

**NEGOTIATING COLONIAL ENCOUNTERS:
(UN)MAPPING THE POLICING OF
INDIGENOUS PEOPLES' PROTESTS IN CANADA**

by

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ABSTRACT

This dissertation adopts an analytic concept of *settler colonial pacification* to examine shifts in the policing of Indigenous peoples' protests in Ontario from the mid-1990s to 2013. Following the high-profile conflicts at Oka / Kanesatake, Gustafsen Lake / Ts'Peten and Ipperwash / Aazhoodena, the Ontario Provincial Police and RCMP introduced several reforms, which were promoted as guarding against the escalation of violence during protests: relationship-building with Indigenous communities, negotiation-based protest policing, measured response, and intelligence-led policing. These have been adopted in the context of an intensified national security environment based on the protection of critical infrastructure. My project situates these reforms in the context of the Canadian state's ongoing project of settler colonialism. For a critical understanding of policing, colonial relations must be foundational to the analysis and the police institution must be situated in the context of ongoing colonialism because of its historical foundations in constituting settler colonial order.

Through open source texts, records obtained through access to information requests, and interviews with law enforcement and government personnel, this dissertation *(un)maps* institutional policies, practices, tensions and disjunctures in the implementation of reforms. I trace the practices and interconnections of three institutional clusters of policing: front line police forces, the intelligence and national security nexus, and Indian Affairs and the emergency management apparatus. These processes are organized through and reinforce the symbiotic depoliticising logics of (1) liberal legalistic discourses of *rights*, and (2) security discourses of *prevention* and *management*. I argue that these contemporary practices can be understood as *settler colonial pacification* strategies that simultaneously work to suppress Indigenous nationhood and (re)produce the Canadian nation-state. Deployed in governing Indigenous peoples, these practices reveal the persistent settler state concern with asserting sovereign authority. As settler colonialism is an ongoing process, there are historical continuities and discontinuities in pacification practices. Shifts and disjunctures in policing practices reflect the inherent instability and anxieties of settler colonialism and the paradox of liberal democratic policing vis-à-vis Indigenous self-determination struggles.

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ABBREVIATIONS

AANDC	Aboriginal Affairs and Northern Development Canada
ACIC	Aboriginal Critical Incident Commander (OPP)
AFN	Assembly of First Nations
AHRA	All-Hazards Risk Assessment
AIU	Aboriginal Issues Unit (OPP)
APB	Aboriginal Policing Bureau (OPP)
APS	Aboriginal Policing Sections (RCMP)
ART	Aboriginal Relations Team (OPP)
ATI	Access to Information
CFNCIU	Canadian Forces National Counter-Intelligence Unit
CIIT	Critical Infrastructure Intelligence Team (RCMP)
CSIS	Canadian Security Intelligence Service
DCE	Douglas Creek Estates
DND / CF	Department of National Defence / Canadian Forces
EIMD	Emergency and Issues Management Directorate (INAC)
EMAP	Emergency Management Assistance Program (INAC)
EOC	Emergency Operations Centre
ERT	Emergency Response Team
GOC	Government Operations Centre
ILP	Intelligence-Led Policing
INAC	Indian and Northern Affairs Canada
INSET	Integrated National Security Enforcement Team
ITAC	Integrated Threat Assessment Centre/Integrated Terrorism Assessment Centre
JIG	Joint Intelligence Group
MAA	Ministry of Aboriginal Affairs (Ontario)
MCSCS	Ministry of Community Safety and Correctional Services (Ontario)
MELT	Major Events Liaison Team (OPP and RCMP)
MNR	Ministry of Natural Resources (Ontario)
NAPS	National Aboriginal Policing Services (RCMP)
NDA	National Day of Action
NSCI	National Security Criminal Investigations (RCMP)
NWMP	North West Mounted Police
OPP	Ontario Provincial Police
PLT	Provincial Liaison Team (OPP)
POU	Public Order Unit
PSC	Public Safety Canada
RCMP	Royal Canadian Mounted Police
SILP	Security Intelligence Liaison Program
SNPS	Six Nations Police Service
SQ	Sûreté du Québec
TRU	Tactics and Rescue Unit (OPP)

INTRODUCTION

In the summer and fall of 2013, Mi'kmaq and Acadian protesters engaged in a blockade of fracking operations in Elsipogtog, New Brunswick. On October 17, the Royal Canadian Mounted Police (RCMP) carried out a pre-dawn raid after RCMP negotiators had assured protesters the day before that there would be no surprise operations. Images and videos of camouflaged snipers, snarling police dogs, police lines, an armoured personnel carrier, and burning police cars flooded social and mainstream media. Solidarity actions occurred across (what is now known as) Canada. Occurring eighteen years after Dudley George was shot and killed by the Ontario Provincial Police (OPP) during a reclamation action at Ipperwash Provincial Park and six years after the release of the Ipperwash Inquiry's final reports, the events at Elsipogtog evoked comparisons to Ipperwash, as well as to the show of state violence at the armed standoffs at Oka (Kanesatake) in 1990 and Gustafsen Lake (Ts'Peten) in 1995. In both cases, the Canadian military were deployed in support of police; at Oka, they took over command from the Sûreté du Québec. Elsipogtog seemed to be a stark contrast to how police responded to the wave of Idle No More protests across Canada in the winter of 2012-2013. Despite hundreds of protest actions, including numerous blockades, there was minimal conflict involving police and only one person was charged. The policing of Idle No More was seen as reflecting major shifts in police practices.

After the experiences of Oka, Gustafsen Lake, and Ipperwash, the RCMP and OPP have emphasized the adoption of measures aimed at improving their relations with Indigenous communities, and of a "peacekeeping" approach to protests. While the events at Elsipogtog seemed to run counter to the "new" policing approach that had been a "success" with Idle No More, neither case is an exception to "normal" practices. Direct actions and protests are highly visible manifestations of Indigenous peoples' resistance in a settler colonial state. Rather than "exceptional" moments, they are important lenses through which to concretely examine the

broader relationships of policing to state formation, state sovereignty, colonialism, imperialism, and capitalist economic production.

This dissertation examines the policing of Indigenous peoples' protests in Ontario from the mid-1990s to 2013 and situates them in these broader relations, processes, and structures of settler colonialism. The reforms introduced by the OPP and RCMP since 1995 include the prioritisation of community relationship-building, and the adoption of negotiation-based protest policing, intelligence-led policing, and incident command structures. Reflecting wider trends in liberal democratic policing, these reforms have been promoted by police forces as guarding against the escalation of violence during protest and respecting the right to protest. At the same time, these measures have been adopted in the context of a broader intensification of national security structures and practices, which have manifested within police forces through enhancements to "militaristic" tactical units, access to a greater range of weapons and equipment, and participation in national security intelligence-sharing forums. On the surface, these shifts might appear to be contradictory—a "softening" of public order policing along with a "hardening" through militarisation and securitisation. This "contradiction" has been taken up in police studies and social movement studies, but the failure to address the specificity of how these practices are implemented in the context of Indigenous resistance is a significant substantive and conceptual limitation.

For a critical understanding of policing, the *police institution* must be situated in the context of ongoing colonialism, regardless of whether the immediate subject of inquiry relates to Indigenous peoples. The police institution is historically grounded in the emergence of nation-states and capitalism, integral to the production of *order*. In this dissertation, I adopt an analytic concept of *settler colonial pacification* through which to understand how contemporary policing (re)produces settler colonial order through practices that are simultaneously repressive and constitutive in containing "threats" to the settler state's assertion of sovereignty. This assertion of sovereignty that underlies the settler state formation is entwined with securing conditions

amenable to accumulation, starting with access to land and resources. Through an analytic framework of *(un)mapping*, my project traces concrete institutional practices to make visible how pacification strategies “work” as part of the ongoing and inherently *insecure* project of settler colonialism.

SITUATING THE PROJECT

Context

After the events of Ipperwash, the Ontario government refused demands for a public inquiry into the death of Dudley George. In 2003, a newly elected Liberal government established the Ipperwash Inquiry with two mandates of inquiring into the specific events surrounding George’s death, and a broader policy-based inquiry to develop recommendations aimed at preventing similar tragedies in the future. The inquiry was a significant moment as an exposition of the “problem” of Indigenous protests in the context of state-Indigenous relations. Although the Ontario Provincial Police (OPP) began to implement reforms soon after Ipperwash, the inquiry validated and legitimated these as consistent with ideals of liberal democratic policing. One of the Inquiry recommendations was that there should be an independent, third-party evaluation of the OPP’s *Framework for Police Preparedness for Aboriginal Critical Incidents*, its central post-Ipperwash policy reform. As of July 2014, the OPP have not yet had an independent evaluation. In December 2013, the organisation released an “annual report” about its use of the *Framework*—the first formal piece of documentation offered for external accountability since Ipperwash.

This “new” policing approach has been implemented in many protests since Ipperwash, including the 2006 Six Nations reclamation at Caledonia, the 2007 National Day of Action, and Idle No More protests. In many cases, both the OPP and RCMP have emphasized their use of a negotiation-based approach rather than aggressive enforcement. This has been met with high profile, public criticisms of police and government by politicians, members of the judiciary, media

commentators, and non-Indigenous people for what is perceived as a “failure” by police to enforce the “rule of law” against disruptive Indigenous protests. The OPP and RCMP have responded to these criticisms, often referencing the Ipperwash recommendations, by arguing that their actions, and restraint, are evidence of the “success” of their reforms for maintaining “peace”.

While critical analyses of official discourses and representations of police activities are important because they tell us about dominant discourses and narratives, such analyses are also limited for understanding policing practices because they rely on the perspectives of police organisations and their claims to institutional expertise. This claim to expertise and authority is reinforced by the hidden nature of bureaucratic processes, as well as the *secrecy* that cloaks internal *police* activities and decisions as matter of security. In addition to official police accounts, documentation and analysis of the policing of these events has largely been through mainstream media reporting, or books written by journalists (such as the very comprehensive examination of Ipperwash by Peter Edwards (2003)) as well as reports by non-governmental organisations. Accounts have also been produced by the people who experience policing firsthand as participants in protests, which are often documented in media reports or non-governmental organisation reports.

Research on Policing Indigenous Protests

Despite the continuity of Indigenous resistance in the history of the settler state (integral in the formation of the state itself), the contemporary policing of Indigenous peoples’ direct action resistance in Canada has been relatively limited in academic work. In rare cases scholarly analyses might be part of legal or quasi-legal processes such as inquiries. For example, academics were engaged in the Ipperwash Inquiry process to produce background papers on a wide range of topics. There have recently been scholarly books published by Laura DeVries

(2011) about the conflict at Six Nations, and by Edward Hedican (2013) about Ipperwash and the inquiry, but neither takes policing as a focal point.

In the existing academic literature on protest policing, which is concentrated in the fields of police studies and social movement studies, Indigenous protests are largely invisible. On one hand, studies of the policing of Indigenous peoples tend to be historical, or do not take up the policing of Indigenous resistance in a contemporary context of colonialism. On the other hand, the literature on public order policing in Canada has not addressed the unique dimensions of Indigenous protests.

Colonialism, Policing (and) Indigenous Peoples

The role of police in colonial relations between Indigenous peoples and the Canadian settler-state has been taken up in an historical context in several important works (e.g. Anderson and Killingray 1991; Greer 1992; Marquis 1997; K. Smith 2009; Nettelbeck and Smandych 2010). These works situate the emergence of police in Canada in the early nineteenth century as directly intertwined with controlling indigenous resistance to settler colonialism. Based on historical records, these studies have documented techniques and strategies of colonial control conducted by police forces such as surveillance practices and the enforcement of the *Indian Act* (Marquis 1997; K. Smith 2009). Historians (e.g. Marquis 1997; Styles 1987) and scholars of policing such as Brogden (1987a, 1987b), Sigler and King (1992), and Deflem (1994) document how the police institution (re)produced not just a class-based order, but a *colonial* one. Studies of colonial policing in the everyday lives of Indigenous peoples in the contemporary context are important contributions, reflecting pacification on a localised, normalised scale through over and under-enforcement contributing to high incarceration rates of Indigenous men and women (e.g. Razack 2002; Samuelson and Monture 2008; Comack 2012). It is important to situate protests and direct actions on a continuum with everyday encounters.

The literature on Indigenous protests in the contemporary Canadian context has not focused on policing as a form of power. Much of this research has documented specific

struggles (e.g. Richardson 1989; Hodgins, Lischke and McNab 2003; DeVries 2011), examined the trajectory of Indigenous activism over time (e.g. Hall 1991; Long 1992; Wilkes 2004; Ramos 2006, 2008), and analysed dominant representations of Indigenous struggles (e.g. Wilkes 2004; Knopf 2007; Hedican 2008; Adese 2009; Wilkes, Corrigan-Brown and Ricard 2010; Wilkes, Corrigan-Brown and Myer 2010). This body of work is important in documenting and making protests visible while contributing to understanding the colonial relationship. Indigenous resistance more broadly has been taken up in the work of Indigenous scholars and activists with a focus on the impact of past struggles on ongoing resistance, and on articulating dimensions and projects of Indigenous self-determination (e.g. Manuel and Posluns 1974; Horn 1991; Monture-Angus 1999; Alfred 1999, 2005; Turner 2006; Coulthard 2007; Corntassel 2008; L. Simpson 2008).

Public Order Policing

The substantive literature on public order policing and the criminalisation of dissent has largely excluded consideration of Indigenous peoples' resistance in Canada. This is significant in light of the number, frequency, and duration of direct actions undertaken by Indigenous peoples and communities, but also because of the broader political significance of indigenous struggles vis-à-vis the settler state. Most of the existing research has focused on the policing of labour conflict and transnational "mega-events" such as economic summits and Olympics protests; this empirical context has informed theorising related to public order policing. The other limitation in the wider literature is that there is a tendency to frame police practices or tactics in binary terms.

In general, there has been a relative lack of research on public order policing in Canada. In a 1997 article Mike King (1997) argues that this lack of attention has been symptomatic of the liberal ideology of the Canadian nation-state being a "peaceable kingdom", particularly in distinction from the US (citing Torrance 1991). Part of this "peaceable kingdom" narrative is the sacrosanctity of the police institution in the mythology of the Canadian nation-state. Since 1997, the body of literature has grown, spurred largely by transnational global justice protests since

Seattle in 1997 and the various summits that have taken place in Canada (e.g. Ericson and Doyle 1999; Pue 2000; Esmonde 2002, 2003; de Lint and Hall 2002, 2003; Sheptycki 2005; Kennelly 2009; Rafail 2010; Monaghan and Walby 2012a; 2012b). Willem de Lint and Alan Hall's (2009) book, *Intelligent Control*, was the first comprehensive, historically-grounded study of public order policing in Canada and an important critical contribution. Yet through grounding their analysis in class struggles and labour relations, the colonial dimensions of contemporary policing are minimised. In their detailed study of the relationship between intelligence-led policing and negotiated management, de Lint and Hall (2009) provide a descriptive discussion of reclamations and blockades in which they note that the unique politicised context of land claims has an influence on police practices. However, they do not offer a substantial analysis, basing their arguments and conception of "intelligent control" largely on the trajectory of policing labour unrest and transnational "mega-events".

Beyond the Canadian context, many policing and social movements scholars have described the "new" public order policing approach using the analogy of the "velvet glove" to describe negotiated management and liaison policing as working in tandem with the "iron fist" or "paramilitary" tactical response (see e.g. Kraska 1997; Marx 1998; Soule and Davenport 2009; Earl 2011). Other scholars such as Soule and Davenport (2009) suggest variations in protest policing such as "even hand". This analogy of the "iron fist" and "velvet glove" refers to what are described as two separate processes or trends in policing: a "softening" reflected in liaisons and communication-based approaches, and a "hardening" visible in "militarisation" or "paramilitarisation" (e.g. Kraska 1997). Some scholars have associated the proliferation of police intelligence operations with "paramilitarisation", while others have described it as being the "velvet glove" (de Lint and Hall 2009). I argue that these practices and dynamics are not "new" but rather are continuities of modern police power. While these functions are carried out by separate police units (which are sometimes in conflict with each other) it is more appropriate

to see these strategies as a whole—the glove cannot be separated from the “fist”. The inherent potential violence of the police institution is always present and is what enables “soft” strategies.

A significant limitation of being caught up with describing “models” of policing is the risk of abstracting or generalising practices and ignoring or dismissing “exceptional” cases as anomalous. The complexities, contingencies and tensions of actual practices of power and resistance can be obscured. Studies of protest policing in Anglo-American and European states have consistently found that police responses, in terms of the tactics they use to manage protests, are shaped in large part by the social locations of protesters. There is a greater tendency for police to use coercion or force (“the iron fist”)—and thus, to criminalise—younger, racialised and economically marginalised people (e.g. Waddington 2007; Soule and Davenport 2009). The specific power relations at work in the policing of protests and direct actions by Indigenous peoples have not been adequately addressed. These actions are distinct from others that occur in Canada (and in other settler states) because they are ultimately challenges to the settler-state’s assertion of sovereignty through its control of territory and exercise of authority—a process in which the police institution is directly implicated. Direct actions such as reclamations and blockades are often responses to the systemic failure of governments to address grievances and land claims (Maaka and Fleras 2005), bringing Indigenous peoples into a space of colonial encounter with the police—an institution historically implicated in their displacement, dispossession, and repression (Williams and Murray 2007; Samuelson and Monture 2008; Gordon 2006, 2010).

The lack of empirically-grounded research and theorising of policing in the specificity of the colonial context can be attributed in part to limited “backstage research” and the limitations of relying on official representations or evaluations of policing. A significant obstacle contributing to this gap are methodological barriers to conducting scholarly research of police institutions. I argue for the importance of “shifting the gaze” onto institutions in a way that goes beyond official narratives.

RESEARCH APPROACH and OBJECTIVES

The focus of my research is on the “backstage” of policing activities. By “backstage”, I am referring to the institutional practices and processes that are not usually visible outside of organisations. These are the logics, structures, and practices that underlie or animate the concrete, visible policing activities experienced by Indigenous people, either directly in protest situations, or indirectly. My approach is therefore intended as a *counterpoint* to official institutional narratives, and as a *complement* to documentation, research, and analyses produced by Indigenous communities, supporters, or observers based on the lived experiences of those involved in these conflicts. This dissertation is *not* intended as a review or an evaluation of post-Ipperwash OPP and RCMP reforms in the conventional sense of assessing “effectiveness” or “success” and should not be read as such. My argument is that the police institution must be situated in the context of settler colonialism, and that policing practices should be understood in terms of how they (re)produce dominant relations. Protests and direct actions are highly visible colonial encounters between Indigenous self-determination and the settler state’s assertion of sovereignty, embodied by police as law enforcers with the capacity to use coercive force to make “peace”.

This research seeks to make colonialism “foundational” (Lawrence and Dua 2005) by centring it substantively and *analytically*. Settler colonialism is not just about Indigenous peoples on the one hand, and “the government” and police on the other. Through our presence on this land, settlers are unavoidably part of the structures and relations of settler colonialism and therefore implicated in sustaining (or challenging) existing conditions. Non-indigenous academic researchers have been complicit directly through exploitive research practices and knowledge production, and less directly (but no less significantly) through the failure to address colonialism in our work and thus perpetuating its naturalisation. This dissertation is informed by my engagement with critiques made by Bonita Lawrence and Enakshi Dua (2005), Linda Tuhiwai Smith (1999), Andrea Smith (2010) and other Indigenous scholars, of the failure of anti-racist

scholars and activists to connect our work to colonialism, and of settlers in general to recognise and interrogate our complicity in settler colonialism. As a social formation, settler colonialism shapes social, political and economic relations and structures. For academics, this occurs by reproducing and legitimating dominant discourses as well as through our silences.

