and threat assessments circulated by the Government Operations Centre.

Intelligence-Led Policing in Canada

Before examining the less visible aspects of the police response to Idle No More, it is useful to review the near universal adoption of an "intelligence-led" approach to law

enforcement by Canadian police. Before 1984, the RCMP was the principal authority in the Canadian intelligence community. The RCMP's intelligence work was carried out under several names: the Special Branch in the 1950s, the Directorate of Security and Intelligence in the 1960s, and the Security Service beginning in the 1970s. Up to this time, however, the RCMP's intelligence gathering activities focused primarily on identifying and countering threats to national security.

The year 1984 marked a dramatic change in the way that the Canadian intelligence community was organized and carried out its activities. That year, the Canadian Security Intelligence Service was created in order to separate national security related intelligence work from law enforcement activities, as recommended in the MacDonald Commission's 1981 final report. Although law enforcement and security intelligence functions were separated into two separate organizations, the two agencies were intended from the outset to have a symbiotic relationship. The form of cooperation to be taken up between the RCMP and CSIS was outlined in legislation as well as a memorandum of understanding; each agency was intended to have different, yet complementary responsibilities and powers.

After CSIS was created, the RCMP retained its duties in collecting evidence and arresting suspects for national security-related *criminal* offences. CSIS, on the other hand, had no law enforcement powers, meaning that CSIS was barred from detaining, arresting, and interrogating suspects. CSIS also lacked the mandate and the legal authority to take direct action to counter national security threats. Instead, CSIS was only authorized to provide advance warning about activities that may have constituted a threat

to national security to Canadian law enforcement agencies, to intelligence units of other federal department and agencies, and to provincial and municipal governments.

Even though CSIS took over primary responsibility for Canadian *security* intelligence operations, the Mounties maintained a significant intelligence-gathering capability. The RCMP Security Service's legacy and the return of officers who had left the force temporarily to join CSIS supported the official adoption of an intelligence-led approach to law enforcement by the RCMP in the late 1980s.[98] This approach is characterized by the collection and analysis of information about potential crimes, which is used to produce *criminal* intelligence. Unlike security intelligence, as Stewart indicates, criminal intelligence is used by police officers to support crime-prevention and criminal-apprehension activities.[99] In other words, criminal intelligence is explicitly concerned with anticipating breaches of the law whether or not they involve national-security related offences.

Virtually all police forces in Canada, as Stewart notes, have developed a capacity for intelligence gathering and taken on a more "proactive" or "preventative" approach to law enforcement since the 1990s.[100] In Ontario, for example, the OPP Intelligence Bureau anticipates, monitors and assists in the prevention and disruption of criminal activities and monitors individuals or groups involved in organized, sophisticated and professional crimes. The Intelligence Bureau is also responsible for monitoring suspected terrorist organizations/persons and groups involved in civil disobedience. In both cases, the

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[98] Kostas Rimsa, "The Horsemen," *Inside Canadian Intelligence: Exposing the New Realities of Espionage and International Terrorism,* ed. Dwight Hamilton, Toronto: Dunburn Press (2006), 51.
[99] James G. Stewart, "Intelligence Analysis of Transnational Crime: Assessing Canadian Preparedness," *The Journal of Conflict Studies* 16, no. 1 (1996).
[100] Stewart, "Intelligence Analysis of Transnational Crime."

Bureau collects and analyzes information, which is then shared with law enforcement partners and "stakeholders" as intelligence. Notably, in 2006, the OPP Intelligence Bureau made it a goal to improve communication with Aboriginal communities and First Nations police services "in order to create a better system of relationships with First Nations institutions and a better intelligence capacity."[101]

Under provincial adequacy standards, all municipal police forces in Ontario are required to maintain a capacity for criminal intelligence gathering. Municipal law enforcement agencies gather intelligence primarily to support local crime-prevention and criminal-apprehension activities. In Sarnia, the local force's Intelligence Section is responsible for monitoring local criminals and criminal activity.[102] The Sarnia Police Intelligence Officer, who leads the Section, is responsible for liaising with other law enforcement agencies at the municipal, provincial, national, and international levels and serves as a member of the Criminal Intelligence Service of Ontario, which is a provincial bureau of the Criminal Intelligence Service of Canada.[103]

Blurring the Boundaries: Criminal and Security Intelligence

The McDonald Commission and the Canadian Security Intelligence Service Act (1984) emphasized that the RCMP and CSIS would act as the principal authorities in two separate intelligence systems: one established for the enforcement of the law and another

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[101] OPP Intelligence Bureau GHQ, "OPP Intelligence Services: A Comparison of 1995 to 2006" *Ipperwash Inquiry* (2006).

[102] Sarnia Police Service, "A Citizen's Guide to Sarnia Police Service" (2010).

[103] The Criminal Intelligence Service of Canada was created in 1970 to serve as a central clearinghouse for information on organized crime in Canada. Over the following decades, CISC slowly grew to include a central bureau in Ottawa as well as nine provincial bureaus, such as the Criminal Intelligence Service of Ontario, which mirrors the CISC. The CISC, headed by the RCMP, and CISO, headed by the OPP, gather raw data and specific intelligence and pool it for further refinement and analysis by several municipal and provincial police forces.

for the protection of national security. Since then, the distinction between *criminal*

intelligence and *security* intelligence has been reproduced in official and dominant

academic discourses.[104] However, since 2001, as Monaghan and Walby suggest, the

criminal and security intelligence systems have become increasingly integrated through

networked surveillance practices that are enabled by anti-terrorism laws and facilitated by

multi-agency collaborations involving law enforcement and security agencies.[105]

First, the introduction of anti-terrorism laws and amendments that have been

made to the Criminal Code and other legislation have criminalized virtually all actions

relating to terrorism. The criminalization of actions relating to terrorism, as Rimsa

argues, has in turn "narrowed the gap between security and criminal intelligence as well

as between CSIS and the RCMP."[106] The introduction of anti-terrorism laws, as Dafnos

argues, has also granted law enforcement agencies enhanced investigative powers,

particularly in relation to surveillance, and made it easier for law enforcement agencies to

exchange information and intelligence with security agencies.[107]

The production of intelligence through multi-agency collaborations involving law

enforcement agencies, national intelligence agencies, and other government departments

and agencies has further blurred the conventional scales of local law enforcement and

national security in recent years. For example, according to a report by Diabo and

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[104] Stewart, "Intelligence Analysis of Transnational Crime."

[105] Jeffrey Monaghan and Kevin Walby, "Making up 'Terror Identities': security intelligence, Canada's Integrated Threat Assessment Centre and social movement suppression," *Policing & Society* 22, no. 2 (June 2012): 133-151.

[106] Rimsa, "The Horsemen": 50.

[107] Tia Dafnos, "Beyond the Blue Line: Researching the Policing of Aboriginal Actvisim Ussing Access to Information," in *Brokering Access: Powr Politics, and Freedom of Information Process in Canada,* eds. Mike Larsen and Kevin Walby, Vancouver: UBC Press (2012): 226.

Pasternak, the RCMP partnered in 2007 with CSIS, the OPP, Sûreté du Québec, municipal police, Natural Resources and Aboriginal Affairs Canada to establish the Aboriginal Joint Intelligence Group, which was mandated to "produce and disseminate intelligence concerning conflict and issues associated with Aboriginal communities."[108] Although it was initially created to monitor the Assembly of First Nations' 2007 National Day of Action, the AJIG continued to produce weekly "Situation" and annual "Communities of Concern" reports until November 2009.

These reports, which were disseminated to approximately 450 recipients in law enforcement, government, and "industry partners," profiled Indigenous communities with specific ongoing or potential conflicts that could lead to "civil disobedience and unrest." These included "grievances pertaining to land claims, treaty disputes, environmental issues, economic and sovereignty disputes, internal conflict and social issues." In 2011, after the AJIG's activities had been exposed, an RCMP spokesperson told the *Toronto Star* that even though the unit had been dismantled at *headquarters* in 2009, the RCMP could not confirm or deny if the AJIG's work was being carried out elsewhere by the RCMP under another name or program.[109]

The use of intelligence produced by law enforcement agencies themselves and through multi-agency collaborations has had a significant impact on the way that front-line police forces attempt to manage mass demonstrations in Canada. Although Canadian law enforcement agencies have officially adopted a soft approach to public order

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108 Diabo and Pastarnak, "Canada has had first nations under surveillance: Harper has prepared for first nations 'unrest'," *First Nations Strategic Bulletin* 9, no. 1-5 (2011): 1-23.
109 Tim Groves & Martin Lukacs, "Mounties spied on native protest groups," *The Toronto Star,* December 4, 2011.

policing, critical researchers have argued that police actually tend to employ complex

hybrid approaches. More specifically, researchers contend that police have become

increasingly reliant on intelligence gathered on protest participants in order to determine

when and how to use force to maintain public order during a mass demonstration.

For example, in her analysis of police practices in Canada and the United States,

Wood demonstrates that the policing of mass protests has become more militarized and

more dependent on intelligence gathering since 1995.[110] In her research on the policing of

Indigenous people's activism in Ontario, Dafnos has also shown how the adoption of

"negotiation-based" and "measured" approaches to Indigenous protest policing by the

OPP and RCMP has been entwined with less visible intelligence gathering activities and

backed up by the threat of intervention from increasingly militarized police forces.[111]

Gathering Intelligence: The RCMP and Contract and Aboriginal Policing

The soft approach taken by front-line officers in response to Idle No More was

guided, at least in part, by intelligence on activists, groups and events associated with the

movement that was produced by federal, provincial, and municipal law enforcement

agencies. Based on an analysis of records obtained through ATI requests, it is clear that

the RCMP was closely monitoring Idle No More protests across the country from

December 2012-2013. One internal document that appears to have been drafted in April

2013 indicates that the RCMP had established a "Federal Policing Intelligence

Coordination team" in early January to monitor events surrounding Idle No More and to

produce situational awareness and intelligence products. The document, titled National

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[110] Lesley J. Wood, *Crisis and Control: The Militarization of Protest Policing,* London: Pluto Press (2014).

[111] Dafnos, "Beyond the Blue Line" and Dafnos, "Pacification and Indigenous Struggles."

Aboriginal Demonstrations and Protests: Framework for Defining the RCMP's

Coordinated National Intelligence support, also indicates that the Intelligence

Coordination team had set up a specific account to manage the large influx of Idle No

More related emails. A footnote included in the document states that the the Intelligence

Coordination team had received 575 emails and tracked approximately 1000 Idle No

More related events as of April 8.[112]

After acknowledging the role that front-line police play providing "strategic

awareness" and information to headquarters, the RCMP's coordination framework

describes the options available to Contract and Aboriginal Policing (CAP) for using the

RCMP's national intelligence capacity to monitor of events surrouding Idle No More.