Decolonisation requires that settlers take initiative in challenging the colonial structures in which we are complicit (L. Smith 1999; A. Smith 2014). Academics have benefited from the exploitation of Indigenous peoples as subjects and objects of research, as well as by living and working on stolen land. Settler academics must interrogate how our research practices and knowledge production contribute to and legitimate ongoing colonial violence (L. Smith 1999; A. Smith 2014). In shifting the research “gaze” onto the “backstages” of dominant institutions—as the *problem* to be known and intervened upon—my approach aims to make colonialism central and not engage in colonising practices.

The concept of settler colonial pacification makes colonialism foundational to the analysis of the police institution and police practices, which includes attention to the spatial dimension of order production, and emphasizes agency and resistance within and outside of institutions. My analytic framework of (un)mapping aims to make visible the “backstage” practices of pacification as micro-physics of power—how pacification works—which de-naturalises the project of settler colonialism (and state sovereignty) as an ongoing and inherently insecure formation. There are three inter-connected objectives guiding this research:

- To examine the “backstage” of how the “new” public order policing approach of negotiated management and militarisation (including intelligence-led policing) are implemented *in relation to Indigenous peoples’ protests*.
- To examine how policing, as pacification, extends beyond the front-line police institution by concretely identifying (a) the formal and informal relationships and networks among police, security, government and other entities (e.g. corporations and private interests) and (b) how these institutions are involved in managing protests.

- To understand how the specific practices and networks of contemporary policing (re)produce the settler state through different frameworks and logics of liberal rights, reconciliation, and (national) security, and to identify continuities and discontinuities with historical practices.

While current practices may be reasonably successful in limiting the escalation of conflict due to aggressive police tactics, my analysis makes visible how these practices constrain the parameters of “legitimate” protest while intensifying governance and having punitive implications for those who transgress. These processes are organised through and reinforce the symbiotic logics of (1) liberal legalistic discourses of rights, and (2) security discourses of prevention and management. I argue that these processes are part of settler colonial pacification that simultaneously work to problematise and suppress Indigenous nationhood and (re)produce the Canadian nation-state. The tensions and disjunctures of policing practices made visible in my research reveal ruptures in these governing logics, and thus, in legal, judicial, police, and administrative institutions. In examining how police and government policies are being implemented in practice, my dissertation moves beyond evaluating the “success” or “failure” of these reforms to show how they are rooted in the colonial relations between the Canadian state and Indigenous peoples. This project also seeks to make visible the contingencies and complexities in these practices, which characterise the (re)production of settler colonialism.

OUTLINE OF THE DISSERTATION

I begin in chapter 1 by outlining my analytical concept of *settler-colonial pacification*, which draws on (1) the contributions of Michel Foucault and political economy scholarship on *police* power and pacification, and (2) settler-colonial studies literature. Theorising of police power and the police institution has been limited by a lack of attention to ongoing colonialism. In Foucauldian work, this is reflected in the minimisation of enduring juridical and disciplinary

exercises of power. As postcolonial and colonial governmentality scholars have emphasized, these forms of power are regularly experienced by racialised and Indigenous peoples. While the political economy approach has addressed the enduring violence of police power, it has been limited in addressing the role of this violence in constituting settler colonial formations, which *underlie* capitalism and class struggles. One of the implications of this is that the space of the settler state is naturalised. Drawing on settler colonial theory, an analytic of settler colonial pacification for studying policing makes ongoing settler colonialism foundational, addresses the spatial dimensions of order production, and centres the dialectic relationship of power and resistance. These components are reflected in my methodological framework of (un)mapping, which draws on the work of Dorothy Smith and Sherene Razack. Starting with concrete moments of resistance as entry-points, (un)mapping makes visible the practices of settler colonial institutions to show how these practices work to (re)produce order. This approach disrupts dominant discourses or organising logics that naturalise social, political, economic and territorial order of the settler state.

In chapter 2 I apply the concept of settler colonial pacification to the specific context of Canadian nation-state formation. I focus on the origins of the police institution, its relationship with the Indian Affairs bureaucracy, and the role of these institutions in asserting sovereignty in (re)producing the settler state. Adopting Comaroff's (2001) concept of "lawfare", I discuss how liberal legalism and rights discourse have become dominant logics of contemporary mechanisms of pacification. Since the 1960s, in the context of the emergence of the rights regime, there has been an increase in Indigenous militancy, which reflects the dialectic relationship of pacification and resistance and makes visible the instabilities of settler colonialism. I discuss the events of Oka, Gustafsen Lake, and Ipperwash as significant "ruptures" that have shaped contemporary policing practices.

In chapter 3, I argue that the Ipperwash Inquiry and the series of official reforms made by the OPP and RCMP since the mid-1990s are consistent with a politics of reconciliation that

work to (re)legitimate the settler state and organisational authority disrupted through the encounters of Oka, Gustafsen Lake and Ipperwash. I situate these reforms in the context of broader logics and structures of national security. In the period that reforms were being implemented, the federal government introduced the *Anti-Terrorism Act* and National Security Policy, and I show how the problematisation of Indigenous protests as an object of policing is normalised within new security logics as an object of national security. The contemporary colonial police-security apparatus is not static, and is dialectically shaped by ongoing encounters. The 2006 reclamation by members from Six Nations of the Grand River, the 2007 National Day of Action, blockades at Tyendinaga, and Idle No More protests have been significant in shaping this apparatus.

In each of chapters 4, 5 and 6, I examine specific clusters or constellations of policies, practices and relationships that are part of the police-security apparatus. I (un)map how reforms have been implemented or activated in practice, including the complexities, contingencies, tensions and disjunctures that emerge within and among institutional actors and organisations. These complexities emerge because of the constant shifting of pacification strategies, which are not always aligned within and between institutions. The constant shifting of strategies, and the disjunctures that arise, reflect an underlying paradox of liberal democratic policing vis-à-vis Indigenous self-determination.

Chapter 4 focuses on the implementation of “negotiation”-based public order policing and relationship building initiatives as the hallmarks of post-Ipperwash policing reforms. These strategies are driven by rights discourses and responsabilisation as techniques of governance. Disrupting the binary of consent/coercion, I show how the ever-present “coercive” components of the police repertoire facilitate the front-line strategies that are steeped in the language of “consent”. At the same time, front line “negotiation” provides legitimation for potential police use of force through deflection of responsibility to protesters. In the context of Indigenous resistance, these policing practices work to constitute “subjects of empire” (Coulthard 2007) through

institutionalisation/assimilation and criminalisation. As strategies articulated and deployed by police, I argue that governing through *liberal* rights is a juridical-disciplinary mode of power rooted in the settler state assertion of sovereign authority.

In chapter 5, I extend my argument about the mutually constitutive dynamic of coercion/consent strategies by examining the way that front-line policing based on “trust” and relationships is entwined with surveillance and intelligence operations—the less visible operations of police organisations. I trace the nexus between front-line policing with/in the broader national security apparatus and show how CSIS, the Canadian Forces, government departments, and Indian Affairs participate in collaborative intelligence/knowledge production about Indigenous “threats” to *critical infrastructure*, which has emerged as a central object of the police-national security apparatus. The rationalisation and “scientization” of intelligence contributes to legitimating knowledge as “truth” and surveillance practices as necessary prevention measures.

Chapter 6 continues this mapping of the wider national security apparatus to show how front line policing is inextricable from the political activities of government departments within a security paradigm of emergency management. I focus specifically on Indian Affairs and how the department’s historical practices of surveillance are formalised and normalised in this paradigm. In addition to surveillance, I show how Indian Affairs deploys legal-administrative mechanisms as strategies of pacifying “militant” protest. I argue that the contemporary “emergency management” paradigm of national security is a contemporary manifestation of the *colonial emergency* that reflects the settler colonial state preoccupation with Indigenous peoples as political-economic risks. The prevention oriented emergency management discourse depoliticises the exercise of “exceptional” power governing Indigenous communities.

I conclude by synthesising the settler colonial pacification mechanisms discussed in the preceding four chapters to identify historical continuities and discontinuities reflecting the inherent instability and anxieties of settler colonialism, and the paradox of liberal democratic

policing vis-à-vis Indigenous self-determination struggles. I reflect on implications of these formations and spaces for future inquiry.

A NOTE ON TERMINOLOGY

The naming and categorising of people and spaces have been integral to colonial domination, and we need to be conscious of the potential of reproducing dominant discourses by using contested terms uncritically.

In my dissertation, I use the term “Indigenous” to refer to the original peoples and nations whose presence on this land pre-exists European settlement. Unlike the term “Aboriginal”, which is a category imposed by the settler state, the term “Indigenous” transcends state borders. It identifies local struggles with/in a common struggle by Indigenous peoples around the world for autonomous survival and homelands, which have been and continue to be taken, destroyed, and threatened by colonisers and settlers (see Alfred and Cornthassel 2005). The term “Aboriginal” is used in Canadian as an umbrella category referring to First Nations, Inuit, and Métis peoples. It is a contested term, as a social-legal category of the settler colonial government that forms the foundation of its policies and practices for governing Indigenous peoples (see Alfred and Cornthassel 2005). I use the term “Aboriginal” only in reference to specific police programs (e.g. Aboriginal policing) and government-defined policy, such as Aboriginal and treaty rights or Aboriginal title. I occasionally use the term “Indian” in its historical context as used by settlers and the Government. “Indian” remains the *legal category* of an Indigenous person (who is not Métis or Inuit) registered as having status under the *Indian Act*. “First Nations” has replaced “Indian” as the contemporary term for Indigenous peoples who are not Métis or Inuit, as well as in referring to bands, communities, and nations.

My use of the term “sovereignty” is specific to the context of nation-state formation and imperialism, which I discuss in chapter 1. I also use “sovereign power” in drawing on Michel Foucault’s work, referring to a modality of juridical power or governance by domination and

prerogative. In Indigenous politics, the use of the concept of “sovereignty” has been problematised because it is seen as casting assertions of autonomy in a Eurocentric model. In referring to Indigenous struggles for autonomy and decolonisation, I use the term “self-determination” (see e.g. Monture-Angus 1999; Alfred 2005a; J. Barker 2005; Corntassel 2008).

I use the term “reclamation” rather than “occupation” as each of these terms conveys different meanings in terms of relationship to, in these cases, land. To “reclaim” implies a prior and existing relationship with the land whereas to “occupy” implies an encroachment or infringement. Reclamations and blockades are “direct actions”, a form of protest action to achieve political objectives outside of institutionalised channels. Protests are expressions of dissent, which can take a range of forms.

Finally, the official name for the federal bureaucracy established for the purpose of making and administering colonial “Indian policy” has changed many times since 1867. The Indian Department was first a part of the Secretary of State, but was then incorporated as a branch of the new Department of the Interior in 1873. In 1880, Indian Affairs became a department within the Ministry of the Interior. In 1936, the Department of Indian Affairs was moved and reduced to a branch within the Department of Mines and Resources. The branch moved again in 1950 to the Department of Citizenship and Immigration. In 1966, Indian Affairs merged with administration of the North and Territories, forming one ministry of Indian and Northern Affairs Canada (INAC). In June 2011, INAC changed its name to Aboriginal Affairs and Northern Development Canada. In the specific period of inquiry for this project, the bureaucracy was known as INAC. As most of the department’s documents that I have used in my research precede the name change, and for the sake of continuity, I use Indian and Northern Affairs Canada (INAC) when referring specifically to the federal ministry. When discussing the federal and provincial bureaucracies as an institutional apparatus, I use “Indian Affairs”.

CHAPTER ONE

Un)mapping Settler Colonial Pacification: Conceptual and Methodological Framework

The study of protest policing has predominantly been taken up in criminology in the field of police studies, and in political sociology in social movements studies. The focus in these fields tends to be on identifying and describing distinct changes in police strategies and technologies and the implications for different social movements. In the wake of the 1999 anti-World Trade Organization protests in Seattle, studies of public order policing have focused on anti-globalisation/ global justice movements and mobilisations at international summit events. Critical studies have attempted to situate these policing practices in the context of contemporary configurations of neoliberalism and globalisation. As discussed in the Introduction, the existing literature on protest policing is limited in two key dimensions: First, there is a tendency to treat contemporary policing practices or strategies as “new” without situating the police institution and practices in the historical exercise of *police power* and its continuities. Second, Indigenous protests have been comparatively ignored, or otherwise referenced as a *type* of protest, without interrogation of the historical specificity of colonialism—this ignores the distinctiveness of Indigenous protests as an object of policing. The literature on police power—both Foucauldian and political economy—is also limited in that it has not adequately addressed ongoing colonialism in a contemporary context. While imperialism and colonialism are acknowledged in accounting for the *historical* development of capitalism and liberalism, they have not been the *starting points* for analysis. This is a significant gap in critical theorising of police power and the police institution.

This chapter is organised in two parts. In part one I outline my theoretical-conceptual framework through engagement with the extant literature to identify gaps and limitations in understanding the specificity of policing in settler colonial contexts. I articulate an analytic concept of settler colonial pacification that brings together two relatively recent analytic

directions for critical scholarship: political economy studies of police and pacification, and settler colonial studies. This conceptual framework is reflected in my methodological approach of *(un)mapping*, which I explain in the first half of part two. (Un)mapping draws on the approaches of Dorothy Smith and Sherene Razack, as well as insights from critical geography. (Un)mapping reflects a Foucauldian analytic of micro-physics of power in mapping concrete policing practices, but is grounded in a historical materialist framework informed by critical race, Indigenous thought, and settler colonial studies. Police practices, and the institution, are situated as pacification strategies in the ongoing project of settler colonial state formation. In this framework, multiple modalities of power work simultaneously to suppress enduring Indigenous self-determination and to constitute, or (re)produce, settler colonial sovereignty. In the second half of part two, I discuss my use of open source texts, access to information requests, and semi-structured interviews to (un)map policing practices and identify considerations about the research process. As a mode of inquiry, (un)mapping is inextricably bound up with the power relations being researched. I conclude the chapter with a brief note on “studying up”.

PART I: THEORETICAL-CONCEPTUAL FRAMEWORK

POLICING AS PACIFICATION

I begin with establishing the concept of *police*, drawing on Foucault’s significant contribution through his genealogies of power and the state. I identify some of the limitations of Foucault’s treatment of *police*, which are addressed in the political economy literature by situating the *police* concept in the context of the symbiosis of modern states and capitalism. The concept of *pacification* has emerged in recent political economy theorising of police power and security. *Pacification* is a useful analytic concept that captures the continuities of military-police power, of war and “peace”, and the enduring significance of sovereign power in contemporary liberal democratic societies. The attention to enduring sovereign-juridical power as connected with state formations addresses a key limitation of Foucault from a political economy perspective,

which is the de-emphasis of the enduring significance of “the state” and his lack of attention to juridical and disciplinary modes of power in neoliberalism. The theorising of pacification as a critical analytic concept is relatively new, and there are important gaps in the current body of literature which are evident when applying the pacification concept to the specificity of settler colonial formations. By addressing these gaps, the analytical contribution of the pacification concept can be strengthened overall, and specifically as a way of understanding the dis/continuities of police power in settler colonial societies.

Police, Policing, and the Police

My analysis draws on the contributions of Foucault, Pasquino, and contemporary political economy scholars in understanding *police* as a modality of power specific to the historical emergence of modern states and capitalism. For Foucault, *police power* extends beyond a specific institution or function—i.e. *the police* institution. The specific institution of *the police* is one manifestation, or source, of police power that is distinct because of its capacity to exercise legitimated violence. For political economy scholars, an analysis of *police* is an inquiry of the interconnected processes of state formation, accumulation and security.

The concept of police appeared in political discourse most prominently in seventeenth century Europe referring to a project of legislative and administrative regulation of public life in the interests of the general welfare of the population and ensuring “good order”—in short, the management of population(s) by the state (Neocleous 2000; Foucault 2007).¹ Foucault (2007) emphasizes that police had historically-specific forms in each state, with the most extensive articulation of police occurring in Germany in the form of *polizeiwissenschaft*, or “police science”. The influence of the Enlightenment and classical liberal philosophy are evident in this police science, reflected in its reliance on statistics and in organising governance strategies

¹ “Police” was used in Germany, Italy, and France, whereas the terms “policy” or “commonwealth” were more commonly used in Britain (Neocleous 2000).

through primarily administrative rather than juridical-legal mechanisms.² The objective of police was to increase or maximise the “public happiness”—i.e. prosperity and wealth—through management of the population, regulation of the necessities of life, health, prevention of idleness, and the circulation of goods and workers. Between the seventeenth and nineteenth centuries the concept of police gradually narrowed to refer to a specific institution (the police) and activity (policing) associated with enforcing “law and order” (Neocleous 2000; Foucault 2007). However, the police institution continued to engage in these other areas of order production. The police project was indispensable to the *raison d'état* of state expansion by fostering conditions for commerce through maximisation of the population, minimising wages and costs, as well as acquiring gold (Foucault 2007).³ The prosperity of the nascent modern state—its competitiveness in the global context—depended on “the strength and productivity of all and each” (Gordon 1991:10).

One of the major critiques of Foucault’s work on police, and studies of police based on Foucault’s work, is that in focusing on the dispersal of power beyond the state, ongoing forms of coercion and domination are minimised. As Neocleous (2000) writes, “the Foucauldian texts are stripped of any sense that police has anything to do with violence and thus state power” (p. x). In particular, there is a minimisation of *the police* institution—and of police officers as agents—and of the relationship of police and military power. Although the police institution is just one source of police power, it is a significant one because it is the institution that enacts sovereign power through its potential to use coercion to effect order. In one of the *Society Must be Defended* lectures, Foucault (2003:250) describes police as both disciplinary and regulatory/administrative. In later lectures, the disciplinary dimension seems to be dropped as

² Polizei, polizeiwissenschaft, and cameralism were forms of police science. Cameralism was a discipline of mercantilist administration, which was closely linked with police. The concept of police appeared in the work of classical political economists including William Petty and Adam Smith (see Rigakos et al. 2009; Williams 2003). Foucault ([1973]2000:69) describes Patrick Colquhoun as the “creator of the police in England”.

³ *Raison d'état* can be understood as the moment when “the state”—or “the idea of the state” (Abrams 1977[1988])—emerges as a convergence of an “art of governing” (governmentality) and political sovereignty (Walters 2012:25).

he pursues analysis of police as a political-administrative apparatus of *biopolitics*—normalising and “optimising” the life of the population. Foucault (1991:102) emphasized that juridical and disciplinary modes of power were not replaced by (biopolitical) government but rather co-exist as “a triangle”; however, the enduring significance of juridical and disciplinary dimensions of police is overshadowed. The multiplicity and complexity of the power effects of police, including the coercive aspects, fade into the background.

The political economy literature addresses the perceived detachment of violence in Foucault’s conception of police. By engaging in historically-grounded inquiry and theorising of “policing as a grand intellectual project linked to state formation, prosperity and security in Enlightenment thought” (Rigakos, McMullan, Johnson and Ozcan 2009:1-2), a political economy of police situates the contemporary police institution in this historical context of state formation. As McMullan (1998) argues, *raison d’état* and the police state did not completely give way to liberal governmentality. As elaborated by McMullan (1998), Neocleous (2000) and Rigakos et al. (2009), police produced a social order conducive to the emergence of capitalism through the object(ive) of maximising the population (as labour and wealth), which is integral to state sovereignty. An analysis of police provides insights on the symbiosis of capitalism and state formation. This work identifies the integral role of the police *as an institution invested with a legitimated monopoly of violence* in establishing and maintaining conditions amenable to capitalist accumulation in both the domestic and colonial contexts. Neocleous (2000), Gordon (2006, 2010), and Rigakos et al. (2009) among others have examined how the police institution has been integral to the production of the working class by compelling participation in waged labour through enforcing vagrancy laws and criminalisation of other means of subsistence.

A second major critique that stems from Foucault’s analytical displacement of juridical and disciplinary power is that it diverts attention from the enduring and significant presence of state violence in the lives of subjugated groups (see e.g. Stenson 1999; Dean 1999, 2002a, 2002b; Mbembe 2001, 2003; Hindess 2001; Singer and Weir 2008). As Stoler (1995:55) points

out, although Foucault shows how biopower was a basis for “inscrib[ing] modern racism in the mechanisms of the normalizing state,” he explicitly states that modern racism is not his focus. The violence of colonial and settler state sovereignty is experienced in material ways by racialised and Indigenous peoples in everyday life (see e.g. Razack 2002; Samuelson and Monture 2008; Comack 2012; in US context, see e.g. Cashmore and McLaughlin 1991; Chambliss 1994). As Dutton (2009) argues, drawing on Prakash (1999), while techniques of governance may appear similar, “race makes them operate in a profoundly different way” to produce domination (p.309). Colonial governmentality—a phrase introduced by David Scott (1995)—and postcolonial scholars applying Foucauldian analytics, have produced analyses of the micro-physics of power in colonial contexts that account for the multiplicity and contingency of power in historically specific settings (e.g. Scott 1995; Stoler 1995, 2009; Stoler and Cooper 1997; Mbembe 2001, 2003; Moore 2005; Mawani 2009). One of the key emphases in the colonial governmentality literature is the enduring significance of sovereign-judicial power, ‘race’ and racism (i.e. racial superiority/inferiority as legitimation for colonialism), and the anxieties of colonial rule that extended to the metropole.

The “founding violence” of nation-state formation in establishing and maintaining territorial boundaries, and in producing order within those boundaries, has not disappeared. Sovereignty must be constantly reinforced, and overt forms of state violence are evident when sovereignty is challenged.⁴ This is especially evident in settler colonial contexts, as I will discuss below. The effect of a framework that focuses on “liberal governance” is that it produces “sanitised accounts of governance in which elements of domination, exploitation and violence (figuratively and literally) become largely invisible” (Merlingen 2003:191 in Walters 2012:72; also Hindess 2001). The rendering invisible of these ‘non-liberal’ forms of governance that sustain

⁴ In *Policing the Crisis* (1978), Stuart Hall and colleagues draw on Gramsci in arguing that coercive and repressive (state) control emerges when hegemony (consent-based “soft” control) is inadequate in securing the legitimacy of ruling relations. This binary of coercion-consent needs to be problematised to consider how the securing of sovereignty is ongoing, especially vis-à-vis Indigenous peoples.

relations of domination contributes to reproducing dominant narratives of state sovereignty (such as by relegating colonialism to the past).

Police, Liberalism and Security—Sovereignty and State Formation

With a de-emphasis on juridical and disciplinary modes of power, the relationship between police and military power conveys a “break” or separation of these two apparatus. As Foucault (2007) argues, the administrative apparatus of police emerged at the same time as the military-diplomatic apparatus in the context of the formation of the modern state system with the treaties of Westphalia. Foucault (2007) describes these two formations as *apparatuses of security*, entwined by the task of enabling commerce and monetary circulation—what Marxist political economy would describe as fostering capitalism and the accumulation of wealth. Through producing and maintaining internal and intra-state *peace*, the security apparatuses of police and military-diplomacy enabled state growth, which was necessary to enhancing the *competitiveness* of the state in the global context (Gordon 1991; Foucault 2007). The state becomes defined by *internal order* based on the legitimacy of state authority, and by *external order* based on mutual recognition of sovereignty among states.⁵

The defining of “modern” states that emerged in international law in the late sixteenth century reflected the concept of ownership. In this period, sovereignty was defined in secular legal terms as the claim to exclusive authority asserted over defined territory and its contents, including people. At the foundation of sovereignty is *territorialisation*—the process of asserting (creating and maintaining) boundaries of authority (ownership). As Elden (2007:578) writes, “territory is more than merely land,” it is the constitution of a political space. Cartography was a key political practice of asserting ownership by inscribing the boundaries of, and naming, territory. As Neocleous (2003:98) writes, the assertion of sovereignty “requires the permanent

⁵ I use the concept of sovereignty here in terms of territorial authority asserted by nation-states.

policing of territorial boundaries” by military and police power. The police and military institutions (apparatuses) are inextricable from state formation as products and producers of state sovereignty assertions. The consolidation of state sovereignty depended in large part on the monopolisation of legitimate violence and distinguishing it from illegitimate acts carried out by entities not recognised as sovereign states (Neocleous 2000, 2008). The military and police institutions were vested with this monopolisation of “legitimate” violence.

The legitimisation of policing, including the use of coercion, derives from the idea/ideology of “the state” as guarantor of the “common good” (Abrams [1977]1988). Foucault (2007:98) argues that the “common good” is “ultimately nothing other than submission to [the] law” of the sovereign. This submission (obedience) to law is enabled by the production of an ideological shared interest among people within the territory, which shapes subjectivities and citizenship in relation to a national identity.⁶ Abrams ([1977]1988:75) argues that the *idea* of “the state” as a natural, legitimate monolithic entity “has been a cardinal feature of the process of subjugation” by mystifying those processes of political and economic domination. The “common good”, understood as the “security and happiness of all and of each” liberal subject is, as Pasquino (1991:113) emphasizes, the “security and happiness of the state”.

This concept of *security* is historically-specific to the development of capitalism, and organises society through the politics of liberalism and its technologies of individualism and responsabilisation. As Marx ([1843]1978:43) put it, “security is the supreme social concept of bourgeois society, the concept of police.” As a political philosophy, liberalism is defined by the ideals of individual liberty (autonomy), private property, and equality. These ideals privilege (the individual rights of) accumulation, consumption, and private ownership, which are inherently

⁶ The idea of a “national identity” has been variously conceptualised as national consciousness, or racism/race war (Foucault 2003), “one national class interest” (Karl Marx and Friedrich Engels.1848. Manifesto of the Communist Party), and “imagined community” (Benedict Anderson. 1983. Imagined Communities: Reflections on the Origin and Spread of Nationalism. London: Verso).

insecure because they are based on and produce individual (and thus, competing) self-interest, conflict, poverty, and the “free markets”.⁷

The logics of security are concerned with the freedom of circulation, which is counter-posed to (territorial and corporeal) restrictive logics of sovereign-juridical and disciplinary forms of power (Foucault 2007; see also Bigo 2008). Yet with the concept and exercise of *police* power we see how conditions (bodies, behaviours, activities) are contained through administration and enforcement to *enable* liberal “freedom”. The concept of police captures the inter-relationship of liberalism and security. Locally, as a “technique of liberal security”, the object of policing is to produce security by managing the inherent *insecurity* of liberalism (Neocleous 2000:43). Policing is legitimised by the necessity or demand for liberty (Neocleous 2000, 2008) as well as securing natural phenomena of population and economy (Foucault 2007). One of liberalism’s “myths”, as Neocleous (2010) puts it, is that peace is the objective of civil society and that states exist to ensure this peace. The universalisation of the “common good” of security legitimates political authority of government and state institutions, and makes the exercise of state sovereignty *self-justifying*.⁸ In the global context, international law works to maintain the peace of states, policed by the constant possibility of diplomatic-economic sanctions and *war*. As Neocleous (2010) argues, in liberal thought this binary of war/peace makes it conceptually paradoxical to think of structural and other forms of violence as producing (liberal democratic) *peace*. This binary of war and peace masks enduring violence that constitutes “peace” as a specific social order. The implication is that the role of police power is dichotomised with war(fare).

⁷ Liberalism legitimates inequalities, as attributed to individual actions (e.g. work ethic) and “natural” competition.

⁸ The ideological separation of the political and economic realms, and state and civil society, creates the perception that the state is totally separate or independent from the production of wealth (Neocleous 2000). This is a key mechanism that legitimates capitalist accumulation and the social hierarchy and inequality as a “natural” outcome of individual self-interest and a free market. At the same time, the state and its policing apparatuses, which are integral to this accumulation process, are also legitimised as being solely about an objective “law and order” in everyone’s interest. By de-coupling the interrelationship of the state and economic system, policing is legitimised. State-based policing is seen as a common public good while policing carried out by corporations (and non-governmental organisations) is linked to the protection of private interests (rights).

The pervasiveness of these dichotomisations has implications for scholarship. These binaries underlie critiques of the contemporary “blurring” between public police and ‘security’ functions associated with national security and the military. This critique assumes that at some point in time there was actually a clear separation between policing and security functions—what Brodeur (1983, 2007) distinguishes as “high and “low” policing. “High” policing refers to centralised, political policing with the objective of securing the government and the state. “Low” policing refers to the “everyday” consent-based policing concerned with public order and law enforcement. The former is associated with national police forces, security intelligence agencies and the military, which are responsible to the executive branch of government, while the latter describes urban-based police organisations responsible to *law*.

Intersecting with these two “models” are a set of binaries with respect to primary policing strategies (“hard”/coercive versus “soft”/consent-based) and circumstances (‘exceptional’ versus ‘normal’). These binaries are constitutive of liberal-security logics (Neocleous and Rigakos 2011). The “norm” for liberal democratic societies is consent-based low policing, whereas the use of high policing and coercion to police *citizens* would be *illiberal*—unless it occurs in *exceptional circumstances* in the interest of the “common good”. These binaries further dichotomise the institutions of police and military and their association with peace and war, respectively. As I discuss in chapter 2, these binaries have historically been fundamental to the legitimisation of the public police as well as of forms of “high” policing deployed in colonial spaces.

The incorporation of these binaries within scholarship shapes how we define phenomena *as phenomena*, and how we problematise them. The tendency in police studies and social movement studies to describe tactics associated with a “*militarisation of police*” is based on the assumption that police and military institutions are or have been engaged in distinct activities in separate spaces. This elides the common origins of these institutions as parts of entwined security apparatuses. The implications are that the objects of theorising and empirical

inquiry “are ultimately liberal concerns” (Neocleous 2013:9). This includes framing analyses of police and security in terms of whether they conform to or violate “rule of law” and liberal democratic norms (Neocleous and Rigakos 2011). Consequently, “militarisation of policing” is cast as a “bad”, *illiberal* development that runs counter to “normal” liberal democratic policing. By implication this idealised norm of “low” policing is *legitimated*, despite its continuous deployment of violence to produce order, as experienced by those who are “out of order”.

Within theoretically-informed and critical literature (much of which is influenced by Foucault or governmentality studies), there has been a significant body of work concerned with the ubiquity of “security” discourse and formations in contemporary societies. This includes scholarship on concepts such as “securitisation”, the perceived “(para)militarisation” of police forces (Kraska and Kappeler 1997; Kraska 2001, 2007; Murphy 2007; de Lint and Hall 2009), the risk society (Beck 1992; Ericson and Haggerty 1997), actuarial governance (Feeley and Simon 1992; Feeley 1994), “net-widening”, and “states of exception” (Agamben 1998, 2005). Yet, as Bigo (2008) notes, much of the Foucauldian-inspired work on security has primarily been concerned with liberal governmentality and risk (through diffusion beyond the state) rather than “the police state” and violence (p.103).⁹ Valverde (2010) has critiqued much of this “security” literature as (re)producing a generalised abstract concept of security/securitisation that lacks empirically-grounded research of the *specificity* of how “security” works. From a political economy perspective, this lack of empirical inquiry misses the continuities of security practices. As Rigakos et al. (2009) argue, this work does not account for the long historically-rooted trajectory of these processes as features of *police* power in state formation. In doing so, the “novelty” of security discourse is overstated. While acknowledging an intensification of security discourse and formations since 2001 and changes in techniques, Neocleous (2008)

⁹ Bigo (2008) argues that research needs to address the question of violence and struggle in relation to security; if security is norm(alised) and violence/struggle are conceived as “exceptional”, we (re)produce a “symbolic inversion of violence as a force for peace and protection” (p.103). Indeed, this is the project undertaken by political economy of police and pacification.

challenges the perception that this is a novel or substantially different project from what was happening before. I argue that this is all the more evident when we ground the analysis in contemporary colonialism.

Police as Pacification

To further disrupt the binary of police power and war, Neocleous (2010, 2011a) has argued for the “re-appropriation” of *pacification* from the field of international relations as a concept for radical political and social theory in furthering critical study of police as part of an emergent “anti-security” framework (Neocleous and Rigakos 2009, 2013). Theorising of police as pacification problematises the liberal-security binary logic that has structured scholarly inquiries on policing and security through dichotomisations of police–military power, public-private, state-civil society, coercion-consent, war-peace, and exception-normality. Rather than structuring critical inquiry, these concepts become *objects of analysis*. Rejecting binary thinking can produce more complex but nuanced understandings of how power works. Importantly, it also resonates with the work of Indigenous scholars and activists in understanding colonialism as war.

Historical Foundations of Pacification

Like the concept of police, theorising of pacification has an historical-materialist basis grounded in the emergence of modern nation-states, international law, and imperialism as a project of state expansion through empire-building. Etymologically, pacification refers to a process of bringing or *making* (imposing) “peace” amidst conflict or *disorder*. Pacification emerged as a concept within the same historical period as *police*, appearing in political discourse in the sixteenth century as scholars sought to legitimate the conquest of Indigenous peoples as a non-state entity, in the context of the nascent modern-state system and international law.

One of the foundations for the emergence of sovereignty doctrine and international law came from the contributions of Spanish theologian Francisco de Vitoria to intellectual-legal

debates concerning the status of “Indians” in relation to the Spanish. If Indians were “human”, then conquest would be illegitimate as a violation of their sovereign authority. Against church doctrine, De Vitoria argued that Indians were human and therefore had “ownership” of the land. This meant that they were bound by the universal natural law principle of *reason (jus gentium)*. Under this principle, Spain (like all sovereign nations) had the right to travel and to engage in trade. Preventing the exercise of this *sovereign* right would be considered an act of “barbarism” in violation of this natural law (Anghie 1996; Russell 2005; Neocleous 2010), amounting to an “act of war” (de Vitoria in Anghie 1996:326). Spanish invasion and colonisation were thusly rationalised as a “just war” (*jus in bello*) in defending their right under natural law in response to Indigenous resistance to their incursions (Anghie 1996). For de Vitoria, the purpose of (“just”) war was “to establish *peace and security*” (in Neocleous 2010:12; emphasis added). The description of conquest as bringing or making of “peace” was a rhetorical move that masked the violence of conquest (Neocleous 2010), while reinforcing the racial superiority of Europeans and legitimating the assertion of imperial sovereignty.

As discussed above, Foucault (2007) locates the emergence of military-diplomatic and police apparatuses with the formation of the European concept of nation-state *sovereignty* emerging with the Peace of Westphalia. The diplomatic-military apparatus maintained a *universal peace*, or “equilibrium” among European nation-states through the ever-present potential of war (as enforcement), (liberal) diplomacy, and the creation of standing armies. From de Vitoria’s theorising to seventeenth century Westphalian equilibrium, the *making of peace* was based on the sovereign exercise of power to *create* colonial *and* metropolitan social order while enhancing the political and military dominance of the sovereign through imperial expansion.

As a process, pacification refers to the creation and enforcement of a specific “peace” through military dominance and legal mechanisms, but also through “civilising” liberal political strategies of capturing the “hearts and minds” of a population, i.e. securing order through culture and *liberal* ideology (Neocleous 2010). In producing “peace”, pacification works to destroy and

remove existing forms of political and social organisation in order to construct a “new” society—a “brighter and nicer new life” (Neocleous 2011b:198, referencing a phrase used in the US pacification strategy in Vietnam). Destruction is part of the production of social order that provides “a secure foundation for accumulation” (Neocleous 2013:8). In contemporary usage, pacification has been associated primarily with imperial-military operations. During the US-Vietnam War, the term “pacification” replaced “counter-insurgency” in US military strategy (Neocleous 2011a, 2011b). Neocleous (2011b) notes that in more recent military discourse, both “counter-insurgency” and “pacification” have been replaced by terms such as “low-intensity conflict” and “operations other than war”. The shifting terminology increasingly obscures these practices as *warfare and imperial domination*.

On one level, the re-appropriation of pacification from international relations and military studies is a move that resists the mystification of contemporary imperial and colonial military projects through the discourse of liberalism and security. Analytically, the concept of pacification joins police and military power and thus, the connection between “public order” and imperialism (Neocleous 2010, 2011a, 2011b). While Foucault traces the emergence of the military-diplomacy apparatus and police apparatus concurrently, these are treated as separate in his analysis (in part because of his micro-physics approach). Understanding police as “a process of pacification” (Neocleous 2013:18) brings “war”, processes and effects of domination (or sovereign-judicial power) and discipline ‘back” into the analytical picture alongside liberal governance. “War”—coercion, structural violence, domination—produces liberal peace (Neocleous 2010), which is a *condition of ongoing struggles*. The concept of pacification focuses on political, administrative and coercive institutions that derive from and (re)produce legitimation of “the state”. While pacification occurs on localised scales, the production of order is entwined with global processes of capitalist accumulation.

Pacification thus refers to both the practices, and their legitimating discourses, that facilitate territorial expansion and the exploitation of Indigenous and settler labour power

necessary to the accumulation of capital (see Alfred 2005b; Neocleous 2010, 2011b). This is an ongoing process as the displacement of people from means of sustenance and production—original (or ‘primitive’) accumulation—is necessary to sustain capitalist production (Neocleous 2013). As a process of making “peace”, the concept of pacification implies that there is ongoing resistance (to capitalism and colonialism), which pose threats to *order*. Without resistance, pacification would not be necessary. There is a dialectical relationship between resistance and pacification, reflected in shifting forms of pacification strategies. As an analytic category, pacification assumes that social relations are characterised by ongoing conflicts, which blurs the distinction between “criminal”, or public order issues, and *war*. Taking pacification as a critical category identifies continuities (and discontinuities) of order production without being constrained by ideological binaries which are themselves mechanisms of order production.

The strength of the pacification concept is in its grounding in historical context of imperialism and colonial practices. The police institution, as an apparatus of security, is also grounded in imperialism through its role in producing social order conducive to state formation and expansion.

Addressing Gaps in Political Economy of Police and Theorising of Pacification

In contributing to the emergent theorising of policing as pacification, my approach addresses three core inter-related gaps in the current body of literature. Despite the historical foundations of pacification, there has been limited engagement with (1) ongoing colonialism (rather than imperialism), (2) spatial order and territorialisation, and (3) agency and resistance. I discuss each of these areas of limitation below. Although these dimensions are articulated as core components of a critical analytic of pacification in existing research, they have not been substantially elaborated/developed through empirical inquiry. These three areas are made evident in the specificity of the settler colonial context of the practices I examine in this dissertation. In identifying and addressing these gaps, I draw on the work of settler colonial

studies and of Indigenous scholars. Taiaiake Alfred has written extensively on colonialism as an ongoing war being carried by the state through physical violence and liberal politics of “minds and hearts” (Alfred 2005:180), and explicitly describes the reconciliation discourse of the Canadian state as a “pacifying” strategy (Alfred 2011:9). Glen Coulthard (2007) has similarly critiqued the politics of recognition and of reconciliation politics, which I discuss further in chapter 2.

Settler colonial studies is an emergent transdisciplinary field that seeks to articulate theory and conceptual frameworks through interrogation of the specific formations of different “*modes of empire*” (Veracini 2010:2, emphasis in original). Predominantly an intellectual project of settler academics, one of the objectives of settler colonial studies since the mid-1990s is to counter the naturalisation and invisibility of settlers and settler colonialism which has been perpetuated by scholarly research *about* Indigenous peoples (Veracini 2010; Macoun and Stakosch 2013). The theorising of settler colonialism has itself been shaped by the effects of Indigenous mobilisation as a catalyst for shifting understandings of white settler colonialism (Veracini 2013).¹⁰ There is a growing literature specific to settler colonialism in the Canadian context (see e.g. A. Barker 2009; Morgensen 2011; Crosby and Monaghan 2012; Monaghan 2013). In addition to disrupting the colonising power of settler colonial academic privilege, Macoun and Stakosch (2013) emphasize that settler colonial theory resists the relegation of colonialism to the past, which occurs in both conservative and progressive scholarship as well as in dominant political discourses. Settler colonialism is understood to be an ongoing process

¹⁰ While settler colonialism has been used descriptively in the past, it has not been theorized as a unique formation until the mid-1990s and spurred by Wolfe’s 1998 book. According to Veracini (2013) in the early 1900s, settler formations were treated as distinct from colonialism, based on the “pioneer” and frontier. This differentiation remained into the comparative studies of the 1950s and interest in what Foucault (2007) referred to as the “boomerang effect” between colonies and metropole. The presence of Indigenous peoples and their subjugation by settler-colonists was largely invisible in scholarship until the 1960s and 1970s in the context of anticolonial uprising and decolonisation. However, these analyses tended not to include white settler states where these mobilisations were not as overt. Where the concept of settler colonialism was applied to white settler states, the analytic focus was on the dependency relationship between the settler state and the metropole rather than on the subjugation of indigenous peoples (Veracini 2013). Veracini (2013) locates the emergence of settler colonial studies with increased visible (disruptive) mobilisation by Indigenous peoples in white settler states through the 1980s and 1990s.

characterised by the presence and resistance of Indigenous peoples. I draw on settler colonial studies to identify three gaps in pacification literature.