Since CAP is responsible for managing all areas of contract policing within the RCMP,

which includes Provincial, Territorial, Municipal and Aboriginal policing, national

intelligence capacity would be made available to front-line officers in Indigenous and

non-Indigenous communities across the country under this framework. The document

proposes three response levels to be used in order to "determine the associated

information and intelligence support" to be provided by the Intelligence Coordination

team: situational awareness (level I), elevated watch (level II), and critical response (level

III). Unfortunately, it was not possible for me to determine precisely what information

and intelligence support would be provided at each level due to heavy redactions.

Other internal documents prepared at headquarters by the Criminal Intelligence

Branch give further insight into the RCMP's Idle No More intelligence gathering

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[112] RCMP, *National Aboriginal Demonstrations and Protests: Framework for Defining the RCMP's Coordinated National Intelligence support* (April 2013). Obtained through ATI request to RCMP A-2013-01297.

activities. Daily situation reports, which were prepared every day for RCMP senior management from at least January 1 to Februrary 15, provided a summary of Idle No More protests and blockades and taking place within a 72-hour period, including events that had occurred in the previous 24 hours and events expected to take place in the next 24 hours.To prepare these reports, the RCMP's Criminal Intelligence Branch drew on open sources, including news reports and social media, as well as intelligence that had been gathered and shared by front-line police services the country. In each report, identified protests and blockades were organized by province and presented in a chart that included a brief description as well as the number of participants, date, time, and location of each event.[113]

As the daily situation reports reveal, the RCMP followed an impressive variety of Idle No More related events from headquarters. For example, the Criminal Intelligence Branch in Ottawa monitored international solidarity protests, including a flash mob drum circle that took place in Presque Isle, Maine on January 5, as well as nationally-coordinated protests, such as the Canada-US border crossing protests that also occurred on Janaury 5. The Criminal Intelligence Branch also kept tabs on Idle No More related protests and blockades in all parts of Canada, including in areas where the RCMP is not responsible for public order policing, such as in Ontario and Québéec, where provincial and municipal police share this responsibility. The Criminal Intelligence Branch also monitored disruptive direct actions, such as the Aamjiwnaang railway blockade, as well

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[113] RCMP Criminal Intelligence HQ, *Daily Situation Report – Protests Aboriginal-based Issues,* January 1 to Februrary 15. Obtained through ATI request to RCMP A-2013-01297.

as events that the RCMP deemed to be lawful and orderly, including a "teach-in" that

took place at Carleton University on January 24.[114]

Gathering Intelligence: The Sarnia Police and Ontario Provincial Police

Together, two sets of records obtained through FOI requests filed with the OPP[115]

and the Sarnia Police[116] and a letter[117] I received from the Sarnia Police confirm the

existence of Idle No More-related intelligence records held by both agencies. Despite

being heavily redacted or withheld entirely, the volume of intelligence records suggests

that the Sarnia Police and the OPP had a significant interest in Idle No More: 45 pages

worth of intelligence records were withheld entirely by the OPP and intelligence-related

redactions were made throughout the Sarnia Police's 14 page release package and the 23

page release package from the OPP. The Sarnia Police also withheld an unspecified

volume of intelligence records, which I had sought, unsuccessfully, through a third FOI

request.

Since the release packages and the representation letter provided specific

explanations for why records were redacted or withheld, it is possible to discern key

details about the Sarnia Police and OPP's Idle No More intelligence gathering activities

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[114] RCMP Criminal Intelligence HQ, *Daily Situation Report – Protests Aboriginal-based Issues,* January 24. Obtained through ATI request to RCMP A-2013-01297.
[115] Records obtained through FOI request to the Ministry of Community Safety and Correctional Services, no. A-2014-03935.
[116] Records obtained through FOI request to the Sarnia Police Services, no. 14-0238.
[117] On September 8, 2014, I filed two separate freedom of information request with the Sarnia Police seeking records relating to the policing of protests associated with Idle No More and the CN railway blockade at Aamjiwnaang. On December 1, 2014, one of my requests was denied in its entirety under sections 8(1)(c), 8(1)(g), 8(2)(a), and 14(2)(f) of the Municipal Freedom of Information and Privacy Protection Act. After appealing the decision to the Information and Privacy Commission of Ontario, I received a "representation" from the Sarnia Police Service that provided a detailed justification for the denial.

in the Sarnia area. The representation and the OPP release package, for example, indicate that both police services used confidential informants, among other confidential sources, to collect information relating to Idle No More activities around Sarnia. Most of the police services' interest and activity appears to have been centred on two separate events: the Aamjiwnaang railway blockade and an Idle No More solidarity march.

The Aamjiwnaang railway blockade, which I describe at length in chapter 4, lasted from December 21, 2012 until January 2, 2013. The march, which occurred on December 24, 2012, was organized by members of Aamjiwnaang First Nation and attended by approximately 150 protesters. After meeting at Sarnia City Hall, participants walked down a 2km stretch of highway 402 towards the Bluewater Bridge, a major Canada/USA border crossing. According to an OPP occurrence report, around 40 OPP officers were dispatched by the Lambton detachment and Highway Safety Division to monitor the situation and divert traffic. However, the total number of police officers involved was likely higher since the Sarnia Police and the OPP Provincial Liaison Team had also dispatched an unspecified number of their own officers to the march.

The representation also confirms that the intelligence produced by members of the OPP and the Sarnia Police and exchanged with other law enforcement agencies contained information "in regards to many individuals who were involved in different aspects of the protests, marchers and occupations in question."[118] The personal information that was collected on these individuals, according to the representation, included the race, age, sex, marital or family status, and criminal history of individuals involved in the protest in various roles of participation. The intelligence produced and shared by the Sarnia Police

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[118] Appellant Representation Letter (personal communication) received from the Sarnia Police Services in regards to unsuccessful FOI request no. 14-0238.

and OPP also included "the racial or ethnic origin and political beliefs or associations of several individuals."[119]

Circulating Intelligence: The GOC and Law Enforcement Agencies

In addition to gathering their own intelligence on Idle No More and its participants, law enforcement agencies regularly received briefs, incident/situation reports, event matrices, and maps from the Government Operations Centre, which fulfilled a similar function to the AJIG that had been established by the RCMP in 2007. As I show in greater detail in chapter 7, the future-oriented, *strategic* intelligence that was shared by the GOC was produced through multi-agency collaboration that included provincial police and the RCMP, national security agencies, emergency management offices, and other government departments and agencies without an exclusive law enforcement or security mandate.

The RCMP, OPP, and the Sarnia Police all shared intelligence with the GOC and its partner agencies relating to Idle No More. The Aamjiwnaang railway blockade was the subject of a series of intelligence products that cite law enforcement agencies, national security agencies, and other government departments and agencies as reporting sources. These intelligence products were distributed to the RCMP, OPP, and Sarnia Police and a wide range of other "emergency management" and "critical infrastructure" partners.[120]

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[119] Appellant Representation Letter (personal communication) received from the Sarnia Police Services in regards to unsuccessful FOI request no. 14-0238.
[120] GOC, *Situation Report,* ST-122 12A to ST-122 12-F, December 28, 2012- January 2, 2013. Obtained through the following access to information requests to Public Safety Canada: A-2012-00408, A-2012-00438, and A-2013-00160.

From December 28 to January 1, for example, the GOC circulated daily situation and incident reports that describe the Aamjiwnaang railway blockade and assess the protest's risk of violence and impact on critical infrastructure. These reports were distributed to law enforcement agencies, such as the Sarnia Police, citing the RCMP, OPP and information and intelligence gathered by CSIS, the Integrated Terrorism Assessment Centre, Aboriginal Affairs and Northern Development Canada, Emergency Management Ontario, Transport Canada, the Canada Border Services Agency, and Public Safety Canada regional offices as reporting sources. Although most of the restricted addendums that accompanied these reports were withheld, the GOC threat assessments indicate that the blockade was peaceful but had disrupted rail operations into Sarnia's Chemical Valley.[121] Significantly, on December 28, the GOC also stated that it had established contact with ITAC, Canada's anti-terror intelligence agency, to continue monitoring developments.

On January 2, the GOC also circulated a report that cites TC and the OPP as reporting sources. This report was released to AANDC, CBSA, the RCMP, CSIS, and PSC and describes a protest that was being planned for January 5. The report indicates that the protest would likely shut down or cause delays on the Bluewater Bridge, which connects Sarnia to Port Huron, Michigan.[122] This section of the report warns that the Bluewater Bridge Authority "would not tolerate and bridge closures/slowdowns." Like many others reports issued by the GOC, this report was accompanied by geomatic

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[121] GOC, *Situation Report,* ST-122 – 12 A, December 28. Obtained through access to information request to PSC A-2013-00160.
[122] "Idle No More protestors planning to block Blue Water Bridge traffic on Saturday," *The Observer,* January 5, 2013.

products mapping out the location of the blockade and the planned Bluewater Bridge protest.

The January 2 report also contained a more detailed analysis of the Aamjiwnaang railway. More specifically, the GOC assessed the potential impact of the blockade court injunctions, the appearance of protest spokesperson Ron Plain's in court in Sarnia, and the 24-hour adjournment of court proceedings against Plain. The GOC concludes that the adjournment was likely a strategic move aimed at avoiding a contempt of court charge against Plain, which the GOC suggests could have lead to a violent escalation at the blockade. If the Sarnia Police was unable to negotiate a peaceful resolution by January 2, the report indicates that the OPP was preparing to "assist" in the removal of protestors if necessary.[123]

Unfortunately, I was not able to determine precisely how the OPP would have helped the Sarnia Police remove protestors or respond to an "escalation" at Aamjiwnaang because the necessary records were either withheld or delayed by the OPP. Nevertheless, Dafnos' critical analysis of the OPP's Framework for Police Preparedness for Aboriginal Critical Incidents and Aboriginal Initiatives Building Respectful Relationships and her investigations into the OPP's response to Indigenous protests at Caledonia and Tyendinaga suggest that the OPP would have activated and prepared to deploy an OPP integrated response team with enhanced coercive capacities.[124]

Although it is only possible to speculate based on the records I have obtained, it is likely that the Aamjiwnaang blockade and other Idle No More Protests in Ontario would have activated the OPP's integrated response protocol, which is automatically triggered

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[123] GOC, *Situation Report,* ST-122 – 12 F, January 2, 2013. GOC, Email, A-2013-00160.
[124] Dafnos, "Beyond the Blue Line": 63-64.

in response to "high risk" situations, including "Aboriginal critical incidents." This includes the mobilization, and sometimes deployment, of militarized Emergency Response Teams (ERT), Tactical Response Units (TRU), and crisis negotiators under a central command structure. Although the militaristic response protocol seems to be at odds with the stated purpose of the Framework for Police Preparedness for Aboriginal Critical Incidents, as Dafnos argues, the Framework designates *any* protest involving Indigenous people or relating to treaty or Aboriginal rights in Ontario as a high risk "critical incident." Although heavily redacted, emails sent between the Lambton OPP, the OPP Aboriginal Critical Incident Hub, and the OPP Emergency Operations Centre on December 24 regarding the blockade also suggest that the OPP considered the situation at Aamjiwnaang to be "high risk."[125]

Even though my investigation has focused on the RCMP, OPP, and Sarnia Police Services intelligence gathering and sharing activities, particularly in relation to Idle No More protests that took place near Aamjiwnaang First Nation and Sarnia, it is possible to draw some broader conclusions about the response by Canadian law enforcement agencies to Idle No More. After all, between December 2012 and March 2013, the GOC regularly shared intelligence on Idle No More protests taking place across the country with law enforcement agencies other than the RCMP, OPP, and Sarnia Police. As well, there is a high likelihood that other provincial and municipal law enforcement agencies gathered and used their own intelligence on Idle No More events taking place in their jurisdictions.