Imperialism, Colonialism, and Settler Colonialism

Like Foucault's work, most of the recent political economy theorising of police is predominantly situated in urban contexts of Europe and North America, with the latter focusing on questions of capital and class struggle. Although pacification is *conceptually* grounded in the historical context of imperialism, colonialism, and warfare, contemporary debates have largely focused on Europe and North American metropolises, and have not—with some exceptions (e.g. Valverde 2006; Gordon 2006, 2010; A. Smith 2013)—substantially addressed the interconnectedness of imperialism, colonialism, and racism in pacification strategies. Imperialism and colonialism are entwined but distinct formations. Loomba (2005) distinguishes imperialism as the project of empire-building emanating from the metropole, while colonialism refers to the mechanisms of domination implemented within the colonized territory (including processes of territorialisation). As a distinct formation, settler colonialism is characterised by the assertion of sovereignty by settlers who become the majority within a territory through elimination of Indigenous peoples (Veracini 2010). Wolfe (1998) also distinguishes settler colonialism from colonialism because the primary objective of settlers is to secure land and resources rather than the exploitation of Indigenous peoples as a labour force. In settler colonialism, Indigenous peoples are not as “indispensable” to the new political economic order as in colonial formations (p.8).

The existing pacification literature tends to deal with *imperialism* rather than specific mechanisms of colonial governance. When focusing on “internal pacification” (Neocleous 2011b:2000), the literature identifies connections between, for example, contemporary US imperialism and social control technologies “at home” but does not address the distinct context of local or “domestic” colonialism (e.g. Neocleous 2011a; Wall 2013; Rigakos and Ergul 2013). Settler colonialism as an ongoing process is not taken up. Furthermore, there is a privileging of

(global) capitalism emerging from the lack of analytical attention to specificities of racism and colonialism as distinct formations interlocking with capitalism (see A. Smith 2010).¹¹

The systemic invisibility of colonialism perpetuates the myth that colonialism is a relic of the past. This is endemic to studies of policing, whether “mainstream” or critical. In the late 1980s, Mike Brogden (1987a) argued that studies of policing must be situated in colonial history, but this has not been widely taken up outside of historical studies (e.g. Brogden 1987a, 1987b; Anderson and Killingray 1991; Styles 1987; Sigler and King 1992; Deflem 1994; Smandych and Nettlebeck 2010). While these studies make important contributions towards developing critical theorising of police, there are two major limitations. First, being relegated to historical literature, colonial policing—and by implication, colonialism—is construed as phenomena of the *past*, reinforcing dominant narratives that colonialism no longer exists. Second, while there may now be more contemporary studies of policing Indigenous peoples (e.g. Cunneen 2001; Churchill and Vander Wall 2001; Perry 2009; Comack 2012), my argument, echoing Brogden, is more fundamental in terms of situating the police institution within colonial relations whether or not the immediate object/subject of inquiry are Indigenous peoples. Colonial policing, and broader forms of governance in settler colonial and post-colonial contexts, is not just about Indigenous peoples; it is also about the settlers/colonisers doing the policing, and the effects of it in shaping power relations. The political economy of police and pacification literature asserts the importance of historical materialist inquiries yet imperialism and colonialism have been marginal dimensions in these analyses. The trajectory of capitalism must be situated in relation to the specificities of imperialism, colonialism, and settler colonialism. An analytic of pacification needs to address how police technologies work in/through race and colonialisms in (re)producing specific order.

¹¹ In the US context, Andrea Smith (2010) conceptualizes white supremacy as constituted by three pillars of slavery/capitalism, genocide/colonialism, and Orientalism/war.

Space and Territoriality

An important dimension in the production of colonial order is the regulation or ordering of *space*, which is integral to settler colonial formations starting with the theft of land through violence and legal mechanisms such as the doctrine of *terra nullius* and forced surrender or treaties (see e.g. Alfred 2005; Borrows 2005; A. Smith 2010). There are two interconnected dimensions of settler colonial spatial ordering: territorialisation and governance mechanisms. As discussed above, state sovereignty is asserted through the (re)production of inscribed boundaries of legal, political, and military authority; through these processes land is constituted as a political space (Elden 2007), which requires constant *policing* (Neocleous 2003). *Territorialisation* is an ongoing process allowing for the constituting of “new” settler political orders through territorial (and population) expansion and capitalist accumulation, which are dependent on securing access to land and resources.

Settler colonialism is defined by “a logic of elimination” (Wolfe 1998, 2006), which shapes the production of social-political order by eliminating existing indigenous social-political formations so as “to establish a better polity” (Veracini 2010:4). In addition to the theft of land, elimination processes of dispossession, displacement, racialisation, law, criminalisation, incarceration, administration and assimilation all have spatial dimensions and occur through coercive violence *and* “liberal” governance. As I discuss in chapter 2, the Canadian settler state has deployed a range of spatial governance mechanisms such as reserves, the policing of geographic and social boundaries, destruction of spiritual spaces and burial sites, forced removal of children to residential schools (and state “welfare” systems), and exploitation, privatization *and* regulation of the natural environment (Razack 2002; Harris 2002, 2004; Blomley 2003; Gordon 2010). This constituting of colonial spatial order is foundational to the process of territorialisation. *Resistance* therefore also manifests spatially as challenges to the settler colonial ordering of spaces—as struggles to reclaim stolen land, to assert fishing and hunting rights, to defend against or prevent encroachments and environmental damage, and

through everyday practices. Contemporary direct actions such as blockades and reclamations are spaces in which the *policing* of sovereignty's boundaries are especially explicit. Localised policing that (re)produces and maintains spatial order must be situated in the broader project of constituting settler state sovereignty.

Colonial governmentality and postcolonial scholars have pointed out that in Foucault's shifts in analysis away from sovereign-judicial governance, the significance of *territory* as a terrain of politics is subsumed by the primacy of population as the object of biopower (Rose-Redwood 2006; Elden 2007; Rifkin 2009; A. Simpson 2011). As discussed, the governance of Indigenous peoples as a population vis-à-vis settlers reflects a spatialised ordering of territory. Through continuing land theft, exploitation, domination, and assimilation, this space can be understood as a space of warfare.

The concept of pacification can be enhanced by incorporating a *geopolitical analysis* (Rifkin 2009) of the war-police-accumulation nexus. This has been limited in the current body of work theorising and applying the pacification concept. For example, while the contributions of Neocleous (2011a), Wall (2013), and Rigakos and Ergul (2013) identify the interconnectedness of police strategies between metropole and colonies, taking the contemporary US as an imperial centre, these analyses do not address the question of the US (or Canada) as *colonial spaces*. The settler colonial context is a space in which the colony–metropole exists simultaneously in ongoing struggle. The relationship between the settler state and Indigenous peoples as an *ongoing* conflict is not taken up and by implication, settler state territory is naturalised. This is a crucial limitation where the insights of Indigenous scholars, critical race and settler colonial theory can contribute to, and strengthen the explanatory contribution of pacification.

Agency, Resistance, and Anxieties

The third gap in current theorising of pacification relates to the question of resistance and agency. Although resistance is conceptually theorised as the condition or *raison d'être* of pacification, the specificity of this dynamic has not been taken up through empirical inquiry.

Resistance is *assumed* but not empirically examined in concrete ways in theorising the relationship with domination and state systems. Critical race, feminist and postcolonial scholars have sought to address agency and resistance through the perspectives (or standpoints) of “the subjugated”, revealing the ways in which people engage in everyday forms of resistance, subversion and survival. Within this literature and in research by “mainstream” scholars, Abu-Lughod (1990) identifies a tendency to romanticise resistance while neglecting how power works. She argues that “resistance should be used as a diagnostic of power” as micro-processes of resistance tell us about “forms of power and how people are caught up in them” (p.42). As I discuss in the next section, Abu-Lughod’s argument resonates with Foucault’s suggestion, following his conception that “where there is power, there is resistance” (1978:95), that it is acts of resistance that make the exercise of power visible ([1982]2000).

Attention to the micro-physics of resistance is important if settler colonialism is understood as an ongoing structuring (or ordering) project rather than an *event* (Wolfe 2006). As Macoun and Stakosch (2013) caution, this understanding of settler colonialism as ongoing and continuous does not mean that it is structurally inevitable. Indeed, Wolfe and Veracini both emphasize the shifting, dynamic nature of settler colonialism and that it is not a monolithic, unified, or coherent structure. By definition, settler colonialism is *incomplete* and therefore cannot be assumed as total or “finished”. Making this concrete, settler colonial state *institutions* are not monolithic entities, but spaces of conflict, tension, resistance, and disjuncture that arise from the contingencies of everyday activities. Agency is exercised within and outside of institutions.

The conceptualisations of pacification and settler colonialism both have this “incompleteness” in common—if either process was “complete” or “successful” the context or social formation would cease to be one of pacification or settler colonialism. The enduring presence of the Indigenous Other means that the settler can never be fully indigenised to

territory (Veracini 2010:23).¹² This ongoing resistance to complete elimination means that the possibility of transformation or decolonisation is also ongoing. Taiaiake Alfred and Jeff Corntassel (2005) have described settler colonialism as “shape-shifting” as strategies of elimination change in form and permutations. This is because Indigenous resistance is ongoing—merely existing as Indigenous peoples on the land is a challenge to settler colonial sovereignty. As Leanne Simpson (2008:13) states, “Indigenous Peoples whose lands are occupied by the Canadian state are currently engaged in the longest running resistance movement in Canadian history,” predating the state itself. This shifting limits the coherence of pacification projects, producing fissures, disjunctures and tensions within state institutions. The assertion of jurisdictional authority by the settler colonial state is insecure. Shifting strategies of pacification emerge because of: (1) the enduring survival/presence of Indigenous peoples, (2) overt resistance (reclamation, protests, disruption, legal challenges), (3) contingencies and disjunctures in implementation of practices (i.e. tensions in and between institutions), and (4) the expansionist impulses of capitalism (linked into global context). All of these are interconnected and create anxieties of settler colonialism.

Addressing the three limitations that I have identified in existing police and pacification literatures by drawing on settler colonial studies, I adopt a concept of *settler colonial pacification* as an analysis of the specificity of policing Indigenous struggles in Canada. Settler colonialism is a specific colonial formation characterised by the assertion of settler sovereignty through ongoing territorialisation. Pacification is understood as the processes of order production that are at once destructive and constitutive of social order. As a concept, pacification emphasizes continuities of police power and ‘war’ in constituting nation-states and conditions amenable to

¹² Veracini (2010) argues that settler colonialism is characterized by a triangular relational dynamic between settler-colonials, Indigenous Others and exogenous Others. Exogenous Others are racialized immigrants/migrants who are not part of the dominant white-European settler group. In this dynamic, the settler colonial subject is dialectically constructed as *both* exogenous and indigenous in relation to territory, relative to the indigenous Other and exogenous Other respectively. Like settler-colonial subjects, exogenous Others may benefit from the dispossession of Indigenous peoples. However, they are perpetual “foreigners” who may be selectively included / assimilated into the “settler body politic” (p. 18).

accumulation. The analytic concept of settler colonial pacification *interrogates how settler state sovereignty is being asserted and legitimated.*

Through an analytic framework of (un)mapping, the objective is to make visible specific practices of pacification—how pacification works—which de-naturalises settler colonialism as a territorial and ideological formation and showing how it is an ongoing project. One way of getting at this is by starting with moments of challenge (or change) in the micro-physics of settler colonial strategies—the spaces of *encounter*. In turn, the (un)mapping of current strategies should be guided by questions of (a) how they work to (re)produce settler colonial state systems, (b) how they are emergent because of resistance, and (c) where they are vulnerable to disruption and potential transformation.

PART II: METHODOLOGICAL FRAMEWORK AND METHODS

My methodological framework of (un)mapping is bound up with my theoretical-conceptual framework and the substantive area of inquiry by: (a) analytically centring ongoing colonialism and (b), seeking to resist the colonising legacies of social research by turning the academic gaze onto the practices of state institutions that (re)produce settler colonialism. The aim is to provide an empirically grounded inquiry of *specific manifestations of pacification* by making visible state-based policing of Indigenous resistance and how these practices work as strategies of settler colonial governance. I begin by explaining the methodological framework and then discuss my methods of textual analysis and interviews in this project. I end with reflections on the research process and considerations for (un)mapping as “studying up”.

(UN)MAPPING

My methodological approach of (un)mapping draws specifically on the work of Dorothy Smith and Sherene Razack, both of whom ground their modes of inquiry in historical materialist frameworks which begin with localised human activities and embodied experiences. These

practices provide insight into the broader social, cultural, political and economic formations of society.

Dorothy Smith (2005) describes *mapping* as part of institutional ethnography, a concrete empirical inquiry which situates people's "actual" activities and experiences vis-à-vis the ideological, which aims to make visible the contradictions between them. Mapping makes visible *how* textually-mediated "ruling relations" organise and coordinate people's consciousness and everyday social relations and activities. *Ruling relations* refers to the textually mediated "complex of administrative, managerial, professional and discursive organisation that regulates, organizes, governs and otherwise controls our societies" (D. Smith 1999:49). I adopt Smith's (2005) definition of institutions as the observable, material elements of ruling relations. For Smith, institutions are made *partially* visible from the standpoints of "people who in one way or another are involved in them". Inquiry therefore may more likely lead to "intersections or interconnections" among multiple institutions rather than arbitrarily isolating one institution (or organisation) for description. (p. 68). These are governing institutions that derive legitimacy from their association with "the (idea of the) state" (Abrams [1977]1988). Mapping concrete work processes and sequences of activities can make visible how domination and resistance happen without being reduced to instrumentalist explanations. It also points to spaces of resistance within institutions and potential sites for intervention.

While Dorothy Smith locates her approach with a Marxist historical materialism from the standpoint of women, Sherene Razack's (2002) approach of *unmapping* is informed by critical race and postcolonial thought and draws on critical geography in articulating a methodological process of making visible the dialectical production of space and identities as social processes. Razack states that "to unmap means to historicize" understanding social formations as constituted by human (social) processes (p.128). In the context of imperialist expansion, the production of maps and maps themselves are means of asserting claim to, and control over, a delineated space (Razack 2002; Blomley 2003; Neocleous 2003). Unmapping therefore rejects

and disrupts the naturalisation of spatial relations, and seeks to historicise practices of power that construct spaces and bodies within those spaces as natural. This process of de-naturalising and historicising spatial relations “undermines [the] world views that rest upon it” (Phillips 1997:143) by making ideologies and practices of domination visible. Razack’s (2002:15) application of unmapping “interrogates” the construction of bodies and spaces revealing the interlocking of patriarchal, class-based, racialised and colonial systems of domination.

This is an important point of divergence between Razack’s and Smith’s approaches as Smith (2005) emphasizes that institutional ethnography is undertaken without any “prior interpretive commitment” (p.36). She argues that explanations of social relations in terms of “domination” or “resistance” are imposed by researchers disconnected from “the life worlds of people” (p.38). Yet Razack’s “interpretive commitment”, or analytical direction, to making visible the construction of race, gender, and class in white settler society *is* grounded in material and symbolic *experiences* of everyday life. Thus, while both approaches produce ways of knowing that are grounded in the lived experiences of those whose subjectivities are constituted or imposed by ruling relations / systems of domination, Razack’s involves an explicit *undoing* of systems of domination through the production of counter-narratives.

Bringing together Smith and Razack, my approach of *(un)mapping* is concerned with making visible *how* power operates while *disrupting* the ideological “world views”—or, organising logics—that naturalise and render those processes invisible. (Un)mapping is a process of inquiry that simultaneously *maps* micro-processes of power while *unmapping* governing logics. More specifically, the ways in which institutions work to produce settler colonial order are mapped while historicising and thus disrupting the naturalisation of that order. If the role of mapping in colonisation has been characterised by a unidirectional relationship between the map-producer (the “knower”) and that which is mapped (the “known” bodies and spaces) (Kirby 1996:48), then (un)mapping endeavors to disrupt that directionality, producing knowledge about the institutions that organise our social relations in ways that (facilitate or) are

amenable to the accumulation of wealth in a capitalist mode of production in settler colonial society. The micro-processes of “work” explored by Smith must be situated in the context of the material and symbolic space(s) constituted by imperialism and colonialism.

The “mapping” in this project produces a material, textual interpretation of the relations of the complex of institutions of the Canadian settler state as they operate in relation to Indigenous peoples’ resistance. There is “indexicality” in its reference to “the real world” (D. Smith 2005) of actual organisations, departments, practices, policies and events. However, this map should not be read as “complete”—maps will always be unfinished and incomplete because institutional processes and practices are not static and history is continuously in flux; nor is this map a “contained” field that is fully exhaustive of all the entities and processes at work. Maps produced through social inquiry are always partial—Smith (2005) usefully describes maps as assemblages of partial perspectives that can be overlaid with each other in building more nuanced, complex understanding of social relations.

Entry-points

(Un)mapping requires a concrete starting point(s) for inquiry. The policing of Indigenous peoples’ protests is currently one of the most highly visible and explicit encounters between the settler colonial state’s assertion of sovereignty and Indigenous self-determination. While reclamations and blockades might be viewed as “exceptional” events and unrepresentative of the “normal” relations between the state and Indigenous peoples, I draw on Pilsworth and Ruddock (1982), Marx (1972), Sjorberg and Miller (1973:139), and Hall et al. (1978) in understanding these events as “critical incidents” that are “ruptures’ of the social order”. These ruptures are characterised by (1) potential breaks or disruptions in the routines of institutions or social systems, and (2) the intensified production of texts. These conditions make visible “moments of truth” (Pilsworth and Ruddock 1982) in ruling relations. Methodologically, Foucault ([1982]2000) suggests an analytics of power should start with acts of resistance as the points at

which power is made visible. The visibility of disjunctures in these moments provides insights into the work of the organisations that make up institutional complexes. Sjoberg and Miller (1973) argue that ruptures provide opportunities to gain access to institutions that are usually closed to outsiders as institutions work to repair or re-establish order. Ruptures are significant moments, but also have effects that extend temporally and spatially; they can therefore be entry points for (un)mapping broader shifts in institutional activities as well as internal disjunctures.

My focus in this dissertation is on policing practices in Ontario after the 1995 Ipperwash reclamation. The shooting death of Dudley George by an Ontario Provincial Police sniper during the reclamation was the first time that an Indigenous person had been killed during a protest since the nineteenth century. The events of Ipperwash and the ensuing inquiry have had a direct impact on the OPP's adoption of major reforms, and an indirect impact on the RCMP. Since Ipperwash, there have been a number of significant, high-profile protests in Ontario during which the "new" approach of the OPP could be implemented: the 2006 Six Nations reclamation at Caledonia, the 2007 National Day of Action, blockades at Tyendinaga in 2007 and 2008, and the emergence of the Idle No More movement in 2012. Again, rather than end-points of inquiry, these are entry-points for "getting into" everyday institutional processes by identifying the organisations within/through which these activities occur.

METHODS

Following Dorothy Smith (1999), texts are integral in the organisation of ruling relations. As the primary media of communication, texts organise bureaucratic practices and processes (both within and between entities); texts also (re)produce institutional discourses in interpersonal relations by shaping the activities of people engaged with/in these institutions. Reflecting the textually-mediated processes of contemporary organisations, I use textual analysis and semi-structured interviews concurrently. Information derived through textual analysis informed the interview process by identifying prospective participants to be approached for interviews, as well

as by informing the development of interview schedules and the analysis of interview transcripts. Similarly, information gleaned from interviews led to other documents. Interviews enriched the textual analyses by filling in the “gaps” and providing insight into how people produce and “activate” (or animate) texts in *actual* policing practices. Concrete events provide anchors in interviews to discuss practices and for locating relevant texts guided by four core research questions:

- How did Ipperwash and the Ipperwash Inquiry affect the policing of Indigenous protests and police organisations more broadly?
- What strategies are used to police Indigenous protests, and how do they work in practice? Are there conflicts in the use of multiple strategies at the same time?
- How are police, intelligence, government, and other institutions connected—formally and informally—in the policing of Indigenous protests?
- What implications do contemporary policing practices have for the settler state’s colonial relationship with Indigenous peoples?

Texts—the Living Colonial Archive

As the “primary mode of action and decision in the superstructures of business, government, the professions” (D. Smith 1999:50), texts connect localised realities and the ruling relations that transcend the individual and local. Texts coordinate the actions of people and standardise “what is known” (knowledge), which becomes a basis for how others organise their activities (D. Smith 2002:36; Devault and McCoy 2001:765). While texts do not *determine* people’s activities, they are means of standardisation and regulation producing a specific (settler colonial) *order*. Texts are the products of material activities and have material effects.

In this project, I conceptualise texts produced in, by, and for state institutions as a *living colonial archive*. Here, I draw on Stoler’s (2009) conceptualisation of historical colonial archives

as “both transparencies on which power relations were inscribed and intricate technologies of rule in themselves” (p. 20). In the context of contemporary institutional activities, Larsen and Walby (2012) use the term “live archive” in emphasizing the dynamic and shifting character of texts and repositories. This resonates with Stoler’s (2009) emphasis that colonial archives reveal the “epistemological and political anxiety” of colonial states (p.20). While institutional records deploy and (re)produce authority in governance, they also “[register] other reverberations, crosscurrent frictions, attractions, and aversions that worked within and against those assertions of imperial rights to property, persons, and profits that colonial regimes claimed as their own” (Stoler 2009:22). The living colonial archive captures practices of governance as well as the enduring anxieties of settler colonialism. As noted above, during “ruptures” in order, there are periods of intensified institutional activity, which means increased textual production. “Critical incidents” are therefore an important starting point for picking up textual trails.

Accessing the living colonial archive of the Canadian state allows us to (1) make visible activities of institutions, (2) trace the interconnections among institutions, and (3) denaturalise ruling discourses, (re)produced in the content and format of texts, as social-historical constructs.

Accessing Texts

I obtained publicly accessible documents such as media releases, annual reports, performance and priorities reports, and some policy documents, in digital format from the websites of organisations, in hard copy from the departments themselves, and through media reporting.¹³

An important body of publicly accessible material is the archive of documents produced for and by the Ipperwash Inquiry, which are maintained online by the Ontario Ministry of the Attorney General. This archive includes transcripts, exhibits, and submissions by the Ontario Provincial Police including policy guidelines and comparative reports on their practices.

¹³ I used the Internet Archive to obtain some digital materials that are no longer available on organisation websites due to updating. The Internet Archive (www.archive.org) is an online digital library/archive of internet websites and digital cultural artifacts (e.g. images, films, texts).

A second type of textual material are the records of government departments and police and security organisations that are produced internally for the bureaucratic operations of the organisation and do not (normally) circulate outside of it, as well as material which is explicitly restricted in its circulation according to formal security classifications. Both unclassified and classified texts are subject to access to information laws which allow members of the public to obtain records with certain restrictions.¹⁴ Some interview participants provided me with copies of internal documents, although not necessarily sensitive ones.

Between 2007 and 2013, I filed 68 formal and informal requests to federal and provincial departments under the federal *Access to Information Act* and Ontario's *Freedom of Information and Protection of Privacy Act*.¹⁵ The use of access to information (ATI) processes as a research method has been described by Marx (1984) as an “institutionalized discovery practice” to get at the “dirty data” of organisations. This association with muckraking journalism has left ATI relatively marginal as a social science research method. However, critical criminologists and sociologists in Canada have increasingly been using ATI in studying policing, prisons, security, surveillance, and intelligence practices and institutions (e.g. Yeager 2006; Larsen and Piché 2009; Dafnos 2011; Walby and Larsen 2011; Monaghan and Walby 2012; Mopas and Turnbull 2011; Larsen and Walby 2012). Being able to make visible those processes and practices that are mostly hidden—or deliberately kept secret—is essential to (un)mapping. ATI is an indispensable tool for navigating political and legal mechanisms that impose secrecy.

¹⁴ Like Larsen and Walby (2012), I use the term “access to information” instead of “freedom of information” to refer to the process, which emphasizes its mediated nature.

¹⁵ These requests are managed by designated offices and personnel (coordinators) in each government department or agency subject to the legislation. Once information is processed and released through the ATI process, it becomes part of the public domain. Copies of these completed requests can be obtained by any member of the public through an ‘informal’ request to the institution, usually without a fee. Formal requests require an initial processing fee of five dollars. Additional fees may be assessed at the discretion of the unit for search and processing hours, photocopying/scanning, transfer media such as CDs, and mailing costs.

While departments are legally required to respond to formal requests within 30 days, extensions and delays are the norm.¹⁶ Being aware of the likelihood of delays I began filing requests during the exploratory stages of developing the project. I kept a log of all communications with the access to information coordinators. Over 23,000 textual pages were obtained through the access to information process (Table 1).¹⁷ A summary of the texts referenced in the dissertation and their ATI file numbers is included in Appendix A.

Table 1 Records Obtained from these Institutions

Access to Information Act (ATIA) (Canada)	Pages
Canadian Security Intelligence Service (CSIS)	1273 +
Royal Canadian Mounted Police (RCMP)	4132 +
Indian and Northern Affairs Canada (INAC) / Aboriginal Affairs and Northern Development Canada (AANDC)	13714 +
Public Safety Canada (PSC)	2863
Department of National Defence (DND)	439
Department of Justice (DOJ)	31
Freedom of Information and Protection of Privacy Act (FIPPA) (Ontario)	
Ontario Provincial Police via Ministry of Community Safety and Correctional Services (MCSCS)	570+
Total	23022 +

The records sought through formal requests varied in scope and breadth, particularly at the earlier stages. In part this is a result of the “black box” problem in which outsiders are unable to know exactly what kinds of records exist within organisations. As such, some requests were worded based on the parameters of subject (e.g. “Aboriginal” or “native” protests) or event (e.g. National Day of Action 2007) and a specific timeframe. One of the issues associated with broad

¹⁶ Federal and provincial legislation provides for cases where extensions are allowed when the searching for relevant records would interfere with the operations of the department (s.9(1)(a)), or where consultations are required with external departments (s.9(1)(b)) (such as where multiple departments have contributed to a document). One or both of these provisions were invoked in the majority of my formal requests.

¹⁷ This includes records that were shared with me by journalist, academic and activist contacts. This total does not include pages that were completely redacted. Records responding to several of my requests were also fully withheld. In most cases, the withholding of information was on the grounds of law enforcement, national security, or cabinet confidences/advice to government provisions.

requests is that they generally take much longer to process, and may result in many pages of irrelevant material. Within the records obtained through broadly-scoped requests I was able to identify further items of relevance—specific texts or types of record. Subsequent requests were then made for specific records (e.g., the RCMP’s Communities of Concern report 2008-2009). This was a snowballing process. Informal requests were made for relevant records that had already been released by institutions in response to requests made by other users of the ATI laws. These were identified through lists proactively provided by some departments on their websites,¹⁸ or through consultation with ATI coordinators at the institutions of interest.

Types of Texts

Open source and restricted texts can be distinguished according to whether they are intended primarily for an internal or an external realm of circulation in relation to the producing institution. Within each realm, texts can be described in terms of *intended function* and target audience (Table 2). External texts are those created for an audience outside of the originating organisation and have a primary intended purpose of representing the activities of the organisation (including policy), or for public education about a “problem”. Internal texts are those produced for an audience within the institution as well as for distribution to its partners. The primary functions of these texts are related to institutional operations and practices, as well as coordinating activities between multiple organisations (see Table 3).

These records reflect two dynamics of “(un)mapping”: texts produced for public/ external audiences are important for their discursive representations (as a form of ruling), and texts produced internally reflect inter and intra- institutional processes and relations. In broad-scoped requests, it was common to receive copies of texts produced by other departments. This was an important way of identifying inter-organisational networks. Draft versions of documents—internal and external—provide insights into the development of practices, policies and discourses.

¹⁸ As of January 2012, all federal entities subject to the federal ATI Act are required to list completed requests.

Table 2 Types of Institutional Texts

	Intended Realm of Circulation	
	<i>Internal</i>	<i>External</i>
<i>Intended Function</i>	Operational Tactical, Strategic Policy development Administrative	Public education Public relations / accountability
<i>Target Audience</i>	Law enforcement / security Institutions / individuals with required security clearance Government decision-makers	General public Institutions / individuals without required clearance

Table 3: Types of Records Collected

Intended Realm of Circulation/Readers-Users	
<i>Internal</i>	<i>External</i>
<i>Administrative and Policy</i> Emails Deck presentations Memoranda Briefing notes Policy drafts, commentary Meeting minutes Background papers	<i>Public Education</i> Media/ news releases Annual reports Environmental scans Fact sheets / websites Policies
<i>Law Enforcement –Operational</i> Incident commander notes Incident reports Intelligence / information collection Operations plans Training materials	<i>Public Relations/External Accountability</i> “Media lines” Question period / house notes, transcripts Annual reports Departmental performance reports Reports on plans and priorities
<i>Law Enforcement –Tactical / Strategic</i> Situation reports Threat assessments “Deck” presentations (slides) After action reports	Speeches Court or inquiry transcripts

Interviews

On their own, texts tell a partial story. If texts organise and mediate social relations, it is important to examine social relations and processes themselves and the role that texts play in them. Interviewing people whose work activities are mediated by institutional texts provides a means of contextualising, situating and filling in the gaps of the textual trails to understand how different types of texts relate to each other, and how people engage with them—including

subversions and resistance. The use of interviews in (un)mapping is not to produce generalisations about the people or groups interviewed but rather to locate them and their activities within institutions and social relations; participants are *informants* rather than representatives (Mullings 1999; Devault and McCoy 2001).

Between March 2012 and November 2013, I conducted 29 semi-structured interviews with representatives from three law enforcement organisations and officials from two federal, and two provincial government departments. There were two overlapping lines of inquiry undertaken in interviews. One line of inquiry was directed at obtaining insight into the “actual” practices and processes that occur in relation to Indigenous peoples’ protests. The second line of inquiry sought to explore participants’ experiences regarding changes to policing practices over time. These lines of inquiry were reflected in separate interviews guides for law enforcement personnel and for government officials. Following a semi-structured approach, interviews were open-ended with questions and probes based on the specific position and background of each participant, which emerged in the course of the interview.

Participants

I took a purposive approach in identifying potential participants, with a view to providing a range of perspectives and experiences from law enforcement and government institutions at both the federal and Ontario levels of jurisdictions. Further, I sought to include a range of *work* experiences as different points in “sequences of interconnected activities” (Devault and McCoy 2001:757). In the case of law enforcement, this meant seeking participation from people with operational (“on the ground”) and policy work experience in the areas of intelligence, public order, and Aboriginal policing.

Interview participants were recruited formally through initial letters of invitation and in some cases with follow-up phone or email contact. Some participants were identified from publicly accessible information such as web-based directories, website contact information, or from news media publications in which they are identified as spokespersons, representatives or

sources of information. Other participants were recruited by snowballing method through referral from other participants, or through organisational gatekeepers. In the latter case, I contacted the head of a specific section or division requesting participation. My request was reviewed and circulated on my behalf within the organisation; I was then provided with contact information for individuals who had agreed, or volunteered, to be interviewed.¹⁹

At the federal level, interviews were conducted with members of the Royal Canadian Mounted Police (including members assigned at the divisional level), Public Safety Canada, and Indian and Northern Affairs Canada. At the provincial level, interviews were conducted with members of the Ontario Provincial Police, and with officials from the Ministry of Aboriginal Affairs and the Ministry of Community Safety and Correctional Services. The Ontario Regional office of INAC declined to participate, as did representatives from Public Safety Canada's Government Operations Centre and Emergency Management Ontario. In all three cases, the rationale provided was that the topic of policing Indigenous protest was not within their jurisdictions. Table 4 shows the distribution of interview participants.

Table 4: Distribution of Participants

Organisation / Department / Ministry	Number of Participants
Royal Canadian Mounted Police	11
Ontario Provincial Police	9
Six Nations Police Service	1
Indian and Northern Affairs Canada	2
Public Safety Canada	2
Ontario Ministry of Community Safety and Correctional Services	1
Ontario Ministry of Aboriginal Affairs	3
	29

Interview Process and Ethical Considerations

Interviews lasted between 45 minutes and just under three hours in length. Eighteen of the interviews were conducted at participants' workplaces, seven at a university setting, two in public places, and one was conducted over the telephone. All but one participant agreed to

¹⁹ It is possible that in some cases superiors might request that certain people participate.

have their interviews recorded. Participants were offered a copy of the transcript to review for factual errors and to allow for further elaboration. Most participants declined the offer but expressed interest in receiving a copy of the final report. Audio recordings were transcribed with identifying information removed in the transcription process.

Consent forms were provided to, and reviewed with, each participant prior to commencing with the interview. Every effort has been made to maintain confidentiality through individual anonymity. It is integral to the (un)mapping approach to be able to identify the actual policing organisations and government departments involved. Further, because of the objective of understanding the relationships among various components of the policing process, participants were asked for their consent to attribute their responses to their occupational role in addition to their affiliated organisation (e.g., as an OPP liaison team member). Depending upon the size of the organisation and the units/branches involved, there is a possibility that participants could be identifiable based either on their position or on the content of their interviews. I advised participants of this possibility and requested an *additional* indication of consent to be identified in the findings by their occupational role/position. In some cases the terms of identification were discussed and participants expressed their preferences for how they would like to be identified. The informed consent form included two consent options (one for organisational affiliation only, one for affiliation and occupational position/unit).

Analysis: Synthesis of Texts and Interviews

(Un)mapping, like any form of academic knowledge production, is a form of interpretation—the maps of processes are representations of practices and relations which are not static. Yet, consistencies and themes—regularity of processes—in texts and as articulated by informants through interviews can tell us about the ways that power works. Shifts, conflicts and disjunctures are not “failures” or aberrations but are a part of institutions.

I approached the analysis of texts on three dimensions that correspond directly to my (un)mapping objectives, namely, to identify how the “problem” (threat) is constructed and represented, to make visible the practices and processes of policing within and among various entities, and to map out the networks of the entities involved in policing. The first level is of the *discourse* contained in the text itself. Drawing on Foucault, this is an analysis of the “knowledge” that makes governance of subjects possible. Texts were analysed for how the “problem” of indigenous protest is represented as a “risk” or threat, and how the “problem” is to be managed. Reflecting Dorothy Smith’s (1999) approach, a second level of analysis identified by Walby and Larsen (2011) attends to the *activation* of texts. In other words, these texts are understood as mediating, or organising, practices and processes of the institutions in which they exist. How is knowledge “activated” and produced by and through the police and government organisations? What do these texts reveal about the work processes of people within these organisations? At a third level of analysis, texts are revealing of formal and informal networks that exist among people and organisations through their activities—the sharing, collaborative, and competitive relationships in the production and circulation of texts. How is information shared? How are policing practices and processes intertwined? Within each of these levels of analysis, counter-discourses, conflicts, omissions, disjunctures and subversions emerge.

I engaged in analysis while carrying out interviews and continuing to acquire open source texts and file access to information requests. My analysis of these three levels of representation, activation and inter/intra-organisational coordination was organised around tracing the activities and sequences of action (e.g. decision-making processes) that occur in relation to Indigenous protest. Through this continuous engagement with interview transcripts, field notes, and texts, I developed conceptual diagrams to trace institutional processes and analytic themes concerned with the relationship between “ideal” or official discourses and formal policies of organisations and the actual practices evident in texts and described by interview participants. These themes captured broader organising logics—or, what Smith would describe

as ‘translocal’ relations—as well as complexities, tensions and conflicts. Diagrams and themes were constantly augmented and revised through the research process.

Considerations

As my focus is on the impact of the Ipperwash reclamation on police practices, this project takes the policing jurisdiction of Ontario as the starting point for (un)mapping these practices and the inter-connections with other institutions/organisations. A key distinction of Ontario is that it has a provincial police force; all other provinces except Québec are policed by the RCMP under contract. Until the 1970s, the RCMP was responsible for policing First Nations communities in Ontario, reflecting federal responsibility for “Indians.” Taking over this responsibility, the Ontario Provincial Police are now the force of jurisdiction in responding to Indigenous protests outside of urban centres that are not managed by a stand-alone First Nations Police service. The RCMP maintains a presence in the province however, and will often be involved in a support capacity for large and prolonged events. In Ottawa, the RCMP’s A Division have primary jurisdiction for the National Capital Region, as well as responsibility for “high-risk” investigations relating to “political, economic and social integrity” of Canada (RCMP 2013). While the impact of Ipperwash extends beyond the provincial borders, there is a specificity of practices, which are shaped by localised contingencies including variations in the organisational cultures of police forces and their historical relationships with individual communities. First Nations in Ontario have engaged in major protests and reclamations more frequently than in other provinces, which shape the specificity of policing in Ontario.

The issue of policing Indigenous protests is politicised and contentious, which can increase “risks” for organisations in participating in research conducted by an “outsider” (Adler and Adler 2001; Lee and Renzetti 1993). With the OPP and one branch of the RCMP I had to engage in multiple negotiations with gatekeepers prior to their agreement to allow members to participate. In the case of the OPP, these negotiations spanned more than five months. Beyond

the organisational gatekeeping, another consideration is that currently employed members of the RCMP, OPP and government departments, may be limited in their candidness or the depth of information they can share because of operational sensitivities and the risk of repercussions. This is especially the case for those lower in organisational hierarchies. Several participants alluded to this, sometimes explicitly distinguishing “personal” views from their official capacities. Nonetheless, the people who I had an opportunity to speak with were generally receptive and sometimes enthusiastic in explaining their work practices and sharing their experiences.

My approach in this dissertation has been to shift the research gaze onto key institutions and formations that reproduce settler colonialism in Canada. This is grounded in a commitment to decolonising practice through production of knowledge about these institutions as a means of disruption and change. The “problematization” is of these institutions rather than the Indigenous struggles and peoples that they govern. However, in this focus solely on state institutions and the actors within those institutions, I have not included the perspectives and experiences of the Indigenous people and communities who are the targets of policing practices as primary sources in (un)mapping. While some of these perspectives are included through secondary sources, in choosing this approach, the project risks silencing Indigenous voices while giving space to dominant settler state institutions. I also recognise that in taking up Indigenous struggles as a topic, there is the risk of speaking *for* communities, groups, and individuals who are directly involved and affected by these struggles, or of asserting academic “expertise” by indirectly passing judgement about the effectiveness of strategies of resistance through, for example, my critiques of the institutionalisation of dissent. These “risks” are reflective of the academic institution as a colonial institution, and the privileged position of academics—especially non-Indigenous researchers—in settler colonial society.

A NOTE ON “STUDYING UP”

By shifting the research gaze onto dominant institutions that reproduce settler colonialism rather than making Indigenous peoples the *object* of knowledge production, (un)mapping can be described as a form of “studying up” that redirects the power of knowledge production. Laura Nader (1972) coined the term “studying up” in arguing that anthropologists should focus their research on developing knowledge about the exercise of power “at home” by studying the middle and upper classes. This would provide a necessary counterpoint to the convention of “studying down” common to both anthropology and sociology. Nader maintains that the objective of knowledge production should be to make visible the culture(s) of the colonisers and the powerful. By inverting the colonising research relationship studying “up” asks “‘common-sense’ questions in reverse” thereby challenging hegemony (Nader 1972:289).