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[125] OPP, *email,* December 24, 2012. Obtained through FOI request to the Ministry of Community Safety and Correctional Services, no. A-2014-03935.

First, the "soft" response by front-line officers to Idle No More protests was guided by less visible activities that are not commonly associated with the policing of Indigenous protests. More specifically, intelligence gathering and sharing activities were integrated into the response by front-line police forces in order to determine when and how to use force to manage and control Idle No More protests. Although often juxtaposed with a "hard" approach – by police and in academic literature – the soft approach that was pursued in response to most Idle No More was ultimately backed up by the omnipresent threat of militarized police intervention. In other words, the RCMP's actions at the anti-fracking camp near Elsipogtog, the prioritization of intelligence-led policing in response to Idle No More, and the OPP's preparations to "assist" at Aamjiwnaang suggest that the liberal distinction between hard and soft policing is artificial. Rather than being oppositional or contradictory, soft policing and hard policing tactics are employed as complementary strategies of settler colonial pacification.

As well, the intelligence that guided the response by front-line police forces reflected a national security framing of Idle No More. On the one hand, the gathering of intelligence by law enforcement agencies would suggest that Idle No More was viewed as a potential source of violence or serious criminal activity. However, the exchange of information and intelligence between municipal, provincial, and federal law enforcement agencies and the Government Operations Centre, and by extension is partner agencies, reflects a national security framing events. Furthermore, these intelligence gathering and sharing practices, enabled in part by anti-terror legislation, have deepened the integration of two systems that are considered by police, intelligence agencies, and in academic

literature to be fundamentally different: one system established for the enforcement of the law and one for the protection of national security.

Part 2: Idle No More Surveillance as Pacification

In part 3, I critically examine surveillance as a security mechanism through which threats to settler state sovereignty and capitalist accumulation are managed. More specifically, I consider how Idle No More surveillance operations carried out by a number of settler state institutions were deployed to pacify Indigenous resistance. Although these institutions mobilized a wide range of discourses to publicly justify, internally rationalize, or obfuscate their surveillance activities, I argue that their actual surveillance practices reflect a national security framing of Idle No More. As well, I demonstrate that Idle No More intelligence gathering and sharing activities were carried out to support law enforcement agencies in the efforts to neutralize Idle No More without causing a more radical politics as a component of the state's "whole-of-government response" under Canada's emergency management framework.

In the next two chapters, I consider the state's broader Idle No More surveillance program. I demonstrate how the Government Operations Centre, the little-known hub of Canada's emergency management system, coordinated the Canadian state's Idle No More intelligence gathering and sharing activities and "whole of government response." In chapter 5, I examine how the GOC and Aboriginal Affairs and Northern Development Canada, as institutions with a clear mandate to monitor "emergencies" affecting or emanating from Indigenous communities, responded to Idle No More. In the final chapter, I turn to examine how CSIS and the Canadian Armed Forces, as institutions devoted to enhancing national security, responded to Idle No More as a source of "Aboriginal extremism" and as a "threat" to domestic military operations.

Chapter   5: An Emergency and a Threat to Critical Infrastructure?

On September 2, 2013 Maclean's Magazine reported that Public Safety Canada's Government Operations Centre had been monitoring the Idle No More movement with the help of staff from Aboriginal Affairs and Northern Development Canada.[126] In this and other media reports, the GOC and AANDC are even accused of sharing secret intelligence reports on Idle No More protests with CSIS, the spy agency's Integrated Terrorism Assessment Centre, and the Canadian Armed Forces. In this chapter, I examine the GOC and AANDC's response to Idle No More protests and blockades. Through this investigation, I demonstrate that the Canadian state's overall response to Idle No More is best understood in terms of the security logic of emergency management. I also provide evidence that the Government Operations Centre and AANDC were the government agencies with overarching responsibility for producing intelligence on Idle No More and coordinating the integrated response by all other federal, provincial, and territorial government departments and agencies, including law enforcement and intelligence agencies.

This chapter is divided into two sections. In the first section, I describe Canada's emergency management system as the security framework that guided the Canadian state's "whole-of-government" response to Idle No More. I position the GOC as the central hub into which all other Idle No More surveillance operations were connected. I also consider how the reorganization of Canada's national security around critical infrastructure protection and risk management has affected Indigenous struggles for land and self-determination.

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[126] Justin Ling, "Snooping Idle No More," *Maclean's,* September 2, 2013.

In the second section, I focus my analysis on the GOC and AANDC's Idle No More surveillance operations. Contrary to the GOC's claim that Idle No More was captured in routine monitoring, I provide evidence that the GOC stood up a team dedicated to monitoring Idle No More as a national security threat. I also provide evidence that AANDC was the GOC's primary source of intelligence on Indigenous protestors and communities.

Canadian Emergency Management

In order to understand how and why institutions without a law enforcement mandate, like the GOC, Transport Canada, the Canadian Border Services Agency, and Aboriginal Affairs and Northern Development Canada participated in the state's response to Idle No More, it is useful to consider Canada's emergency management framework. Under Canada's Constitution Act, 1867, provinces and territories have primary responsibility for emergency management within their boundaries. While municipalities or provinces handle some emergencies, the federal government is authorized to assist when requested, when the emergency transcends jurisdictional boundaries, or when its assistance is in the national interest.

Federally, Canadian emergency management is legally authorized under the 1985 Emergency Preparedness Act and the 2007 Emergency Management Act and operationalized through the 2011 Federal Emergency Response Plan (FERP), which applies to all federal government institutions. Public Safety Canada holds primary responsibility for emergency management in Canada. Notably, PSC is responsible for engaging all relevant federal government institutions, provincial/territorial counterparts,

and private sector organizations necessary to prevent or deal with an emergency or respond to a threat to critical infrastructure.

The Government Operations Centre is the emergency operations centre housed within PSC into which all other departmental emergency management systems are connected. According to Public Safety Canada's website, the GOC provides "strategic-level coordination on behalf of the Government of Canada in response to an emerging or occurring event affecting the national interest." The GOC fulfills this role by providing around-the-clock monitoring and reporting on events of national significance, national-level "situational awareness," warning products and integrated risk assessments, as well as national-level planning and whole-of-government response management. The GOC provides this strategic level intelligence and coordination using information collected from the media, law enforcement, intelligence, and emergency management agencies, other federal, provincial, and territorial government organizations, and private sector "partners."

These intelligence products are distributed to one of three distribution lists that correspond with Public Safety's emergency response levels. According to the FERP, these emergency response levels are used to alert federal government institutions and other public and private sector emergency response partners that action outside of routine operations, may, or will be required. A level 1 response serves to focus attention upon a specific event or incident that has the potential to require an integrated response by the Federal Government. A Level 2 response requires a complete risk assessment to identify vulnerabilities, aggravating external factors and potential impacts of an emergency. A level 3 response requires an integrated federal response coordinated by the Government

Operations Centre and includes enhanced reporting along with risk assessments and planning as required.

All provinces in Canada have their own emergency management legislation in place and a department or agency responsible for coordinating emergency responses. In Ontario, for example, emergency management is legally authorized under the 1990 Emergency Management and Civil Protection Act, which replaced the earlier Emergency Plans Act, and operationalized through the 2008 Province of Ontario Emergency Response Plan and the Emergency Management Doctrine of Ontario (the Doctrine). Emergency Management Ontario, which is housed within the Ministry of Community Safety and Correctional Services, is responsible for the promotion, development, implementation and maintenance of emergency management programs across the province, and for the coordination of these programs with federal government institutions and municipalities.

Although the scope of their responsibilities varies from one province to another, all municipal governments in Canada are expected to plan for emergencies. In Ontario, the *Emergency Management and Civil Protection Act* requires each municipality to develop and implement an emergency management program which includes specific elements, such as training and public education, which are set out in regulations (Ontario, 2006). Municipalities are also required to maintain a current emergency plan, designate an emergency management coordinator and organize an annual simulation exercise. In two-tiered municipalities, both the lower-tier municipalities and the upper-tier municipality maintain emergency plans. Aamjiwnaang First Nation, for example, which lies within the boundaries of a two-tiered municipality, is subject to two municipal emergency response

plans: the City of Sarnia Emergency Response Plan and the County of Lambton Emergency Response Plan.

The concepts and principles that officially guide Canadian emergency management are outlined in the Emergency Management Framework for Canada (the Framework), which was produced jointly by the federal, provincial, and territorial governments in 2007 and revised in 2011. The stated purpose of the Framework is to establish a common approach for the various federal, provincial, and territorial emergency management initiatives by supporting all Canadian emergency management partners' legal and policy frameworks, programs, activities, and standards. Although the Framework does not replace or modify definitions in existing federal, provincial and territorial laws, it does provide approximate definitions for key emergency management concepts that are used across all Canadian jurisdictions.

Notably, the Framework defines an emergency as "a present or imminent event that requires prompt coordination of actions concerning persons or property to protect the health, safety or welfare of people, or to limit damage to property or the environment." Hazard, a similar yet distinct term in the field of emergency management, is defined as "a potentially damaging physical event, phenomenon or human activity that may cause the loss of life or injury, property damage, social and economic disruption or environmental degradation." Crucially, emergency management is defined as "the management of emergencies concerning all-hazards, including all activities and risk management measures related to prevention and mitigation, preparedness, response and recovery."