When grounded in counter-hegemonic theoretical frameworks, “studying up” explicitly identifies the positions and practices of research subjects as problematic and necessitating transformation or eradication to eliminate oppressive social relations and structures. This approach resonates with the contributions of emancipatory (e.g. feminist, critical race, third world feminist, postcolonial) and decolonising methodologies (e.g. L. Smith 1999; Moreton-Robinson 2000; Kovach 2005). These approaches have identified how processes of academic knowledge production, and of the knowledge itself have been and continue to be indispensable to racial and colonial forms of domination by enabling and *legitimizing* governance (or pacification) strategies (see Deloria Jr. [1969]1988; L. Smith 1999; A. Smith 2014).

Conventional academic research methods and the prescriptions or expectations for their “proper” use are based on assumptions of who the usual subjects of research inquiry are—these conventions are inclined towards maintaining dominant institutions and power relations. There can be challenges when applying conventional methods and standards when studying “up” with commitment to decolonisation, making it necessary to think outside the research “toolbox”—such as by using ATI requests.

(Un)mapping, as a form of “studying up”, is a praxis-orientated activity in two key ways: First, it aims to shed some light on the inner workings of police institutions to *demystify* their internal practices, including their production of knowledge about “problem” populations, that sustain and legitimise pacification. Second, the *methodological practice* of studying up directly challenges institutions’ assumption of, or claim to, secrecy and “sacredness”, which are both sources and products of their power (Weber 1947; Mills 1956; Bok 1989; Manning 1997). Regimes of secrecy, which enable settler colonial governance, pose limits and obstacles to (un)mapping governance strategies.²⁰ The research process itself—in particular the negotiating of access to representatives, physical spaces and texts of institutions—is inevitably embedded in broader power relations as the researcher herself is actively engaged in a political activity. For example, ATI requests for information on politically sensitive topics or that are submitted to security organisations are automatically flagged for additional scrutiny by ministers’ offices and their communications staff for review (Rees 2003). This allows government to prepare media lines or responses for any damage control that might be needed once material is made public (see also Roberts 2006). I know that at least two of my ATI requests were flagged for added review before their release.²¹

Whether intentional or not, there are wider political implications of engaging in “studying up” and we must be cognisant of the impact and implications of our research activities on institutions *as well as on those governed by them*. Are we making institutions more transparent or accountable in their practices, and thus amenable to transformation? Or are we making them

²⁰ In the period following Ipperwash, provincial government bureaucrats were directed to destroy records related to Ipperwash (Kelly 2006). The computer files of Ron Fox, an OPP Inspector seconded to the Ministry of Solicitor General, were “accidentally” erased when he was transferred and could not be recovered as evidence for the Inquiry (see Edwards 2003). In these examples, we see the intersecting of the politics of information control, substantive topic, methodological issues, and justice. There are historical continuities of information control. As Keith Smith (2009) examines in his study of the nineteenth and early twentieth century surveillance networks governing Treaty 7 and BC interior, the Department of Indian Affairs withheld documents (i.e. information produced through these surveillance activities, and other materials) from Indigenous peoples as a means of control; the denial of access to the ‘textual record’ was an intentional, conscious control of information.

²¹ I made separate requests for all records associated with the processing of two requests because I knew they were particularly contentious because of their timing and because of communications during the brokering process.

more aware—and selective—of what is committed to textual record (see Walby and Larsen 2011; Dafnos 2011; Larsen and Walby 2012; Dafnos 2011)? Unprompted, several interviewees remarked that greater organisational awareness of the potential for access to information requests has had an impact how records are created. This points to a need for constantly evolving research methods; as institutions change their practices in response to our inquiries, we must also adapt.

There is also a responsibility for how we use information that we gather in our research process. Once records are released through access to information they are considered public records, available to anyone, and can impact on real lives and political struggles. Just as “studying up” may disrupt institutions, it also intervenes in these struggles to some degree. I have sought to share the records that I have acquired, through various channels, with the communities identified in those records. To acquire and hold onto information for the sole purpose of scholarly production perpetuates the colonising work of academia by benefiting from the subjugation of Indigenous peoples.

CONCLUSION

My analytic framework of settler colonial pacification draws on the work of Foucault and political economy scholars on the trajectory of *police* as a mode of power historically specific to the emergence of capitalism and nation-state formations. One of the key limits of Foucauldian work on police is the de-emphasis on enduring juridical and disciplinary modalities of power. This is connected to a second critique of Foucauldian (and governmentality) studies in not addressing the significant presence of violence in the lives of racialised and Indigenous peoples. While political economy work on police power and pacification has addressed the enduring significance of “the state” and of the violence of police power, this literature is limited in not taking up the specificity of police and pacification in the contemporary colonial context. In addressing these limitations, I draw on the theorising of settler colonial formations in settler

colonial studies to articulate a concept of pacification as colonial police power. This analytic of settler colonial pacification centres ongoing processes of colonialism, emphasizes the spatial dimensions of order production, and takes resistance as a starting point of inquiry. The underlying assumption is that settler colonialism is an incomplete formation and pacification is ongoing because of enduring resistance; this produces insecurities of settler colonial order. Pacification strategies and legitimating discourses shift over time, shaped by this dialectic with resistance.

I incorporate these dimensions in my methodological framework of (un)mapping, which draws on the approaches of Dorothy Smith and Sherene Razack. (Un)mapping identifies *how* pacification strategies work and through this, unsettles the naturalisation of settler colonial sovereignty and dominant legitimating discourses. Through institutional texts and interviews with police officers and government officials, I map policies, practices, and tensions that make up institutions of the police-security apparatus.

This framework problematises conceptions of power (and policing) in binary terms of war/peace, military/police, high/low and hard/soft work. These binaries reflect dominant liberal-security logics, which work to depoliticise and legitimate certain police practices. This highlights how, through academic knowledge production, our analytic frameworks and research practices can reproduce or disrupt settler colonialism. By (un)mapping practices of settler colonial pacification, the research gaze is shifted onto dominant institutions as the object of inquiry, and thus, as the problem and target for interventions.

In the following chapters, I examine different mechanisms or strategies of settler colonial pacification and show how juridical and disciplinary modes of power endure alongside (and through) “liberal” modes of governance. These exercises of power are organised by entwined logics of liberal rights discourse and prevention-oriented security. While there are historical continuities, pacification strategies “shape-shift” (Alfred and Cornthassel 2005) dialectically with resistance within and outside of institutions. In chapter 2, I trace the trajectories of rights and

rule of law, surveillance, and prerogative power as techniques of settler colonial pacification in the formation of the Canadian settler state. This provides a context for (un)mapping of contemporary techniques of reconciliation processes (chapter 3), rights-based and negotiation-based front line policing (chapter 4), intelligence-led policing and national security (chapter 5), and the emergency management paradigm of national security (chapter 6). Rather than cohesive programs, there are contradictions, tensions and disjunctures in how they are activated (or resisted) at individual and institutional levels that reflect the anxieties of settler colonialism.

CHAPTER TWO

Settler Colonial Pacification: Indigenous Resistance and the Canadian Settler State

In this chapter, I draw on the concept of settler colonial pacification articulated in chapter 1 to examine the historical emergence and roles of law, police, and the Indian Affairs bureaucracy in Canadian settler state formation through territorialisation, assimilation, and criminalisation processes. This provides a context in which to situate contemporary pacification practices as continuities of settler colonialism as well as dis/continuities that arise from ruptures of settler colonial order.

Applying the pacification concept to existing literature and secondary sources, this chapter begins with a discussion of the imperial and colonial origins of the police institution in Canada, which disrupts the dichotomisation of police and military power. I discuss the role of the early police forces in settler colonialism and their relationship with the Indian Affairs bureaucracy. The intertwined pacification strategies enacted by the police and Indian Affairs were simultaneously constitutive and repressive in their effects, reflecting settler colonial logics of elimination. In constituting settler state sovereignty, these pacification strategies work to eliminate Indigenous peoples as political-economic—"sovereign"—nations. Applying Comaroff's (2001) concept of *lawfare*, I then discuss the significance of *liberal legalism* as a distinct means of colonial extinguishment and as an arena of resistance that shaped conditions of Indigenous militancy in the 1960s and mobilisations around the constitutional "patriation" process. The crystallisation of the liberal legal rights regime in Canada in the 1980s has shaped contemporary techniques of pacification. In the context of the liberal rights regime and reconciliation discourse, Indigenous militancy has produced moments of "rupture" to settler colonial order in which liberal-legal discourse is both disrupted and (re)produced. In the final part of the chapter, I focus on the encounters of Oka, Gustafsen Lake, and Ipperwash, as three

historically significant ruptures that were catalysts for changes in federal and provincial policing practices and government responses.

ORIGINS OF COLONIAL POLICING

Policing (the) Empire

The origins of modern police organisations in Anglo-American states, including Canada, are commonly attributed to Robert Peel's London Metropolitan Police established in 1829, which is often identified as the first modern police force. However, the "Met" was preceded by another creation of Peel's. In 1814, Peel, who was then the chief administrator of Ireland, implemented the Peace Preservation Force to address "banditry" and unrest in rural Ireland.²² The existing combination of local police magistrates and the Irish military had been ineffective to deal with the "unrest". The Peace Preservation Force was a quasi-military organisation headed by a magistrate responsible to the central government. Reflected in its name, the force was tasked with *pacification* of the countryside—it would be deployed to regions where local magistrates were unable to maintain order or where they had identified a threat of disorder. The Force therefore served a preventative and suppressive role, while releasing the military to be used in other areas of more intense conflict (Broeker 1961). In 1836, the Peace Preservation Force merged with local constabularies to form the Irish Constabulary. In 1867, the force became known as the Royal Irish Constabulary (RIC).²³

In contrast to the RIC, the Met was characterised as a model of consent-based policing embodied by the unarmed "bobby" on the street who was answerable to *law* rather than to

²² The labelling of acts as "banditry" or "piracy" reflect the monopolization of "legitimate" force by the state, as well as the privatization of property and criminalisation of means of subsistence outside of wage labour market. The "disorder" and "unrest" created by these activities represented challenges to sovereign (or state) authority (on "social banditry" as a form of resistance, see Eric Hobsbawm's *Primitive Rebels* (1959) and *Bandits* (1969)). Recent studies have challenged common claims about the degree of "violence" that these agrarian 'uprisings' involved, pointing to anxieties of British colonial rule (see Williams 2003).

²³ In 1922, after the Irish War of Independence (in which the RIC was actively involved), the RIC was dissolved and replaced by the Garda Síochána in the republic and the Royal Ulster Constabulary (RUC) in Northern Ireland.

political interests. The Met model has been juxtaposed to earlier forms of policing, as well as to contemporaneous forms in the colonies and elsewhere, such as the continental model associated with France. These dichotomisations were important in securing buy-in among the population as the idea of a permanent police had been consistently opposed by both the working class and elites who saw a state police as a source of repression and a competing source of authority, respectively. A centralised police force was seen to be inconsistent with the principles of liberalism (Williams 2003).²⁴ The Met was not the first professional police force in London. The private Thames River Police force, created by Patrick Colquhoun, was established in 1798 and then later incorporated into the Met.²⁵ The force was made up of full-time officers responsible for patrolling the river banks and docks to prevent cargo theft.²⁶ The introduction of the Thames River Police contributed to the criminalisation of customary practices, such as dock workers' entitlement to take items of cargo (McMullan 1998). The Thames River Police was an example of the protection that a public police could offer in securing the bourgeoisie's means of accumulation, and this was a key factor contributing to the eventual acceptance of the Met.

The origins of the prevention-oriented public police institution are entwined with the emergence of capitalism and changing social-economic relations shaped by privatisation and the introduction of wage labour (see McMullan 1998). In addition to contrasting the Met model from the RIC and continental policing, a key factor in securing its acceptance among the bourgeoisie was the heightened discursive construction of the "idle" urban poor and working class as a source of danger and potential criminality (Neocleous 2000; Williams 2003).

Colquhoun's theorising of police was based on this assumed connection between poverty, indigence and crime. For Colquhoun, the role of police was to prevent the poor from becoming indigent, and thereby prevent crime. The Thames River Police force was just one of his

²⁴ Several proposals to establish a police force had been made since 1785, but were consistently rejected until the 1828 bill which established the Met (Williams 2003).

²⁵ The private Bow Street Runners were established in 1749 as a formalisation of the practice of "thief-taking".

²⁶ Colquhoun is considered the "creator" of police science in England (Foucault [1973]2000; McMullan 1998). He was a merchant in addition to being a magistrate, which is reflected in his concern with cargo theft.

proposals for different police institutions (see Colquhoun 1806 in Rigakos et al. 2009; McMullan 1998). The underlying moral discourse of idleness as criminality was racialised in colonial contexts. One of the significant parallels in the legitimisation of the Met and RIC was in the construction of “enemy” populations prone to disorder and violence: the idle poor and working class, and the “uncivilised” Irish. The enduring *potential* for disorder or violence therefore provided the justification for permanent police. In the colonial context, the racialisation of the Other (as inherently different and inferior) legitimated more coercive interventions including overtly militaristic policing as in the case of the RIC in Ireland. As discussed in chapter 1, the construction of the Indigenous Other as “uncivilised” was a basis for legitimating imperial conquest with/in international law.

The interchange between metropole and colonies is key to understanding the development of European nation-states and the idea of modernity as formed dialectically vis-à-vis colonialism and the colonial Other. Foucault (2003) describes the interchange of governance practices between the metropole and colonies as a “boomerang effect” whereby colonial control strategies were adopted in the domestic context. However, rather than a “boomerang” of coherent/established strategies, Comaroff (2001:310) emphasizes that the colonies were “laboratories” for modes of regulation and legal mechanisms; this challenges the “myth” that “a well-formed Euromodernity exported itself to faraway places.” Rather than treating the Met and RIC as distinct “models”, there is fluidity among colonial and metropolitan policing practices (Brogden 1987a; Deflem 1994; Marquis 1997). As Marquis (1997) and Anderson and Killingray (1991) argue, colonial police forces were not facsimiles of the RIC, but are organic to the specificity of local conditions in which they are established. Other British colonies were generally not as heavily policed as Ireland. This was largely because of the relative lack of officers to cover large land areas and dispersed populations. Initially, military force was used “to guard, extend, and uphold the authority of the Crown and what was often new and alien law” (Anderson and Killingray 1991:4-5). Rather than crime control, the primary objective of

nineteenth century colonial police was to protect private property and the *pax Britannica* of the empire. In contrast to colonial policing in Africa and Asia, discourses of consent-based policing and accountability emerged in white settler colonies as they gained political authority through the nineteenth century (Anderson and Killingray 1991). The centralisation of policing in Canada was a direct manifestation of the gradual consolidation of the settler state, and emerges dialectally with both Indigenous and settler resistance.²⁷ The fluidity between the “urban” policing embodied by the Met (and the Thames River Police) and the militaristic colonial RIC is reflected in the form of policing that emerged in the Canadian colonial context.

The North West Mounted Police and Settler State Formation

In 1873, the Dominion government established the North West Mounted Police (NWMP), which shared key commonalities with the RIC as both were intended as para- or quasi-military organisations. Like the RIC, the NWMP was under central government control, used military rank structures, had military training and weapons, and its members were housed in barracks (Marquis 1997). Originally, the NWMP were intended to be a force composed primarily of Indigenous (and specifically Métis) officers who would be commanded by British officers. This was the model used in British colonies in India, Africa and the Caribbean (Anderson and Killingray 1991; Deflem 1994). However, the plans changed after the Métis resistance and Red River Rebellions in 1869-1870 and the force was composed of white settler and British officers.

²⁷ Before confederation, policing took different forms in each of the colonies, which were governed by their own administrations (Dickason 2002). In the towns of Upper and Lower Canadas policing had been carried out by local justices of the peace and constables, which reflected urban policing in Britain prior to the Met. In the early-mid 1800s and echoing events in Britain, several inquiries were held in response to political and labour conflicts (“riots”) in the colonies and were consistently concerned with avoiding “blatant sectarian repression by police or militia” which would hinder the establishing of rule of law as a basis for government legitimacy. These inquiries laid the groundwork for the creation of public police forces, as well as provincial and federal police (de Lint and Hall 2009: 56). The first permanent territorial police force was the RIC-modeled British Columbia Constabulary, created in 1858 to prevent US territorial and gold field incursions (see King 1997). Temporary police forces were implemented before this period tasked with protecting infrastructure such as canals and railways (King 1997; de Lint and Hall 2009). The north-west territories were policed by the Hudson’s Bay Company’s constables. When Rupert’s Land was sold to the Dominion in 1869, policing was carried out by local militias and temporary RIC-style constabularies organized by colonial authorities to suppress emergent conflicts involving “problem populations” of French Canadians, Indigenous peoples, Métis and workers in Newfoundland (Marquis 1997).

Many of the commanding officers had been members of the RIC and other colonial police forces (Marquis 2005).

The NWMP were an integral part of the settler state expansion west of Upper and Lower Canadas, established with immediate concerns around stopping US liquor trafficking across the border, and managing conflict between Indigenous people and settlers that were encroaching westward. They protected settlers, ranchers, Canadian Pacific Railway construction, trading posts, and recovered horses and cattle taken by Indigenous peoples. The NWMP also played a role in the making of the Numbered Treaties, which securing Crown access to land in the north-west territories, through their presence at some treaty “negotiations”, facilitating the movement (and confinement) of people to reserves, and distributing payments and rations that were part of the colonial government’s treaty conditions. Reflecting their role in state formation, responsibility for the NWMP was transferred from the Justice Department to the Department of the Interior in 1879 (Marquis 2005).²⁸ In 1918, the RNWMP (the “Royal” prefix was added in 1904) took over responsibility for political policing from the Dominion Police, and in 1920 they fully merged to form the Royal Canadian Mounted Police with jurisdiction for all of Canada.²⁹

Until the 1960s, the RCMP was responsible for policing First Nations, Métis and Inuit communities because of federal government responsibility for “Indians”. In the early 1970s, policing responsibility shifted to the provinces and the Ontario Provincial Police (OPP) and

²⁸ The police power of the NWMP was augmented by contracting with the Pinkerton detective agency to carry out criminal investigations and surveillance of radical political and labour groups. The NWMP was the Pinkerton agency’s biggest client in Canada (de Lint and Hall 2009).

²⁹ After Confederation, the government created the Dominion Police in 1868. Initially the DP was a protective unit for securing the Parliament buildings in Ottawa as well as protecting politicians. Their mandate expanded in 1869 to include security-intelligence work, which included undercover operations related to the Fenian movement in the US. The anti-imperialist and anti-capitalist objectives of the Fenians made the movement of concern to both the settler and British governments (Whitaker, Kealey and Parnaby 2012). One of the catalysts towards the merger was the 1919 Winnipeg General Strike. Through the 1920 and 1930s, the RCMP played a significant role in strike-breaking (de Lint and Hall 2009). Intelligence operations were central to the policing of labour conflict, political movements and Indigenous communities (de Lint and Hall 2009). The RCMP retained a national security intelligence role within its formal mandate until 1984, when the function was transferred to CSIS (see chapter 5).

Sûreté du Québec (SQ) took over in Ontario and Quebec.³⁰ Like the RCMP, the OPP and SQ are accountable to government rather than to a civilian board, and thus retain a militaristic dimension.³¹ Most First Nations communities therefore continue to be policed primarily by these more militaristically organised forces.