The Framework highlights critical infrastructure protection as a crucial element of emergency management in Canada and notes that "disruptions of critical infrastructure

could result in catastrophic loss of life, adverse economic effects, and significant harm to public confidence." The concepts and principles that officially guide critical infrastructure protection in Canada are spelled-out on in the National Strategy for Critical Infrastructure (the Strategy), which was also produced collaborative by the federal, provincial, and territorial governments. Although the federal, provincial, and territorial governments have their own methods for identifying and assessing critical infrastructures,[127] the Strategy defines critical infrastructure as the "processes, systems, facilities, technologies, networks, assets and services essential to the health, safety, security or economic well-being of Canadians and the effective functioning of government." The Strategy further states that critical infrastructure "can be stand-alone or interconnected and interdependent within and across provinces, territories and national borders." Finally, the term critical infrastructure protection refers to "security measures to address intentional and accidental incidents, business continuity practices to deal with disruptions and ensure the continuation of essential services, and emergency management planning to ensure adequate response procedures are in place to deal with unforeseen disruptions and natural disasters."

While the Emergency Framework for Canada emphasizes collaboration between federal, provincial, and territorial governments, the National Strategy for Critical

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[127] The Emergency Management Doctrine of Ontario defines critical infrastructure as "interdependent, interactive, interconnected networks of institutions, services, systems and processes that meet vital human needs, sustain the economy, protect public safety and security, and maintain continuity of and confidence in government." The Doctrine further describes critical infrastructure assurance as "the application of risk management and continuity of operations/business continuity management processes and techniques for the purpose of reducing the vulnerabilities of critical infrastructure in both the physical and cyber realms by decreasing the frequency, duration and scope of disruption and facilitating response and recovery."

Infrastructure establishes a public-private sector approach to critical infrastructure protection. The Strategy identifies ten critical infrastructure sectors, including energy and utilities, information and communication technology, finance, health, food, water, transportation, safety, government, and manufacturing. Each sector has a lead department or agency that is responsible for managing its own "risk environment," which includes natural and "human induced" threats to the department itself and the sector under its administration.

Critical Infrastructure, Risk Management, and Indigenous Protests

The reorganization of Canada's national security around protecting "critical infrastructure" and proactively managing Canada's "risk environment," as Dafnos demonstrates, has had significant implications for Indigenous struggles for land and self-determination.[128] First, land reclamations, protests, and blockades targeting or occurring near transportation corridors or resource and land development projects are increasingly framed as national security threats because of their potential to disrupt infrastructure that has been defined as essential to the functioning of the state. As a result, Indigenous communities located near critical infrastructure and Indigenous activists are more likely to be subjected to surveillance operations that are legitimized as preventative and pre-emptive national security measures.

The reorganization of national security around protecting critical infrastructure and managing risk has also integrated the surveillance practices of a wide range of government institutions and private companies within the settler state's national security apparatus. This integration is reflected in the creation of the Government Operations

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[128] Dafnos, "First Nations in the Crosshairs."

Centre as a centralized hub for situation awareness relating to critical infrastructure threats. In this role, the GOC collects information from the departments and agencies that administer Canada's ten critical infrastructure sectors and from the private companies that own and operate around 85% of Canada's critical infrastructure. In turn, the GOC produces integrated security intelligence reports that are shared with these partners as well as federal, territorial and provincial law enforcement, intelligence, and emergency management agencies.

At the same time, the adoption of an "all-hazards" approach to emergency management in Canada has formally expanded AANDC's mandate to gather intelligence relating to Indigenous activism. AANDC's historical surveillance practices[129] have been formally incorporated into AANDC's mandate under the "all-hazards" approach because the department is now required to take risk management measures in order to prevent, mitigate, and respond to emergencies. Since the *Emergency Management Act'*s definition of emergency includes "civil disobedience," AANDC is authorized to gather information and proactively manage protests that may affect or emanate from First Nations' reserve communities as well as protests that may have an impact on AANDC's operations.

Finally, this orientation towards critical infrastructure protection and risk management has led AANDC to enhance its capacity to gather and share intelligence on Indigenous activism. First, in 2006, an operational plan on "occupations and protests"

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[129] Since the second half of the 19th century, AANDC has contributed its colonial knowledge base of the social, political, and economic dynamics, geographies and legal situations of the Indigenous communities under its administration to the production of national security intelligence. For an in-depth analysis of AANDC's historical role in securing the settler state, see Kevin Smith, *Liberalism, Surveillance, and Resistance: Indigenous Communities in Western Canada 1877-1827,* Edmonton: AU Press.

was developed between AANDC and Public Safety Canada (which houses both the RCMP and CSIS) in order to systematize the department's long-standing practice of sharing security intelligence with law enforcement and intelligence agencies. Then, in 2008, AANDC established the Emergency Management and Issues Directorate as a section dedicated to administering the department's emergency management plan and monitoring "emergencies," which in practice has involved gathering intelligence on protests occurring on or near reserves as well as protests taking place far away from reserves that are related to Indigenous land struggles, assertions of treaty rights, and struggles for self-determination.

The Government Operations Centre and Idle No More

As I demonstrated in chapter 4, the Government Operations Centre produced and shared a series of intelligence reports on the Aamjiwnaang railway blockade and other protests emanating from this community with law enforcement agencies and a number of other government departments and agencies. Although the Aamjiwnaang railway blockade received a lot of attention from the GOC and its partners, it was not the only protest to provoke an emergency response. In fact, the Canadian state's emergency management apparatus explicitly targeted the broader Idle No More movement, including protests taking place far away from critical infrastructure and First Nations reserve communities, as threats to national security.

The GOC's intelligence gathering activities are revealed by a number of records obtained from Public Safety Canada. For example, a report prepared on January 1, 2013 by the Analysis Division of the Government Operations Centre indicates the GOC began monitoring, coordinating, and providing consolidated reporting and impact analysis to

"stakeholders" with respect to nationwide First Nations protests in early December. The document, titled GOC Monthly Overview – December 2012, also reveals that the GOC established a team on December 28 that was exclusively dedicated to monitoring events organized in relation to Idle No More.[130] Although it is unclear how long the Idle No More Team continued to operate, the report suggests that this dedicated team was expected to remain in place and to continue gathering and circulating intelligence on Indigenous protests and blockades for at least the month of January.

A second monthly report prepared by the GOC Analysis Division on February 1, 2013 confirms that the GOC's dedicated team did continue to monitor and report on Idle No More until the end of January. The report also indicates that a second dedicated team was stood up by the GOC on January 14, 2013 to gather and circulate intelligence with respect to the January 16 National Day of Action. Although the GOC's National Day of Action Team was established to monitor events taking place during a limited time frame, the report suggests that the standing Idle No More Team was expected to continue gathering and circulating intelligence indefinitely.

Interestingly, both reports explicitly frame Idle No More as a matter of national security. Under the heading of "Security" in the "Incidents / Activities Summary" section of the December report, Idle No More protests and demonstrations are listed alongside the GOC's monitoring of "cyber threats to Canadian critical infrastructure" and contingency planning "in relation to developments in Syria, Israel/Gaza, and the Middle East." In the January report, Idle No More protests and demonstrations are also listed

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[130] Records obtained through ATI request to PSC A-2013-00160.

alongside GOC monitoring and contingency planning "related to developments in

Lebanon/Syria, the Middle and Northwest Africa."

According to a draft presentation prepared in March 2013 for the Committee of

Deputy Ministers, the GOC had directly monitored around 490 Idle No More inspired

protests and demonstrations between December 2012 and February 2013. During this

time, the GOC also collected detailed information on Idle No More from Transport

Canada, the Department of Fisheries and Oceans, the Canada Border Services Agency,

AANDC, the RCMP, OPP, CSIS, and ITAC, which the GOC then used to produce and

circulate at least 646 strategic intelligence products to partner agencies, other government

departments, and private sector "stakeholders."

Most of these products were distributed to Public Safety Canada's "Level 1

dissemination list," which included the relevant provincial and territorial emergency

management offices, critical infrastructure owners and operators, as well as first

responders (i.e. federal, provincial, and local police). The distribution of intelligence

products at this level indicates that Idle No More, at the very least, was targeted for

"enhanced" reporting," which means that the GOC identified individual protests and

blockades as incidents that had the potential to require an integrated response by the

federal government. However, a number of GOC's intelligence products were even

distributed to Public Safety's "Level 3 dissemination list," which also included AANDC,

TC, CBSA, RCMP, CSIS, and Public Safety regional offices. The distribution of

intelligence products at this level indicates that a federal coordinated response was

activated. As a part of this response, according to the FERP, "departmental emergency

response plans are escalated and materiel and resources readied in anticipation of

provincial or other requests for federal assistance, and the Government Operations Centre maintains constant communication with those activated centres."

Interestingly, at least one of the intelligence products distributed to the level 3 emergency response list was sent to "DHS NOC." While I wasn't able to confirm this claim using the records I collected, it is likely that "DHS NOC" referred to the Department of Homeland Security's National Operations Centre, the American equivalent of the GOC, which according to the Department of Homeland Security website collects and fuses information from more than 35 Federal, State, territorial, tribal, local, and private sector agencies. The intelligence product in question was a situation report that was sent on January 3, 2013. The document cites CBSA and TC as reporting sources and focused on protests that were expected to take place on or near Canada-US border crossings, including a protest at the Bluewater Bridge that was being planned by members of Aamjiwnaang First nation and other nearby Indigenous communities.[131]

Aboriginal Affairs and Northern Development Canada and Idle No More

While Public Safety Canada and the Government Operations Centre had overarching responsibility for response coordination, Aboriginal Affairs and Northern Development Canada played a key part in the federal response to Idle No More. AANDC, according to a presentation prepared by the GOC in early 2013, had primary responsibility for monitoring First Nations on reserve and Inuit and Metis and was the principle conduit for information on protests. A second presentation, prepared in May 2013, also indicates that AANDC was authorized to exchange information on protests activities with other government department and agencies "when the health and safety of

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[131] GOC, *Situation Report, January 3, 2013*. Obtained through ATI request with PSC - A-2012-00408, pg. 756.

First Nations communities could be adversely affected."[132] Both slides also indicate the

Minister responsible for AANDC would lead for communications, unless there was a

"escalation," in which case the Minister of Public Safety would take over.

Between December 2012 and March 2013, Idle No More was the main subject of

AANDC's Emergency and Issues Management Directorate's weekly situational

awareness reporting. Each of these weekly reports contained a "Hot Spot Summary" as

well as a "Protests and Opposition to Bill C-45 Report." To produce these weekly reports,

AANDC national office collected information from each of its 10 regional offices, which

carried out "on-the-ground" monitoring. AANDC's national and regional offices

supplemented this "on-the-ground" information by monitoring open sources. These open

sources included mainstream and alternative news as well as social media. Facebook

groups and events appear to have been important sources of information regarding

specific protests.

Each hot spot summary focused one or two major and on-going Idle No More

protests that had garnered national attention that week. For example, AANDC reported

on Theresa Spence's hunger strike on Victoria as a "hot spot" of civil unrest for the entire

duration of her protest. As well, on Friday, January 11, AANDC's hot spot report

summary focused on the solidarity march in support of Spence's hunger strike that had

attracted approximately 3000 protestors to Parliament Hill. The weekly situation reports,

on the other hand, listed all Idle No More protests that had occurred in the previous week

as well as any planned demonstrations by date and region.

These situation reports also highlighted and assessed all blockades occurring on

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[132] PSC, Protest Activity (Presentation Slides), May 15, 2013. Obtained through informal ATI request to PSC, no. A-2014-00402 (A-2013-00160), pg. 7, 328.

any bridges, highways, or rail lines. For example, the situation report produced on December 28, 2012 includes a summary of the Aamjiwnaang railway blockade and assessment of the blockade's impact on nearby Chemical Valley, which the report describes as an "integral part of the Canadian economy." A second report also indicates that CN Rail had contacted AANDC and requested that a senior official speak with protestors and take measures to end the protest. Although the Ontario Regional Office informed CN that the department had no intentions to intervene directly in the matter, the report suggests that AANDC would continue to provide updates on the blockade and reassess its involvement in case of an escalation.[133]

Although the GOC and AANDC doesn't appear to have intervened directly at the Aamjiwnaang railway blockade or any other protests, my assessment of their intelligence gathering and sharing activities points to two broad conclusions about the state's response to Idle No More. First, despite being "behind the scene" both institutions played leading roles in the Canadian state's response to Idle No More. More specifically, while AANDC acted as the primary conduit for information on Indigenous protestors and communities, the GOC fulfilled a key coordination function by producing and sharing intelligence with a wide range of state agencies involved in directly or indirectly managing Idle No More protests and sharing intelligence with private sector partners, such as the owners and operators of infrastructure identified as being critical to the functioning of the state. This conclusion is supported by presentations slides obtained through ATI requests that explicitly name Public Safety Canada and the Government Operations Centre as the bodies responsible for coordinating the integrated security response by all other federal,

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[133] GOC, *Situation Report,* December 28, 2012. Obtained through ATI request to PSC A-2012-01680, pg. 85.

provincial, and territorial government departments and agencies, including law

enforcement and intelligence agencies.[134]

As well, my assessment of the GOC and AANDC's surveillance activities

suggests that state's overarching response to Idle No More should be understood in terms

of the reorganization of Canada's national security around critical infrastructure

protection. In other words, rather than being a matter of local law enforcement or public

order policing, Idle No More was the targeted by Canada's emergency management

apparatus as a threat to national security. Significantly, as the GOC and AANDC's

practices show, land reclamations, protests, and blockades do not need to pose a real or

potential threat to the health and safety of *citizens* in order to be framed as matters of

national security. Nor do they have to pose a threat to publicly owned or operated

infrastructure. Instead, disruptions to critical infrastructure, whether it be publicly or

privately owned and operated, are characterized as threats to the state itself. As a result,

virtually any land reclamation, protest, or blockade that has the *potential* to be physically

or economically disruptive, could be subjected to surveillance and other forms

intelligence-gathering that are justified as preventative and necessary national security

measures.

Even though the GOC and AANDC were the only government organization with

a mandate to monitor events of "national significance" emanating from or affecting

Indigenous communities, they were not only government organizations to gather and

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[134] Public Safety Canada, *Presentation to DM* Breakfast: Preparedness for First Nations Issues (Presentation Slides), Marc 2013, Obtained through ATI request to Public Safety Canada, no. A-2013-00160: 331; Public Safety Canada, *GC Contingency Planning Scenario – FN Protests & Potential Escalation* (Presentation Slides), Janaury 2013. Obtained through ATI request to Public Safety Canada, no. A-2012-00438: 10 & 17.

exchange intelligence on Indigenous protestors. In fact, as I demonstrate in the next chapter, CSIS, ITAC, and the Canadian Armed Forces also gathered intelligence that was shared with the GOC that framed Idle No More as a source of Aboriginal extremism, a threat to domestic military operations, and ultimately a threat to national security.

Chapter   6: Protecting Protest Participants and the Canadian Armed Forces?

On March 18, 2015 the Aboriginal People's Television Network reported that

Canada's Integrated Terrorism Assessment Centre, which operates within the Canadian

Security Intelligence Service, had spied on Idle No More throughout 2012 and 2013.[135]

Less than a year earlier, on May 30, 2014, the National Post revealed that the Canadian

military had spent virtually all of 2013 spying on Idle No More.[136] In both cases,

Canadian journalists drew on evidence obtained through access to information requests

filed with CSIS and the Department of National Defence. Although CSIS and the

Canadian Armed Forces (CAF) acknowledge that they had monitored Idle No More

protests and blockades, they denied that these events were monitored as threats to

Canadian national security.

Instead, in an email to Postmedia News, a CSIS spokesperson stressed that any

mention of Idle No More in the threat assessment was made in relation to threats that

reactionary groups posed to Idle No More participants, rather than in relation to any

threat that Idle No More posed to "Canadian safety and/or Canadian interests."[137] On the

other hand, anticipatory media lines prepared by the Department of National Defence

denied that the military spies on Canadians, claiming instead that Idle No More was

captured in routine monitoring reporting on activities that may have an impact on CAF

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[135] Jorge Barrera, "Aboriginal Affairs shared wide range of information with spy agency to bolster Idle No More surveillance: documents," *APTN National News,* March 18, 2015.
[136] Justin Ling, "Canadian forces spent virtually all of 2013 watching Idle No More protestors," *National Post,* June 1, 2014.
[137] Stephen Spencer Davis, "Canada's spy agency kept close watch on rapidly growing First Nations protest movement: documents," *The Canadian Press,* August 11, 2013.

operations and personnel.[138]

In this chapter, I draw on threat assessments prepared by ITAC, J2 section of the

Canadian Joint Operations Command (CJOC), and the Canadian Forces National

Counter-Intelligence Unit (CFNCIU) in 2013 to examine the role that CSIS and the CAF

played in the state's response to Idle No More. I provide evidence that CSIS, ITAC and

the CAF participated in a broader GOC-coordinated response to Idle No More aimed at

containing Indigenous resistance. Rather than only monitoring threats *towards* Idle No

More participants, I demonstrate that CSIS and ITAC targeted Indigenous activists

involved with Idle No More as national security threats. I also demonstrate that the

Canadian military produced intelligence on domestic Idle No More protests and

blockades that posed no direct threat to the Canadian Forces operations or personnel.

This chapter is divided into two sections. In the first section I describe CSIS and

ITAC's official roles in the Canadian security intelligence system. I also explore the

deployment of Aboriginal and multi-issue extremism as new national security threat

categories to show how existing tendencies to frame Indigenous activism as terrorism

have been formalized by Canadian intelligence agencies. Then, I consider CSIS and

ITAC's intelligence gathering activities in relation to Idle No More and their relationship

with the GOC to demonstrate that both organizations actively participated in the state's

response to Idle No More.

In the second section, I consider the CAF's limited mandate to conduct domestic

surveillance activities. I also highlight the military's growing role in the production of

intelligence on Indigenous protests in Canada. I then examine the intelligence products

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[138] DND, *Media Response Line,* May 7, 2013. Obtained through ATI request to DND A-2013-00679.

produced by J2 Section of the Canadian Joint Operations Command and the Canadian Forces National Counter-Intelligence Unit in relation to Idle No More to demonstrate that the military identified Idle No More as a security threat and monitored the movement in order to avoid inadvertently provoking an "escalation."

Canadian Security Intelligence

Before examining CSIS and ITAC's role in the state's response to Idle No More, it is useful to consider the origins of these institutions and to highlight how existing tendencies to frame Indigenous activism as terrorism have been formalized within the Canadian security intelligences system. CSIS was established in 1984 as a civilian service to investigate threats to Canadian national security. In this role, CSIS gathers, analyzes, and shares *security* intelligence for the purpose of advising the government on domestic and foreign threats to Canada that are not necessarily concerned with breaches of the law. Rather than collecting evidence-grade material, CSIS gathers intelligence concerning national security threats primarily to prepare reports, studies, and briefs on various issues for government decision-makers.

Prior to the passing of the Anti-terrorism Act 2015, CSIS had no law enforcement powers, meaning that CSIS was barred from detaining, arresting, and interrogating suspects. CSIS also lacked the mandate and the legal authority to take action to counter national security threats. Rather than intervening directly, CSIS was only authorized to provide advance warning about activities that may have constituted a threat to national security to Canadian law enforcement agencies, to intelligence units of other federal department and agencies, and to provincial and municipal governments.

CSIS conducts both covert and overt operations that are comparable to those undertaken by police officers. For example, CSIS gathers open source intelligence, which is drawn from information collected from overt, publicly available sources, including media and social-networking sites. CSIS also relies on human intelligence, which is derived from information collected by Intelligence Officers through interpersonal contact with persons having access to information. CSIS is also authorized to deploy intrusive methods of investigation, including electronic surveillance, mail opening, and covert searches, if a judge of the federal court of Canada issues a warrant to do so.[139] Although CSIS was created as a domestic agency, its operations are not restricted by geographic area. CSIS can and does collect intelligence abroad, but is mandated to do so only in regards to Canadian national security.[140]

In 2004 an agency called the Integrated Threat Assessment Centre – renamed in 2011 as the Integrated *Terrorism* Assessment Centre – was granted the task of centralizing all anti-terror-related intelligence and distribution under Canada's *National Security Policy*. Prior to the creation of ITAC, as Monaghan and Walby observe, no single government institution was responsible for analyzing counter-terrorism intelligence.[141] Instead, this work was scattered among a number of agencies at the federal level and provincial police forces. ITAC is housed at CSIS and governed by the *CSIS Act*, but personnel are regularly drawn from the RCMP, Canada Border Services Agency, National Defence and Transport Canada, all of whom retain access to their

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[139] Kostas Rimsa, "Spy Catchers," *Inside Canadian Intelligence: Exposing the New Realities of Espionage and International Terrorism,* ed. Dwight Hamilton, Toronto: Dunburn Press (2006): 38.
[140] Rimsa, "Spy Catchers": 45.
[141] Monaghan & Walby : 140.

respective department and agency's intelligence data banks. Representatives from other domestic partner agencies, such as Health Canada, Aboriginal Affairs and Northern Development Canada, and Natural Resources Canada, are also brought into ITAC when needed.

Although each agency is still responsible for preparing their own threat assessments, ITAC has emerged as the principle authority for producing threat assessments for the Government of Canada related to possible terrorist attacks, terrorist trends and "special events" taking place in Canada and globally. These threat assessments are then distributed to members of the Canadian security intelligence community, provincial emergency authorities, first responders, and "partners" in the private sector.