Policing Strategies—Disrupting the Dichotomies

The central task for the NWMP was to establish order in the north-west territories and thereby extend the authority of the settler colonial government. The NWMP had magisterial powers and could act as “self-contained instrument[s] of colonial law” (Nettlebeck and Smandych 2010:360). Autonomy and discretion extended to the use of force in carrying out “justice”. Because of the relative isolation in the north-west territories, Beal and Macleod (1984:28, in Marquis 2005:198) describe the NWMP as “virtually a separate government” as the sole representatives of colonial government and sovereign power. The characterisation of the NWMP as “virtually a separate government” reflects the full extent of their delegated police functions, such as administering rations to reserve communities, delivering mail, and working as land agents, health officers, and electoral officials. As settler presence increased, NWMP administrative tasks expanded to include visiting farms and ranches and reporting on “crop yields, floods and wage levels for farm labourers” (Marquis 2005:201). The NWMP thus embodied police power in fabricating settler colonial order as representatives of, and advancing, sovereign authority.

The NWMP used force against Indigenous peoples and settlers but lacked the resources in terms of personnel and equipment to do so on a regular or widespread basis. Their presence, signalled by the red serge uniform and show of weapons, was intended as a preventative measure, but had to be balanced to avoid provocation because of the physical and financial

³⁰ A de-centralized provincial police were introduced in 1856 to police the northern parts of Upper Canada. This would later be centralized as the Ontario Provincial Police in 1909 (de Lint and Hall 2009).

³¹ The RCMP commissioner is equivalent to a deputy minister, and the OPP commissioner to an assistant deputy minister in the departments currently known as Public Safety Canada and the Ministry of Community Safety and Correctional Services, respectively (Beare 2007).

costs of wars with Indigenous nations (K. Smith 2009). Acknowledging that constant repressive armed force would provoke resistance and militancy, the NWMP relied on surveillance and the use of small patrols aimed at developing “good will” with Indigenous peoples. These were common strategies of colonial policing. Brogden (1987b) describes how paramilitary police forces in Sri Lanka, Jamaica, Guyana, and South Africa engaged in preventative policing through regular patrols and developing knowledge of the local population and geography.

Integral to “good will” and knowledge production was the employment of Indigenous people as scouts and special constables to act as liaisons between the police and communities (Greer 1992; Marquis 1997). The small size of patrol units coupled with the presence of Métis or First Nations scouts decreased the intimidation factor and increased the potential for consent-building. The NWMP established Indian police troops that recruited Indigenous people as scouts and as on-reserve constables. This was supported by the Department of Indian Affairs as a way to reduce financial costs while providing a means of surveillance at a level that white Indian agents did not have access to. The employment of Indigenous people by the colonial institution was also seen as a strategy of “civilisation” that would foster support among employees for the settler system of law and order (K. Smith 2009).

As I discuss further in the next section, the assertion that Indigenous peoples were policed by “consent” requires several qualifications. First and most importantly, the possibility of policing depends on the theft of land and the denial of Indigenous peoples’ sovereignty. Second, continuous non-consensual surveillance was integral to securing “good will”. Third, factors such as the continuing encroachment of settlers and loss of access to traditional means of sustenance sometimes compelled Indigenous cooperation with the police. This “cooperation” included encouraging Indigenous people to report other community members to police and to supply information about the activities of other communities. These practices were furthered by NWMP threats to chiefs that they would be held accountable for the “good behaviour of the[ir] camp” (Nettlebeck and Smandych 2010, citing a NWMP Commissioner’s Report from 1877). In

the context of the Canadian Pacific Railway expansion, widespread starvation encouraged by government policies and exacerbated by the decimation of the buffalo population (see Daschuk 2014), and in the aftermath of the 1885 North West Rebellion, police strategies shifted from “persuasion” towards more coercive methods of control (Harring 2005:117). As Marquis (2005:199) writes, “[t]he conditions that created First Nations unrest [...] ultimately guaranteed the success of the police”.

The extent of police power exercised by the NWMP/RCMP reflects sovereign-juridical power underlying the administrative roles that contributed to the formation of the settler state in producing *geopolitical* order through territorialisation. The myth of the mounted police has become part of nation-building ideology, an institution to be celebrated in contrast with the RIC which was seen as an occupying force, contributing to disorder through a “failure” to maintain “peace”. Of course, this myth and distinction are based on the dominant settler lens. The range of activities undertaken by the NWMP/RCMP as representatives of the sovereign and “the law” were pacification strategies that suppressed Indigenous peoples and nations in the process of securing settler colonial expansion.

PACIFICATION BY COLONIAL POLICY

As I discussed in chapter 1, Enlightenment liberalism recognised the personhood of Indigenous peoples while simultaneously providing the conditions for their subjugation to European authority. Colonialism and state formation were the basis for the emergence of international law. The construction of Indigenous peoples as lacking “civilisation” provided legitimation for colonial invasion. The international legal doctrine of *terra nullius* legitimated colonial claims of sovereignty by erasing Indigenous historical-political presence. Instrumental to the “civilising process” was to bring the “gift” of rule of law to Indigenous peoples (Merry 2004:572). As Comaroff (2001:309) writes, law was not just an “instrument” of domination but more fundamentally, “cultures of legality were *constitutive* of colonialism, tout court”, through the

process of territorialisation, instruments of economic and political rights and, perhaps most significantly, the constituting of Indigenous peoples as a legal category, as the basis for colonial governance. Law provides the “scaffolding” for sovereignty, as a structure for organising the state and the exercise of power (Comaroff and Comaroff 2006:22, referring to Arendt 1998).³²

British colonial policy for the Canadian provinces sought to establish an “orderly frontier” built on the concept of rule of law and “liberal treatment” of Indigenous peoples (Harring 1998:16-17). In large part, this approach was shaped by the cost and “disorder” of the US Indian Wars. Harring (1998) identifies this policy as having two central objectives of preventing colonial wars between Indians and settlers seeking to take their land, and being a means of (re)socialising (i.e. assimilating) Indigenous peoples to the colonial order. The “gift” of rule of law brought, on the one hand, subjection to criminalisation, imprisonment and impoverishment. On the other hand, liberal treatment recognised the “basic humanity of indigenous people” and thus, access to full legal rights—contingent on assimilation. Ultimately, liberal treatment manifested as paternalistic subjugation (Harring 1998:18). The introduction of legal mechanisms in the late eighteenth century should not detract from the fact that most of the dispossession of Indigenous peoples had occurred through force rather than by treaties or compensation and that treaties were often characterised by deceit, manipulation, coercion, falsification, non-fulfilment and violation (Lawrence 2004; Gordon 2010).

Lawfare

The simultaneously destructive and constitutive power of law in settler-colonialism is aptly captured by Comaroff and Comaroff’s (2006:30) concept of *lawfare*, which describes “the resort to legal instruments, to the violence inherent in the law, to commit acts of political coercion,

³² Arendt (1998) identifies the symbiosis of law and the state as evident in Classical Greece in the constituting of polis, the public space (in Comaroff and Comaroff 2006; my emphasis). The concept of police, as production of order in nation-state formation, depends on the foundations of law.

even erasure,” which is most evident in the colonial context. The legal apparatus “launder[s] brute power in a wash of legitimacy, ethics, propriety. Sometimes it is put to work [...] to make new sorts of human subjects” (p. 32). At the same time, reflecting the dialectic of domination and resistance, the Comaroffs emphasize that lawfare has become the arena of political *struggle* in which subjugated peoples engage in counter-hegemony and resistance—through direct appeals for justice, use of constitutional language as a basis for challenging discrimination, and using the prisoner’s “dock-as-platform” of protest (Comaroff 2001:307; Comaroff and Comaroff 2006; also Merry 2004). Indigenous peoples have long engaged legal processes as means of challenging colonizers and asserting the terms of treaties. The judicial system has shaped the relationship between Indigenous peoples and the British Crown since the late eighteenth century (Harring 1998:4).

In the eighteenth and early nineteenth centuries, Indian policy was driven by Britain’s need for the military power of Indigenous nations in imperial wars. After the war of 1812, these military alliances were no longer as useful to Britain or the colonial government. In the 1820s and 1830s, Indian policy shifted to assimilation and away from a framework of sovereign co-existence (Harring 1998:29). In 1860 responsibility for Indian affairs was transferred to the colonies from the British Crown *without the consent of Indigenous peoples*. The *British North America (BNA) Act* of 1867 created the Dominion of Canada, which included taking federal responsibility for the management of “Indians and lands reserved for Indians” in section 91(24). Drawing on Agamben (1998), Williamson (2009) describes this section as a “constitutionalized state of exception” creating a legal category of people to be governed as a *necessary exception* for the settler colonial state. This was the *legal* basis for the centralisation of colonial Indian policy. The 1876 *Indian Act* consolidated existing policies and regulations governing Indigenous peoples while centralising and enhancing the authority of the Indian Affairs bureaucracy based on a paternalistic responsibility as “guardians” of Indigenous peoples and their lands.

Organised through the logics of liberalism-security, these pacification strategies work to eliminate Indigenous (political, economic, cultural, spiritual, psychological) self-determination while constituting the “new” settler society based on capitalist accumulation (Monture-Angus 1999; Alfred 2005a, 2005b; Alfred and Cornthassel 2005; Coulthard 2007). These practices are continuous with policing techniques that fabricate class relations amongst the settler population through the protection of private property, the ordering of spaces, moral regulation and the criminalisation of alternatives to the wage labour market (see Neocleous 2000; Gordon 2006). However, what is significantly *different, which defines Canada as a settler colonial state*, is that Indigenous people are subject to a double legal system because they are governed by a specific institutional apparatus—the Indian Affairs bureaucracy.

Pacification Strategies

Both warfare and the coercive power of the NWMP were integral in the process of *territorialisation*, which expanded and asserted settler state jurisdiction by physically and politically removing Indigenous nations. This was accomplished through a range of strategies from warfare, forced displacement, surveying and enclosure of land, settler occupation, treaty-making processes based on legal extinguishment of title, the reserve system and pass regulation, and privatisation of property (and thus erasure of the commons and exclusion from those lands). In addition to extending the settler colonial assertion of sovereignty, these processes worked to constitute the settler state and capitalist relations by securing access to land for settlement, protecting settler ownership (including the establishment of municipalities), and facilitating infrastructure construction and resource extraction. These geopolitics of territorialisation underlie political, economic and cultural-spiritual elimination as each of these dimensions of self-determination have a connection to land.

The *elimination of Indigenous communities as autonomous political entities* is grounded in territorialisation. As noted above, there was a shift in the positioning of Indigenous nations in

colonial policy from nation-to-nation terms to 'dependents' of the Crown. The creation of "Indian" as a legal category of exception subjugates Indigenous political authority to the colonial sovereign. Between 1885 and 1960, "Indians" were not allowed to vote in federal elections, and from 1927 to 1951 they were prohibited from engaging in political organising, and from mounting legal challenges. The legal exception also enabled the Superintendent of Indian Affairs to directly intervene in community governance by removing traditional/hereditary chiefs and imposing the electoral band council system funded by the government. This has worked as a divide-and-conquer strategy which has fostered divisions that fracture nations and disrupt the political-military power of Indigenous nations and confederacies. By weakening and eliminating competing assertions of political authority, settler colonial sovereignty is territorially expanded. Legal processes of enfranchisement that were contingent on giving up Indian status, and the imposing of band councils are modes of *political* assimilation constituting "liberal subjects of empire" (Coulthard 2007) through their adoption of settler colonial institutions. As I will discuss in the next section, the *rights regime is also a means of political assimilation as collective Indigenous rights that precede the state itself are reconciled with individual liberal rights*. For the settler state, the discourse of liberalism-security is reinforced as the state is positioned as the "protector" of Indigenous peoples, liberal democracy, and population (and economy) via its monopolisation of "legitimate" violence—police-military power. Criminal law worked to delegitimise political struggles *against* the state as 'terrorism/extremism'.

Economically, the displacement of communities from traditional territories also meant severing access to traditional modes and sources of subsistence. This was reinforced through both the criminalisation and regulation of mobility to and from reserves and of activities such as hunting, fishing, and farming. Early Indian Policy sought to exploit Indigenous people as a ready labour source for the industrial market. Reserves and criminalisation were ways of coercing their integration into wage labour. Through elimination of other modes of subsistence, these practices worked to secure a wage labour market and capitalist economy (Satzewich 1997; Gordon

2010). Not only did the elimination of indigenous ways of living contribute to the growing capitalist economy of the state, but displacement made land and resources available for accumulation by settlers (and foreign corporations). Criminalisation secures privatised (stolen) lands and capitalist economic production from interference or competition from Indigenous peoples. Through surveillance and enforcement activities, police *prevent* the threat of insecurity posed by Indigenous peoples' presence.

Cultural and spiritual destruction is entwined with displacement and political-economic suppression. The criminalisation of cultural practices such as the outlawing of potlatches and dances under the *Indian Act* in 1884, the limiting of movement, and the imposition of residential schools were "civilising" practices that attempted to not only eliminate cultural-spiritual identity but also to instil liberal subjectivity and morality. Church-run residential schools "trained" children and youths to adopt settler ways of living while repressing Indigenous languages and cultures. The physical separation of children from communities and their confinement to residential schools disrupted the transmission of knowledge and practices. One of the driving factors for this policy was an effort to foster the concept of private ownership, something that was reinforced with a later amendment restricting the sale of hunted animals or produce cultivated on reserve without the approval of Indian agents (Purich 1986). Prohibitions on alcohol, gambling and visiting poolrooms reflected morality concerns, and were reinforced by vagrancy provisions of the *Criminal Code*. While the suppression (elimination) of cultural difference was the objective of earlier assimilation strategies, cultural difference is now managed through the discourse of multiculturalism, as I discuss below. Whether in the earlier form of elimination or the current multicultural discourse, processes of cultural assimilation are integral to the formation of nation-state identity.

Agents of Pacification

The Indian Affairs bureaucracy and NWMP were both central in these various strategies of pacification. While each institution deployed distinct forms of power, there is significant overlap. In the Department of Indian Affairs (DIA) bureaucracy, the role of the Indian agent was pivotal to the department's ability to carry out its mandate of "managing" Indians and Indian lands. Indian agents headed local Indian Agencies, which served as the "field operations" of the DIA. Agencies managed Indian bands and reserves within a certain geographic region even where bands might be parties to different treaties (Satzewich 1997). There was significant variation between regions in the specific administrative tasks undertaken by Indian agencies, which ranged from school and health inspections, managing farming operations, administering rations, and enforcing compliance with *Indian Act*. With the quasi-autonomy of Indian agents, they can be described as "petty sovereigns" (Butler 2004)—bureaucrats who exercised the prerogatives of the settler colonial government through their own discretion. The agents themselves were invested with political-legal authority exercised through various powers. Agents had the power to affect changes in band governance/leadership, to enforce residential school attendance (1884), controlled the movement of Indigenous peoples through the pass system,³³ issued rations based on their assessment of need, and restricted cultural practices (Satzewich 1997). The Indian agent could preside over band council meetings although without voting power. Yet, their presence was an important form of surveillance that, as Titley (1986) notes, could exert significant influence over proceedings. In addition to these administrative powers, Indian agents were empowered in 1881 to act as justices of the peace; in 1890, their legal power was further expanded as they were invested with power to enforce the anti-vagrancy laws of the *Criminal Code* (Dickason 2002).

³³ The pass system was a policy developed by Indian Affairs after the North West Rebellion to prevent people from leaving their reserves. Anyone seeking to travel had to obtain permission from the Indian Agent who would provide a pass indicating the purpose and length of time permitted for being off-reserve. Those found off-reserve without a pass could be apprehended by police and returned to their reserve. Because there was no legal basis for the pass system, the NWMP became hesitant to enforce it, creating tension with Indian Affairs.

While Indian agents were empowered with political-legal authority to enforce Indian policy, the police institution retained authority to use coercive force when Indigenous peoples refused to comply with imposed conditions and engaged in active resistance. In addition to organised and armed mobilisations, resistance occurred on an everyday basis through, for example, refusals to farm, leaving the reserve without permission, continuing to engage in traditional hunting, fishing and cultural-spiritual activities, and running away from residential schools. The NWMP relationship with DIA was a reciprocal one in providing enforcement and surveillance, but also in receiving information from Indian agents regarding the communities, especially concerning the number of guns on reserves and the movement of people to and from the US (K. Smith 2009). Smith (2009) writes that conflicts between the NWMP and DIA were constant as each felt that the other institution was interfering with its activities and jurisdiction. This is a dynamic that, as will be discussed in chapters 5 and 6, continues to characterise the relationship between these two institutions. The pass system became a source of contention between DIA and the NWMP—because it lacked a legal basis, officers became increasingly hesitant to enforce it (K. Smith 2009). NWMP officers also sometimes played the ‘good cop’ role, in opposition to Indian Affairs. The police would sometimes intervene to advocate in Indigenous interests, such as the provision of rations. As Smith (2009) notes, this was not necessarily an altruistic move but motivated by *security* concerns that deprivation could lead to unrest, which the police would have to deal with.³⁴ The NWMP’s distancing of itself from the DIA in some situations parallels the contemporary tendency for police to explicitly adopt a “neutral” position in land disputes.

Despite the tensions between the NWMP and Indian Affairs, both institutions were central to the formation of the settler state. In the various mechanisms of colonial policy

³⁴ Indeed, Dyck (1986) argues that deprivation of food was a catalyst for mobilisation among some Cree Nations in the west led by Chief Poundmaker during the late nineteenth century. However, as conditions worsened some nations eventually signed onto treaties and settle on reserves for rations. Noel Dyck. 1986. “An Opportunity Lost: The Initiative of the Reserve Agricultural Programme in the Prairie West.” Pp. 121-137 in *1885 and After: Native Society in Transition*, edited by F. L. Barron and J. B. Waldram. Regina: University of Regina Press.

discussed in this section, we can see the simultaneous deployment of both coercive and “liberal” administrative modes of power enacted by the agents of both the police and Indian Affairs bureaucracy. These strategies were enabled through law and legitimated by liberal “civilising” discourse.

PACIFICATION BY THE LIBERAL LEGAL RIGHTS REGIME

Since the late twentieth century human rights have become the dominant logics of contemporary lawfare. In the post-World War II period, the concept of “civilisation” was displaced in international law by the concept of human rights as standards or measures of belonging in international society (Neocleous 2011c). As I discussed in chapter 1 and earlier in this chapter, “civilisation” was a key rationale legitimating imperial conquest and colonial strategies of elimination. Historically, the concept of “civilisation” was conflated with police power as the production of order out of *disorder*—this is particularly evident in colonial contexts (Neocleous 2011c). Reflecting the dialectic of law and violence, the construct of human rights emerged as a means of regulation in the context of intense political violence in the twentieth century (Hajjar 2004, referencing Sarat and Kearns 1993). Human rights have become a rationale of *pacification* in producing internal and global order.

The post-Cold-War fetishisation of law and constitutionalism has been characterised by the emergence of a global human rights paradigm (Comaroff and Comaroff 2006), which has intensified since the 1980s (Hajjar 2004). Goodale (2005:556) describes the human rights paradigm as “superliberalism” which has “conditioned” struggles in ways that “consolidate” existing hegemony of liberal legality. This context has intensified the “judicialisation of politics” as legal (courts) and quasi-legal venues (tribunals, commissions) become the primary spaces of political contention (Comaroff and Comaroff 2006:27). In this space organised by the logics of liberal rights, *rights as an object* become a substitute for material self-determination, reparation, and structural or institutional changes (e.g. Orkin 2003). Drawing on Fanon, Coulthard (2007)

argues that in this liberal-rights regime context, the “freedom and independence” of Indigenous peoples are taken up as a politics of recognition through processes of negotiation, constitutional amendments, and the “bestow[ing]” of “rights”. These processes *pre-empt* contentious modes of struggle and conflict (p. 448). Alfred (2011:9) thus describes reconciliation as a “pacifying” discourse. As a dominant discourse of Indigenous–settler relations, the politics of recognition frames rights, cultural distinctiveness, self-government, and state obligations in ways that reproduce (strengthen) colonial structures of domination rather than transforming or dismantling them (Coulthard 2007).