Indigenous Activism and "Aboriginal Extremism"

In addition to blurring the boundary between criminal and security intelligence, ITAC intelligence practices have formalized existing tendencies for government, law enforcement agencies, and intelligence agencies to target dissenting social movements for surveillance. In their analysis of the policing and surveillance projects developed in preparation for the 2010 Winter Olympics and G8/G20 Summits, Monaghan and Walby argue that the establishment of the Integrated Terrorism Assessment Centre and the deployment of "multi-issue extremism" as a new category of domestic threat has blurred the boundary between terrorism and activism to the point where almost any expression of dissidence can equated with the threat of violence against citizens or the nation.[142]

The emergence of multi-issue extremism as a category of domestic terrorism, as Monaghan and Walby argue, reflects a significant shift in perceived threats within the

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[142] Monaghan & Walby: 133-151.

Canadian security establishment. Prior to the centralization of anti-terror intelligence under ITAC, terrorism-related intelligence briefs produced by the RCMP and CSIS were concerned primarily with financial security and Al-Qaeda-inspired terror groups. However, ITAC has expanded its focus to target "multi-issue extremists," the term used in reports to refer to activists groups, Indigenous groups, environmentalists, and others who are publicly critical of government policy and whose activities include blockades, confrontation with police, media stunts, and public education campaigns such as tabling sessions and boycotts.

Within ITAC's aggregated threat matrix, "Aboriginal extremism" has emerged out of multi-issue extremism to become a domestic threat category in its own right. Notably, in the 2010 and 2012 "Biannual Update(s) on the Threat from Terrorists and Extremists," ITAC identified "Aboriginal communities" as hotspots for "issue-based extremists."[143] Soon after, in a presentation delivered on April 12, 2012 to the Canadian Association of Petroleum Producers, the Director of CSIS also explicitly named "Aboriginal extremists" as threats to Canada's energy security and critical infrastructure because of the *potential* for peaceful protests to escalate into violence.[144]

The centralization of anti-terror intelligence under ITAC and the shift in focus from distant terrorist threats to imminent subjects of dissent has led to a situation where Indigenous groups who openly contest the authority of the Canadian government are increasingly likely to be profiled, classified and monitored by on the basis of national

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[143] ITAC, *Biannual Update(s) on the Threat from Terrorists and Extremists,* 2010 & 2012. Obtained through access to information request to CSIS A-2012-032.
[144] CSIS, *CAPP Briefing: Presentation by the Director of the Canadian Security Intelligence Services to the Canadian Association of Petroleum Producers* (Presentation Slides and Talking Points), April 12, 2012. Obtained through access to information request to CSIS A-2012-027.

security and anti-terrorism policies. In their analysis of the Canadian state's interventions in the traditional governance of the Algonquins of Barriere Lake, Crosby and Monaghan demonstrate how the tendency to blur the boundary between protest and terrorism has extended to localized land struggles, assertions of treaty rights, and struggles for self-determination. Through their investigation of the Canadian government's extensive efforts to eliminate the traditional leadership of the Algonquins of Barriere Lake, Crosby and Monaghan effectively demonstrate how nonviolent direct action protests and popular outreach campaigns carried out by Indigenous people can garner the attention of counter-terrorism agencies concerned with an increase in "Aboriginal extremism."[145]

CSIS, ITAC, and Idle No More

Although a CSIS spokesperson acknowledged that ITAC did produce a threat assessment on January 24 that mentioned Idle No More, the spokesperson also stressed that the report was concerned with protecting Idle No More participants from violent reactionary groups.[146] On its own, the version of the report that was released to the public seems to confirm Mufti's assertion, as Idle No More is mentioned in relation to a white supremacist group known as STORMFRONT. According to the ITAC threat assessment, white supremacists on STORMFRONT's online forum had called for citizens to respond violently to Idle No More, a movement that they claimed had "declared war" on whites by threatening to disrupt the Canadian economy as an "act of aggression." [147]

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[145] Crosby & Monaghan: 421-438.
[146] Stephen Spencer Davis, "Canada's spy agency kept close watch on rapidly growing First Nations protest movement: documents," *The Canadian Press,* August 11, 2013.
[147] ITAC, *Laser Threat Assessment,* January 24, 2013. Obtained through access to information request to CSIS A-2012-383.

However, the fact that violent reactionary groups were monitored does not preclude the possibility that ITAC was also reporting on peaceful Idle No More protests and dissent. A draft presentation prepared by Public Safety Canada in March 2013 for a Committee of Deputy Ministers[148] meeting indicates that CSIS and ITAC played key roles in the state's management of Idle No More protests. More specifically, CSIS provided intelligence support to other departments and agencies regarding "potential extremist involvement" in relation to Idle No More, while ITAC monitored and provided "integrated and comprehensive threat assessments of potential serious violence from domestic extremism."[149] While it could be argued that this presentation referred to extremist threats *towards* Idle No More participants, a second presentation prepared by the Government Operation's removes any ambiguity about the national security framing of Idle No More. More specifically, the presentation titled *GC Contingency Planning Scenario – FN Protests & Potential Escalation,* names "extremists" as an element of Idle No More and warns about the potential for violence and serious criminality from within the movement.[150]

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[148] According to the Federal Emergency Response plan, the Committee of Deputy Ministers provides a forum to address public safety, national security, and intelligence issues during non-emergency (day-to-day) operations. During an emergency, the Committee coordinates the Government of Canada's response and advises Ministers. Although the nature of the emergency determines the Committee's membership, it is likely that Deputy Ministers from Public Safety, AANDC, TC, and DFO were in attendance.

[149] PSC, *Presentation to DM* Breakfast: Preparedness for First Nations Issues (Presentation Slides), Marc 2013, Obtained through ATI request to Public Safety Canada, no. A-2013-00160: 331.

[150] GOC, *GC Contingency Planning Scenario – FN Protests & Potential Escalation* (Presentation Slides and Talking Points), January 14, 2013. Obtained through access to information request to PSC A-

Records released from Public Safety Canada also indicate that CSIS and ITAC reported on Idle No More throughout December 2012 and January 2013. Situation reports obtained through ATI requests with Public Safety Canada reveal that ITAC was providing other government departments and agencies with raw information and/or analyzed intelligence on Idle No More throughout December and January. For example, as discussed in chapter 5, ITAC is cited as a reporting source on the Aamjiwnaang railway blockade and in other situation reports that assess the potential for violence and disruptions from Idle No More. Notably, these intelligence products are exclusively concerned with Idle No More, rather than any reactionary groups as claimed by CSIS' spokesperson.

Unfortunately, with the exception of the January 24 threat assessment, which is heavily censored, CSIS and ITAC have withheld all intelligence records relating to Idle No More. In fact, the only other documents relating to Idle No More that have been released to the public by CSIS or ITAC so far are a heavily censored briefing note and a summary from a January 17 of the GOC-led interdepartmental working group that had been set up to coordinate the government's response to Idle No More.[151] Nevertheless, despite the challenges of accessing security and intelligence related materials from these organizations, after piecing together records obtained from other departments and agencies, it is possible to conclude that CSIS and ITAC monitored Idle No More as a security threat and participated in the broader GOC-coordinated response.

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[151] ITAC, *Emerging Issue – Topic of Interest: 'Idle No More' Movement* (Briefing Note), January 9, 2013. Obtained through access to information request to CSIS A-2013-184.

However, CSIS and ITAC were not the only institutions without an exclusive emergency management or law enforcement mandate to gather intelligence on Idle No More and receive reports from the GOC. In fact, records released through ATI requests reveal that the Canadian military also received GOC threat assessments and monitored Idle No More protests across the country in an effort to prevent an "escalation." To provide some context to this monitoring, it is helpful to identify the intelligence units involved and to consider the military's involvement in Indigenous protest policing and domestic surveillance in the years leading up to Idle No More.

Canadian Military Intelligence

The Canadian Armed Forces do have a mandate to collect, analyze, and produce intelligence both at home and abroad. Outside of Canada, the CAF gathers intelligence to support Cabinet decision-making about sending the Canadian military on missions abroad and to support command staff that formulate national policy, plan, and make operational decisions.[152] In a domestic context, the CAF have a limited peacetime mandate to gather intelligence and to collect information on Canadian citizens to support day-to-day operations, protect DND/CAF personnel and property, and to safeguard national security. Together, the J2 Section of the Canadian Joint Operations Command (CJOC) and the Canadian Forces National Counter-Intelligence Unit (CFNCIU) conduct most of the CAF's domestic intelligence work that is not directly concerned with the administration of military justice.[153]

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[152] Dwight Hamilton, "In the Army," *Inside Canadian Intelligence: Exposing the New Realities of Espionage and International Terrorism,* ed. Dwight Hamilton, Toronto: Dunburn Press (2006), 146-147.
[153] The Canadian Forces National Investigation Service (CFNIS), which is a branch of the Canadian Forces Military Police, is responsible for investigating service and

The J2 Section is the intelligence branch of the CJOC, the CAF's integrated command structure responsible for directing military operations. J2 Section is primarily responsible for gathering intelligence to support day-to-day operations and to protect of DND/CAF personnel, property, material and information. Importantly, J2 Section can collect intelligence at home using both human and open source intelligence, but it is barred from collecting detailed information on individual Canadian citizens within a domestic context.

The Canadian Forces National Counter-Intelligence Unit (CFNCIU) is also responsible for supporting force protection. However, the CFNCIU has a broader mandate that includes identifying, investigating and countering national security threats posed by individuals and groups engaged in terrorism, espionage, sabotage, subversion, and organized criminal activities. Unlike J2 Section, CFNCIU is authorized to gather detailed intelligence on Canadian citizens at home using covert and human intelligence methods in order to "safeguard national security interests."[154]

The "Militarization" of Indigenous Protest Policing

As Wood demonstrates in her analysis of police forces and practices in Canada and the United States, the policing of mass protests has become more dependent on

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criminal offences against DND and CAF property and personnel. However, unlike the J2 section of the CJOC and CFNCIU, the CFNIS is only authorized to conduct investigations on persons who are subject to the Code of Service Discipline of the CAF military justice system and civilians that break the law on or in relation to military property.

[154] National Defence and the Canadian Armed Forces, *Defence Administrative Orders and Directives, 8002-2:* Canadian Forces National Counter-Intelligence Unit.

intelligence gathering and increasingly *militarized* since 1995.[155] This militarization of

Indigenous protest policing, as Dafnos adds, has had three core features: the normalized

use of paramilitary tactical units by police, the collaborative involvement of a wide range

of law enforcement and security agencies, and the active involvement of the military in

the states' efforts to manage and control protests.

The Canadian military has not directly intervened in an Indigenous protest or

occupation since the Oka crisis in 1990. That year, the CAF mounted Operation Salon

and deployed after a failed police raid caused a land dispute between municipal

authorities and the Khanesatake Mohawk band in Quebec to escalate into violence. In this

case, the military was authorized to intervene after receiving a request from the Quebec

government under the "Aid of Civil Power" provisions of the National Defence Act.

Partially as a result of Oka, the Canadian military was directed to cease non-lethal

internal-security training and become the force of last resort.[156] Prior to Oka, the policy

on the use of military force in relation to Indigenous protests and occupations was

reactive and ad hoc, but from that point on, in Maloney's own words, police became "the

lead agency for dealing with Aboriginal insurgency."[157]

Although the armed forces have not *directly* intervened in an Indigenous protest

or occupation since Oka, the Canadian state has continued to mobilize the military in its

to efforts to manage and contain Indigenous resistance. In 1995, for example, the military

created Operation Wallaby in order to help the RCMP end an Indigenous occupation at

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[155] Lesley J. Wood, *Crisis and Control: The Militarization of Protest Policing,* London: Pluto Press (2014).

[156] Sean M. Maloney, "Better Late than Never: Defence During the Mulroney Years," *Transforming the Nation: Canada and Brian Mulroney,* ed. Raymond Blake, Montreal: McGill University Press (2007): 148-150

[157] Maloney: 150.

Gustafsen Lake. Although no troops were involved, the Canadian military provided four Armoured Personnel Carriers to support 400 RCMP officers that later converged on a small piece of land that had been occupied by less than two dozen Indigenous people in the British Columbia interior. Although no one was killed, 18 occupiers were charged in a trial that would last just over ten months. [158]

Rather than sending in troops to deal with Indigenous protests and occupations, the military has become increasingly involved with protest policing in an intelligence gathering capacity. More specifically, as Dafnos demonstrates, the CAF have become increasingly active in multi-agency intelligence collaborations such as the Caledonia Joint Intelligence Group. (JIG). The Ontario Provincial Police established the Caledonia JIG in 2007 at a Special Operations Centre located in Toronto for the Caledonia reclamations. The CFNCIU participated in the Caledonia JIG along with the OPP Intelligence Bureau, the RCMP, CSIS, and the CFNCIU participated in the Caledonia JIG. In this role, as Dafnos indicates, the CFNCIU gathered intelligence from five informants in relation to the reclamation and shared it with CSIS via internal reporting at the JIG.[159]

J2 Section, the CFNCIU and Idle No More

Throughout most of 2013, the Canadian military gathered and shared intelligence in regards to domestic Idle No More protests and blockades through the J2 section of the CJOC and the CFNCIU. A chain of emails from within the CJOC that were obtained that an ATI request with the DND indicate that the J2 section began collecting information on

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[158] Nicholas D. Shrubsole, "The Sun Dance and the Gustafsen Lake Standoff: Healing Through Resistance and the Danger of Dismissing Religion," *The International Indigenous Policy Journal* 2, no. 1 (October 2011): 1-17.
[159] Dafnos, "Beyond the Blue Line": 221-222.

Idle No More on January 8, 2013.[160] The initial email, sent by an officer from CJOC headquarters, tasked J2 regional offices to produce reports on Idle No More activities in their respective areas of operation across Canada. More specifically, the email requested "a complete list of protest and blockade sites" along with an assessment of how these activities might affect local operations and routine and non-routine weapon/ammo shipments.

The next day, a second email was sent from first officer's team leader directing J2 regional offices to cease Idle No More intelligence gathering activities. In the exchange of emails that followed, clarity was sought on whether it was within J2 Section's mandate to collect information on Idle No More. In the back and forth, some officers suggested that J2 shouldn't resume any Idle No More specific intelligence gathering, especially given that organizers did not appear to have any knowledge of weapons shipments or troop activities and that protests up to that point had been entirely peaceful. A Lieutenant-Colonel from J2 Section even pointed out that the CJOC's intelligence branch had no legal mandate to collect "detailed intelligence on Canadian citizens within a domestic context."

Even though the officers involved with the exchange acknowledged that there were no indications of a Canadian Forces "nexus" with Idle No More protests, it was still determined that J2 Section and its regional offices would continue to produce weekly Idle No More specific intelligence reports for the CJOC using open source information. The reports, which were included in the same ATI release package, identified the groups and communities involved but did not name any individuals. The reports also included the

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[160] Emails obtained through ATI request to DND A-2013-00679.

location and a details about each Idle No More event and as well as an assessment of the potential impacts on CF operations, if any. Significantly, the J2 intelligence reports continued to confirm over the following months that there was no CF nexus with Idle No More and that the protests and blockades had no or minimal impact on CF operations and movements of material and personnel.

Throughout 2013, CNFCIU detachments from across the country also collected "threat information" in relation to Idle No More protests and blockades. Rather than producing "analyzed intelligence," regional offices sent reports containing "raw data" and counter-intelligence "comments" to CNFCIU HQ in Ottawa. The stated purpose of most of the released CFNCIU reports was to assemble open source information to support the production of monthly baseline threat assessments for all domestic military operations and to support the production of threat assessments for specific Canadian Forces exercises and shipments.

After the *National Post* reported that the Canadian Forces had spent virtually all of 2013 watching Idle No More protesters,[161] the Defence Department rationalized that the CFNCIU was not concerned with Idle No More per se, but was simply doing routine monitoring of activities that had the potential to "impact on Canadian defence operations and personnel." However, a report assembled by CNFCIU detachments in Edmonton appears to contradict this claim by framing Idle No More as a broader security threat. The report, prepared on January 15, 2013 by the Edmonton detachment, reveals that Idle No More was monitored as a potential domestic security threat within the CF western land

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[161] Justin Ling, "Canadian forces spent virtually all of 2013 watching Idle No More protestors, *National Post,* June 1, 2014. http://news.nationalpost.com/news/canada/canadian-forces-spent-virtually-all-of-2013-watching-idle-no-more-protesters

forces area of operation, which included Manitoba, Saskatchewan, Alberta, and British Colombia. Even though the report indicated that Idle No More posed no direct threat to the CF/DND, it cautioned that military convoys passing through a protest or blockade "could inadvertently escalate the situation" and lead to widespread violence and economic disruption.

Although the sharing of information between agencies and departments and the production of integrated security intelligence was carried out under the cover of "emergency management," the Canadian military and CSIS each mobilized specific mechanisms and discourses in order to carry out and rationalize their surveillance activities. For example, CSIS gathered intelligence on Idle No More through the Integrated Terrorism Assessment Centre on the basis that the movement was a potential source of Aboriginal extremism. Meanwhile, the Canadian military gathered intelligence on Idle No More through the J2 Section and the CFNCIU on the basis that the movement was a potential threat to domestic military operations, equipment, and personnel. In the end though, both of these institutions shared the information they had gathered in order to produce integrated security intelligence that was used to prevent an "escalation" and to inform a GOC-coordinated whole-of-government response to Idle No More. Therefore, regardless of the mechanisms and rationalizations deployed by each agency, the Canadian military and CSIS' surveillance activities ultimately reflect the state's national security framing of Idle No More.

Conclusion

Despite the diversity of actors involved, the complexity of protest policing and surveillance operations, and the challenges of accessing government records, my investigation yields a nearly complete picture of the state's response to Idle No More. Overall, law enforcement agencies used "soft" policing tactics in order to manage non-violent Idle No More protests and blockades. Even when law enforcement agencies had the authority and capacity to end peaceful, yet disruptive, direct actions through the use of force or the power to arrest, front-line police opted to gather intelligence on Idle No More leaders and participants and to manage or end demonstrations through negotiation. At the same time, law enforcement agencies coordinated their negotiation efforts and shared their intelligence with the Government Operations Centre, the hub of Canada's emergency management system.

Virtually *all* Idle No More demonstrations were monitored either directly or indirectly by the Government Operations Centre during this time. First, the GOC used social media and news reports to collect information and produce its own intelligence on Idle No More protests. At the same time, the GOC collected information from a wide range of partner agencies, including AANDC, CSIS, ITAC, RCMP, OPP, TC, CBSA, DFO, and the CAF in order to produce integrated security intelligence reports. These intelligence reports were then shared with an even broader audience that included local police and other first responders, provincial governments and emergency management offices, as well as the private owners and operators of infrastructure deemed critical to the functioning of the state.

On its own, my assessment of the response by front-line police officers to Idle No

More protests and blockades in chapter 3 suggests that law enforcement agencies were merely implementing official policies on public order and Aboriginal protest policing. However, as I demonstrated in chapters 4, 5, and 6, these front-line operations were entwined with less visible activities – or practices not commonly identified as policing – that were carried out by a wide range of government departments and agencies. Taken together, my analysis of Idle No More protest policing and surveillance operations suggests that the actions of front-line police were guided, at least in part, by intelligence gathered by law enforcement agencies themselves and by integrated security intelligence produced and circulated by the GOC. Still, the question remains: why did police across the country attempt to manage or end disruptive protests and blockade through negotiation even though they were authorized in some cases to use force and make arrests? Moreover, why did police at the Yellowhead, Tyendinaga, and Aamjiwnaang blockades refuse to enforce court injunctions and arrest non-cooperative protestors?

Based on the evidence that I have collected through ATI/FOI requests, it is not possible to explain with certainty why law enforcement agencies across the country consistently applied soft policing tactics in an effort to manage and end disruptive direct actions associated with Idle No More. Although they likely exist in the form of email and written communications, incident reports, intelligence products, or operational plans, I was unable to obtain any (non-redacted) records clearly detailing the police decision-making processes at the Yellowhead, Tyendinaga, and Aamjiwnaang blockades or documenting the relationship between Idle No More protest policing operations and intelligence practices. At the same time, even if I were able to obtain these records, it would be difficult to criticize or argue against policing decisions that reduce violence

against peaceful protestors. However, it is important to reflect on these questions since, as the RCMP raid at the Elsipogtog anti-fracking camp demonstrates, law enforcement agencies *are* willing and have the capacity to intervene with overwhelming physical force and make arrests in order to end non-violent, yet economically disruptive protests.

The RCMP's handling of the Elsipogtog anti-fracking protest serves as an illuminating contrast to the police response to Idle No More and the Aamjiwnaang railway blockade. After all, the Aamjiwnaang railway blockade and the Elsipogtog anti-fracking protest were similar in many ways. In both cases, Indigenous peoples used direct actions in an attempt to achieve their political objectives. At Aamjiwnaang, protestors blockaded a commercial rail corridor in order to pressure Prime Minister Stephen Harper to meet with Chief Spence and to demonstrate support for the Idle No More movement. In New Brunswick, protestors from Elsipogtog First Nation and other First Nations communities set up a camp blocking access to exploration vehicles used by a Houston-based energy firm as a part of a months-long campaign to prevent the discovery of shale gas deposits in the region and as a part of a broader effort to protect Indigenous lands and waters. Both of these protests were similar in size and non-violent – at least before the RCMP raided the anti-fracking camp – and neither of them posed a significant threat to the health and safety of settler society. However, they *did* challenge the settler state's claims to political and territorial authority and they posed a direct threat to capitalist accumulation.

Despite their similarities, the Aamjiwnaang railway blockade and the Indigenous-led anti-fracking protest in New Brunswick were handled very differently by law enforcement agencies. As well, even though front-line officers appear to have followed

official policies on Aboriginal protest and occupation policing at the Yellowhead and Tyendinaga blockade and other Idle No More protests, the RCMP's actions near Elsipogtog were clearly inconsistent with the force's official "measured approach" to protest policing. How then, might the differentiated police responses be explained?

In an effort to answer this and other questions raised by my investigation, I return to the central insight offered by settler colonial studies and Rigakos and Neocleous' anti-security approach: in the settler colonial context, there is a tendency for police and military power to be deployed in order to acquire and maintain access to Indigenous lands and resources, to neutralize challenges to settler state sovereignty, and to fabricate a social order conducive to the accumulation of capital on the expropriated land base. When police and military power is understood in this way, it becomes possible to reframe police decision-making processes and the differentiated responses at Aamjiwnaang and Elsipogtog as a reflection of the intertwined interests of settler state sovereignty and capitalist accumulation.

More specifically, even though front-line officers pursued different pacification strategies at Aamjiwnaang and Elsipogtog, I suggest that policing actions in both cases were concerned primarily with containing and neutralizing disruptive direct actions that threatened the functioning of the state and the circulation of capital rather than balancing the rights of protests with ensuring "public safety." When the intertwined interests of the state and capital are taken as a starting point, the political calculus behind police decision-making processes rendered more complex. Instead of uniformly applying as little force as possible to protect the rights of peaceful Indigenous protestors, police may strategically apply a mix of soft and hard tactics in order to minimize the impact that

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disruptive direct actions have on the functioning of the state and the accumulation of capital.

The precise mix of hard and soft tactics applied by police in response to peaceful, yet disruptive direct actions may vary from one case to another. As well, a number of material and immaterial considerations may be factored into police decisions on whether to intervene with force or negotiate an end to an Indigenous protest or blockade. For example, how high are the costs, from the perspective of the settler state and capital, of allowing a disruptive direct action to continue? In other words, how much profit is being lost as a result of a blockade or occupation and for how long can capital tolerate this loss? How much has the blockade or protest affected the functioning of the state and for how long can the state tolerate a direct challenge to its authority and legitimacy? Similarly, if a disruptive direct action is affecting settlers' livelihoods, for how long can the state resist pressure from sectors of the Canadian public to intervene and forcefully end a blockade or occupation?

The Aamjiwnaang railway blockade and the Elsipogtog anti-fracking camp both created costs for businesses and similarly undermined processes of capital accumulation. On the one hand, the Aamjiwnaang railway blockade prevented an average of 450 cars a day of ethylene, polyethylene, butane, propane, ammonium nitrate, nitric acid, methanol, and other industrial freight from reaching the heart of Canada's "Chemical Valley," effectively starving the valley's petrochemical manufacturing plants of vital inputs.[162] While tolerable for a few days from the perspective of capital, this disruption would have negatively affected corporate interests and would have had a ripple effect throughout

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[162] Dayna Nadine Scott, "The Networked Infrastructure of Fossil Capitalism": 64.

Canada's petrochemical and manufacturing supply chains if it was allowed to continue indefinitely. On the other hand, by disrupting shale gas exploration in the region the Elsipogtog anti-fracking camp was preventing the discovery of deposits that the New Brunswick government and energy companies were eager to extract through hydraulic fracturing. In both cases, the state would have also been confronted with a range of costs, including the direct costs of policing the protests and the loss of tax revenue and resource royalties resulting from economic disruptions and uncertainty.

At the same time, law enforcement agencies and their partners may consider the risks – from the perspective of capital and the state – associated with using violence to end a protest or blockade. For example, as seen in the case of Idle No More, they may assess the potential for police violence or military involvement to provoke an escalation of disruptive direct actions or coordinated Indigenous resistance. Such an escalation, of course, could come at even greater cost to the state and capital. As well, law enforcement agencies and their partners may consider the possibility that the use of force against non-violent protestors could be interpreted by the courts and some segments of the Canadian public as an affront to the liberal democratic values that are ideologically central to the cohesion of settler society.

This strategic calculation and the decision to intervene with force or to negotiate an end to an Indigenous protest or blockade may also take place at different sites and levels depending on the size of the protest, the degree of coordination between individual protests, and the impact on the settler state and capital. For example, if a disruptive direct action or social movement has a significant impact on the functioning of the state and the accumulation of capital, it is likely to be framed as an event of national significance or as

a national security threat by the state. When this happens, decision-making processes surrounding the policing of the protest are coordinated nationally and span a wide range of departments and agencies from all levels of government, including those institutions with no law enforcement or security mandate. On the other hand, protests that have a limited impact on the functioning of the state or the accumulation of capital may be simply interpreted as matters of local law enforcement. When this happens, decisions surrounding the policing of the protest are more likely to be made within one or more law enforcement agencies. Decision-making processes, in these cases, are not coordinated nationally and are less likely to involve government departments and agencies that do not have a law enforcement or security mandate.

From the perspective of the state and capital, the risks associated with intervening with force to end the Aamjiwnaang blockade and the Elsipogtog anti-fracking protest may have been different. The Aamjiwnaang blockade was just one demonstration carried out as a part of a larger, unprecedented, coordinated movement for Indigenous rights and self-determination. Although this movement did not threaten public health and safety or target any particular citizen or group citizens, the potential scale of coordinated resistance by Indigenous peoples did pose a real threat to Canada's political economy. Any police violence against peaceful Indigenous protestors during this period of heightened organization and mobilization would have likely made protestors elsewhere less cooperative and would have risked acting as a catalyst for more direct actions targeting critical infrastructure. The amount of time and resources that police, intelligence agencies and other government departments dedicated to monitoring Idle No More suggests that government actors recognized the movement as a significant threat to the state's claim to

political and territorial authority over Indigenous peoples and their lands and to the accumulation of capital.

On the other hand, the RCMP carried out its raid of the anti-fracking camp at a time when the odds of provoking widespread disruptive direct actions were much lower. By the government's own assessments, Idle No More had ceased to pose a significant national security threat by April 2013. By that time, Idle No More specific events had been largely replaced by localized land and environmental protests. As well, despite the emergence of new solidarity groups, alliances, and movements, such as Sovereignty Summer in the months that followed, Indigenous struggles do not appear to have reached the scale or degree of coordination as they had between January and March of that year. The RCMP raid on the anti-fracking camp therefore occurred at a time when Indigenous protestors across the country were less organized and capturing less media attention. Although the RCMP may have miscalculated,[163] the risk of provoking solidarity actions elsewhere – especially coordinated actions that would have posed a real threat to Canada's political economy – may have seemed arguably lower than it had during the height of the Idle No More movement. The fact that the Government Operations Centre and its partners had not been actively monitoring the anti-fracking camp or coordinating a response with the RCMP *before* the raid took place further suggests that the law enforcement, emergency management, and intelligence agencies had assumed a more stable risk environment by October 2013.

Of course, given the challenges of accessing government records that could shed

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[163] The raid did inspire solidarity actions and prompted the reactivation of the GOC. For details see Jorge Barerra, "Ottawa prepared for nation-wide protests following RCMP Elsipogtog raid: documents," *APTN News,* January 8, 2014.

more light on the police decision-making processes at Aamjiwnaang and Elsipogtog, it is difficult to say with certainty why police intervened with force at one protest but not the other. Nevertheless, the case of Elsipogtog suggests that police are willing to use overwhelming force on otherwise peaceful protests that challenge the intertwined interests of settler state sovereignty and capital accumulation when there is more limited potential for police violence to provoke an escalation of disruptive direct actions or further coordinated resistance.

In this thesis, I have used the framework of settler-colonial pacification to examine how policing and surveillance operations were mobilized by the state to eliminate the real and perceived threats that Idle No More protests and direct actions posed to Canadian settler state sovereignty and capital accumulation. While I have focused on protest policing and surveillance as two mechanisms of pacification, I suggest that critical scholars revisit the case of Idle No More in the future to explore further the role that colonial courts play in the pacification of Indigenous resistance. Although Idle No More provoked a centrally coordinated response that involved law enforcement, intelligence, and emergency management agencies, Aboriginal Affairs, and other federal government departments, the Aamjiwnaang blockade and the anti-fracking protest near Elsipogtog suggest that the coordination of policing and surveillance activities is neither absolute nor constant. The Aamjiwnaang, Yellowhead, and Tyendinaga blockades also suggest that cohesion between the courts and other government departments and agencies is even more limited. Although the Sarnia Police and OPP chose not to enforce the two court injunctions and refused to make arrests, one participant in the Aamjiwnaang demonstration was eventually brought into direct contact with the Canadian legal

apparatus, which as Dafnos argues, tends to become the central mechanism through which threats to settler state sovereignty and capitalist accumulation are managed.[164]

In this case, on January 1, 2013, Ron Plain, a member of Aamjiwnaang First Nation and spokesperson for the railway blockade received an email from CN's lawyers telling him that he had to appear in court in Sarnia the next day, along with his band chief and the chief of police in Sarnia. Although CN dropped the charges against the chief out of a desire to maintain good relations with the Aamjiwnaang band council, Plain was eventually charged with civil contempt of court. Despite his role in helping to negotiate the end of the blockade, which was taken down the following day, Plain was fined more than $16000 because he had previously defied the injunctions to stop blocking the line, making him the only person in Canada charged for participating in an Idle No More related direct action.[165] Although Plain was not removed from the railway blockade using physical force, his case offers the chance to investigate the operation of subtler legal strategies of settler colonial pacification.

In addition to offering fertile ground for future research, the state's response to the Aamjiwnaang railway blockade and Plain's subsequent contempt of court charge highlight the major shortcomings of policing and security research that only examines the actions of the *police* as an institution and research that focuses primarily on the adoption and implementation of official protest policing models. To better understand the operation of police power, as my anti-security analysis of the state's response to Idle No More has shown, it is necessary draw on critical concepts, such as settler colonial

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164 Dafnos, "Pacification and Indigenous Struggles," 60.
165 Colin Graf, "Native activist fined $16,000 over CN blockade," *Toronto Star,* July 25, 2013.

pacification, in order to move beyond distinctions of soft and hard policing, to consider the actions of a wide range of state agencies not usually associated with policing, and to capture the impacts that surveillance and front-line policing operations have on protestors before, during, and after they engage in acts of political dissent.

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