In white settler states, multiculturalism has become a strategy of assimilation and a discourse shaping the politics of recognition (Bannerji 2000; Thobani 2007; Veracini 2010). As Alfred and Cornthassel (2005) argue, the category of “aboriginal” renders Indigenous peoples as an *ethnic* group among the plurality, which erases the colonial dynamic that is unique to Indigenous peoples. Self-determination and liberation struggles are channelled through politics of cultural recognition and reconciliation (Barkan 2000; Bannerji 2000). The assertion of Indigenous self-determination and inherent rights become cast in popular discourse as demands for “special treatment” inconsistent with multiculturalism and liberal equality.

While the human rights paradigm emerges from and organises international-global order, the rights regime is very much a state apparatus. Rather than a weakening of “the state”, the human rights regime strengthens states’ sovereignty assertions. As Alfred and Cornthassel (2005:603) write, Indigenous issues have been “domesticated” in the sense that rights of self-determination are confined “to a set of domestic authorities operating within the constitutional framework of the state.” While there may be international rights instruments such as the UN Declaration on the Rights of Indigenous Peoples, Indigenous self-determination continues to be subsumed by the settler state assertion of sovereignty through its legal apparatus. The liberal politics of recognition work through mechanisms such as land claims processes, ‘development’ projects, and self-government agreements to reconcile Indigenous nationhood with settler state

sovereignty through accommodations around land, political autonomy, and economic initiatives (Coulthard 2007).

Coulthard (2007) argues that these accommodations sustain dominant colonial institutions, which are based on terms (and limits) for recognising Indigeneity that are defined by the state. Drawing on Fanon, he argues that these processes constitute Indigenous peoples as “subjects of imperial rule” (Coulthard 2007:443). Alfred and Corntassel (2005:612) contend that pursuit of change through these institutional(ised) forms “further embed[s] Indigenous people in the colonial institutions they set out to challenge” because of the inherent “logical inconsistencies” of these institutions.

Rights Lawfare

The contemporary Canadian rights regime is symbolised by the constitutional enshrining of *individual* rights. The 1960 Bill of Rights was the first piece of Canada’s post-World War II international human rights commitment. Canada’s inclusion of a *Charter of Rights and Freedoms* in its 1982 constitution marks its status as a liberal democratic nation-state within the global order, engaged in practices favourable to investment and accumulation. The inclusion of Aboriginal and treaty rights within the Constitution (section 35) and the *Charter* (section 25) were symbolic of Canada’s recognition of Indigenous rights. Engagement in negotiation and reconciliation processes reflect a state’s “political stability” in moving “beyond” past conflict or disorder and securing conditions amenable global capital (Barkan 2000:xxvix; Goodale 2005).³⁵

Aboriginal and treaty rights are based on recognition of the existence of Indigenous societies prior to settler arrival and therefore are *not derived from the settler state*. This, in itself, is a fundamental conflict with settler colonial sovereignty. Indigenous collective rights (of self-

³⁵ Further, willingness to apologize “has also become a liberal marker of national political stability and strength rather than shame. It is an attempt to recognize that nations have to come to terms with their own pasts, primarily responsibility for the others, their victims.” (Barkan 2000: xxvix).

determination) are often the target of extinguishment via negotiations and land claim settlements through conversion to individual rights. The struggle to have these rights upheld reflects a conflict between the dominant liberal regime of *individual rights* versus the *collective* or group nature of Aboriginal and treaty rights. Alfred (2005b:112) writes that “Indigeneity is legitimised and negotiated only as a set of state-derived individual rights aggregated into a community social context—a very different concept than that of collective rights pre-existing and independent of the state.” Cornassel (2008) identifies four core ways in which liberal rights discourse is antithetical to Indigenous self-determination. First, he argues that liberal rights compartmentalise different dimensions of self-determination so that political-legal recognition is separated from the interrelationship of resources, livelihoods, sustenance, and land. Second, rights frameworks have been used to deny and erase the existence of Indigenous peoples. This occurs, for example, through *Indian Act* status and the rendering of Indigenous peoples as “ethnic minorities” through multiculturalism discourse. Third, the individualism of rights discourse de-emphasizes cultural relationships with family, community and the natural world. Fourth, the rights discourse “limits the applicability of decolonisation and restoration” because it sets restrictions for the scope of decolonisation (p. 108).

Indigenous scholars such as Patricia Monture-Angus (1999), James Sákéj Youngblood Henderson (2002), Glen Coulthard (2007), Taiaiake Alfred (2005b), Jeff Cornassel (2008) and Mary-Ellen Turpel (2009) have emphasized that liberal rights-based discourse works to limit self-determination in ways that reproduce and reinforce colonial institutions. Most fundamentally, claims must use the language, concepts, and frameworks of the dominant apparatus. Indigenous self-determination claims are forced to fit Eurocentric conceptions of sovereignty, which are incompatible with understandings of the interconnectedness of land, politics, livelihoods and culture. However, while rejecting the legitimacy of the colonial legal apparatus as *the* means of self-determination and decolonisation, rights discourse can be used

“as a conscious strategy” (Monture-Angus 1999) to defend against continuing colonisation and to “open new indigenous spaces” (Corntassel 2008:123; see also Turpel 2009).

Reflecting the dialectical nature of resistance and pacification, gains have been made in the rights-based arena of *lawfare*—although not without significant limitations—such as the constitutional recognition of Aboriginal and treaty rights. For example, the removal of *Indian Act* prohibitions on political activities facilitated mobilisations in the 1960s that led to the inclusion of Aboriginal and treaty rights within the Canadian constitution. A number of regional and national Indigenous peoples’ organisations formed in the 1960s and 1970s including the National Indian Brotherhood (1968), the Inuit Tapiriit Kanatami (1971), and the Native Council of Canada (1972) (later renamed Congress of Aboriginal People).³⁶ Legal cases have produced decisions that incrementally acknowledge inherent rights. For example, the 1973 *Calder* decision affirmed that Indigenous peoples’ land title and rights derive from their occupation of these lands before European arrival.³⁷

Yet, it must be emphasized that in many cases, these gains have come because of extra-legal mobilisation by Indigenous peoples, including the 1980 Constitutional Express and direct actions. In the drafting of the constitution, protection of Aboriginal and treaty rights was proposed as section 34. However, because the federal government sought provincial buy-in, the section was cut because these rights would conflict with provincial jurisdiction over natural resources. The implication was that provinces would have to share jurisdiction with Indigenous

³⁶ The Federation of Saskatchewan Indians was created in 1966 and was the first native organization to receive a grant through the federal program. One of the first Indigenous organizations was the Grand Indian Council of Ontario and Quebec, composed of Haudenosaunee and Ojibwa nations. The Council folded in 1870 when the Department of Indian Affairs cut off funds. In the 1930s and 1940s several organizations were established, including the founding of the Native Brotherhood of British Columbia (NBBC) in 1931, the Indian Association of Alberta in 1939, and the Union of Saskatchewan Indians in 1946 (Purich 1986). In 1943, the NBBC led a trek to Ottawa in protest of the federal taxation of native fishers. The Brotherhood and the trek led to the formation of the National Indian Brotherhood in 1968. The extent of indigenous political mobilisation in this period is reflected by the increase from one national and nine provincial organizations in the 1950s, to four national, one regional and 33 provincial organization within the decade (Purich 1986). Of course, this does not account for the extent of less formal, grassroots modes of organizing.

³⁷ *Calder et al. v. British Columbia (Attorney General)*, [1973] SCR 313. The *Calder* case was a Nisga’a land claim that ultimately failed. However, the Supreme Court’s split ruling reinforced the pre-existing inherent land rights of Indigenous peoples. The Nisga’a later negotiated a comprehensive settlement under the comprehensive claims process introduced as a result of the *Calder* ruling.

communities (Hall 1991). As Hall (1991) notes, the Indigenous population was seen as having insufficient electoral power to threaten politicians; however the power of mass mobilisations led section 35 to be re-inserted.³⁸

The formal recognition of Aboriginal and treaty rights in section 35 has provided a basis for legal challenges to violations and encroachments. However, because of the ambiguities of section 35, it falls to the courts to interpret Aboriginal and treaty rights. In several cases, these rights have been upheld. For example, the 1984 *Guerin* case reaffirmed the pre-existence of Aboriginal rights before European settlement and that the federal government had a fiduciary responsibility to Indigenous peoples.³⁹ In the *Sparrow* (1990) and *Adams* (1996) decisions, the Supreme Court held that section 35 rights to fish supersede provincial fishing regulations in BC and Quebec respectively.⁴⁰ At the same time, judicial interpretation has also compromised the constitutional protection of Aboriginal and treaty rights. Although the 1997 *Delgamuukw* decision affirmed that section 35 protected Aboriginal title, the court ruled that the guarantee of exclusive use and occupation of land could be infringed by the Crown based on “compelling and substantial legislative objective”, which could include infrastructural, resource and economic ‘development’ projects, environmental protection initiatives, and “general economic development” of interior British Columbia.⁴¹ As Henderson (2002:37) states, “[b]y their interpretations of the constitutional order and of our treaty order, the courts created the colonial structure of federal Indian law.” Most recently, these constitutional protections have been further eroded through the Conservative government’s unilateral adoption of omnibus Bill C-45 (*Jobs and Growth Act*), which included amendments impacting Indigenous self-determination (see

³⁸ Similarly, in the initial drafting of the Charter, there was a provision (section 26) that the Charter could not be used to deny “non-Charter rights”—such as Aboriginal and treaty rights. Protests and mobilisations by Indigenous peoples and organizations against the ambiguity of this draft provision led to section 25, which specifies that Charter rights do not “abrogate or derogate” from Aboriginal and treaty rights, including those recognized in the 1763 Royal Proclamation.

³⁹ *Guerin v. The Queen*, [1984] 2 S.C.R. 335.

⁴⁰ *R. v. Sparrow*, [1990] 1 S.C.R. 1075; *R. v. Adams*, [1996] 3 S.C.R. 101.

⁴¹ *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010.

Diabo 2012). Diabo (2012) describes these as part of a “termination plan” enacted by the Harper government, which follows a legacy of political-legal attempts to destroy Indigenous communities through assimilation.

Drawing on Povinelli (2002), Coulthard (2007) argues that rights are “recognised” by the Canadian state (and settlers) as long as they do not disrupt political-economic relations. As pacification strategies, rights-based processes produce social order conducive to accumulation. Land claims are geared towards extinguishment of Indigenous title and privatisation of land as property, while economic projects encourage adoption of capitalist relations and incorporation of Indigenous peoples as a labour source (see Coulthard 2007:452). Alfred (2005a:42) points out that self-government agreements are based on the *delegation* of political power by the sovereign state to a “minority peoples’ [...] within the polity as a whole.” Pacification is not zero-sum—rather than losing authority, by delegating a degree of political power to communities “and by foregoing a small portion of the moneys derived from the exploitation of indigenous nations’ lands,” settler state sovereignty is secured by preventing radical challenges (Alfred 2005a:44).

Negotiating Rights: Comprehensive and Specific Claims

Two of the most significant institutionalised spaces of contemporary lawfare in which recognition of Aboriginal and treaty rights are negotiated are the quasi-legal comprehensive and specific claims processes administered by Indian Affairs. Historically, treaty-making was a key mechanism of settler colonial lawfare, providing the state with a legal foundation for the assertion of sovereignty and subjugation of Indigenous peoples. Between 1927 and 1951, the Crown stopped treaty-making when the *Indian Act* was amended to make it illegal for First Nations to use band funds for legal challenges. The lifting of restrictions in 1951 on the use of government money to research land claims was crucial for communities to engage in negotiations. In the 1970s, the federal government began to provide funding to organisations for researching and documenting their land claims. On the surface, this reflects a liberal

commitment to reconciliation. However, these legal processes are always limited by their contradictions or “logical inconsistencies” (Alfred and Corntassel 2005:612). The comprehensive and specific claims processes established in 1973, in response to the *Calder* decision, are a prime example of this contradiction as the state—through Indian and Northern Affairs Canada (INAC)—plays a dual role as both negotiator for and defendant against Indigenous rights assertions.⁴²

The specific claims process is a venue for addressing grievances stemming from the federal government’s infringements of rights and failures to fulfil obligations under existing treaties. Between 1973 and June 2014, 392 specific claims have been settled out of the 1611 that have been filed. With an average of twenty years to settle a claim, communities and land are left vulnerable to further encroachments as the claim moves through the process (Gordon 2010; Pasternak, Collis and Dafnos 2013). Comprehensive claims have been referred to as a modern treaty-making process for communities that never signed treaties or land surrenders in the past. At the root of the comprehensive claims process is the objective of *extinguishing* Indigenous land title and consequently, of collective rights. In most cases, while First Nations communities have retained some of their traditional territories, the land on which title is given up is transformed to fee simple—private property subject to taxation (see Gordon 2010).⁴³ The government seeks certainty and finality through the claims processes so that the community cannot mount future legal challenges (Johnson 2008; Alfred 2011). Since 1973, 26

⁴² Although proposals to establish claims commissions were made in 1963 and 1965, the 1973 *Calder* decision, which affirmed that Aboriginal rights and title preceded settler arrival, was the major catalyst for the creation of the two claims processes to address the legal precedent. Prior to this, there was no legal mechanism for First Nations to assert land rights. The Office of Native Claims was set up in 1974 to deal with specific and comprehensive claims. In 1986 the Office was abolished and specific areas of responsibility were split among different INAC offices.

⁴³ In 1998, the UN Human Rights Committee found that the extinguishment clause violated the right of self-determination under the International Covenant on Civil and Political Rights. The federal government subsequently changed the language from “extinguishment” to “modified rights” in which collective indigenous rights are superseded by (or converted into) individual rights and a condition of “non-assertion” of Aboriginal and treaty rights. In the Nisga’a Treaty, concluded in 2000, the Nisga’a nation gave up title in exchange for control of approximately 10% of its traditional territory, spread among small plots of land. The treaty also placed limits on Nisga’a jurisdictional authority over waterways and subsurface.

comprehensive claims have been settled, and as of March 2014, 100 claims are in progress (AANDC 2014).

The land claims process is illustrative of how the settler colonial logic of elimination works through an administrative-legal process couched in the liberal mechanism of negotiation to extinguish self-determination while securing settler state sovereignty.⁴⁴ The framework and terms for the claims processes are created by the state. Both comprehensive and specific claims involve long legal-bureaucratic process, which leaves land and resources vulnerable to expropriation, damage and worsening material conditions for a community. The processes have been critiqued for fostering the fragmentation of nations as negotiations will be undertaken with individual communities or bands. The preferred resolution for the state is extinguishment of title for monetary settlement, which can exploit the economically vulnerable circumstances of many communities. There are significant monetary costs for bringing forward claims and participating in the process—from research, hiring legal counsel, travel and lodging during negotiations—which can be an incentive for a financial settlement in order to cover those costs.⁴⁵ Yet, these processes are the *arenas* in which indigenous struggles are institutionalised—the implication is that the assertion of rights outside of these channels is treated as illegitimate and potentially criminalised by the settler state.

The emergence of these legal-administrative mechanisms for responding to land and rights assertions has been a result of organised efforts within the legal regime (e.g. by national and territorial organisations), court challenges (i.e. *Calder*), as well as direct actions. These

⁴⁴ Between 1973 and 2007, 282 claims had been settled. In 2007 the federal government introduced an Action Plan to speed up the process. As of June 11, 2014, the status of the 1611 claims is as follows: 319 are in progress, 1163 have been 'concluded' (392 settled; 410 were found to have no government obligation; 32 resolved through administrative remedy; 320 were closed), 73 cases are in active litigation and 56 cases have gone to the Specific Claims Tribunal. (AANDC Reporting Centre on Specific Claims. Online. http://services.aadnc-aandc.gc.ca/SCBRI_E/Main/ReportingCentre/External/externalreporting.aspx)

⁴⁵ Loans are provided by Indian Affairs with the rhetoric of supporting participation in the process but these loans are a double-edged sword because of significant constraining conditions. Loans are time-limited, which increases pressure to settle especially when coupled with the fact that failure to arrive at an agreement means that bands have to repay loans out of their own funds (as opposed to coming out of a monetary settlement) (Gordon 2010). Even if the government unilaterally ends negotiations, the First Nation must still repay the loan. There is therefore incentive to accept monetary settlement or conversion of land to fee simple rather than hold out for retaining title.

strategies have a common ground—whether by using or rejecting the liberal rights framework—as they expose the inconsistencies of liberal discourse with the realities of enduring structural subjugation. As Rifkin (2009) emphasizes, the power of liberal regimes, that have been so fundamental in legitimating the subjugation of Indigenous peoples, has also produced conditions of *contradiction* as dominant institutions (i.e. the courts) have interpreted and applied law in ways that can work in favour of Indigenous peoples. As Rifkin emphasizes, this is a reflection of the inherent instability of settler colonial legal order and enduring Indigenous resistance. The emergence and intensification of the rights regime since the mid-twentieth century has been marked by widespread Indigenous mobilisation and militancy, which reflects these ongoing contradictions.

MOBILISATIONS, MILITANCY AND “RUPTURES”

In the global context of anticolonial movements and the black power movement in the US, there was an intensification of Indigenous mobilisation in the 1960s and 1970s. In part, these movements emerged out of the contradictions of liberalism made apparent through earlier movements, highlighting racial-colonial oppression in the context of the post-war international human rights discourse. The emergence of Indigenous militancy since the 1960s and certain high profile conflicts have been “ruptures” in the sense that they brought the contradictions of the liberal-democratic narrative of the nation state into stark relief, disrupting the apparent security of settler colonial authority (i.e. sovereignty). I conclude the chapter with a discussion of three significant conflicts at Oka, Gustafsen Lake, and Ipperwash, which continue to haunt both the national memory and the institutional memory of police-military organisations. By focusing on these particular events, my intention is not to de-emphasize everyday acts of resistance and other forms of mobilisation. These “ruptures” did not occur spontaneously, but in the course of ongoing struggles. They have also had lasting effects on the politics of Indigenous self-determination and settler colonial pacification strategies.

As Alfred (2005b:230) writes, these encounters between Indigenous peoples and the state “force state authorities to demonstrate to the rest of the population what warriors already know: there is no morality, no legal base, no fairness, no truth or justice in any form in the state’s power, and its only undeniable power is that of overwhelming violence.” Direct actions that are met with the violence of military power disrupt the legitimating discourses of the settler colonial state and the war/peace binary. What we see is the (re)production or reinforcement of legal liberal discourse as a “solution” through a public commission or inquiry, the introduction of new policy measures, or both. These strategies work to institutionalise contention within dominant legal institutions and (re)assert the sovereignty, and thus legitimacy, of the settler nation-state.

Militancy and the Rights Regime in the 1960s–1990s

The 1960s and 1970s were a period of global anticolonial uprisings, decolonisation movements, the Vietnam War, and the civil rights movement in the United States. In Canada, there was also a visible increase in mobilisations around Indigenous self-determination. As discussed above, *Indian Act* restrictions on political organising were lifted by the 1960s, which contributed to the formation of political organisations. This was also a period in which warrior societies emerged, emblematic of growing political radicalisation influenced by global struggles and most directly by the American Indian Movement and Red Power movement in the US—itsself influenced by the Black Panthers and Black Power. One of the key differences between the US Red Power movement and warrior societies is that the former was largely urban-based, while warrior societies were—are—rooted in communities and accountable to traditional leadership (Alfred and Lowe 2005:11). The first high-profile involvement of a warrior society occurred in 1973 with

the Mohawk Warrior Society at Kahnawake (Alfred and Lowe 2005).⁴⁶ In the late 1960s, the RCMP had identified concerns about the influence of the Black Power and Red Power movements in Canada (Hewitt 2002). An internal memo titled “Red Power – Canada” was produced for headquarters in 1969. The report raised concern that Indigenous protesters—“extremists”—could “exploit” confrontations with RCMP members “for the purpose of gaining public sympathy and support for the Indian cause,” which could have a detrimental impact on the image of the organisation. Paralleling past and *future* discourse, the report noted “that discretion and tact will be of decided importance” during the summer of 1969 to mitigate the threat to the RCMP (in Hewitt 2002:157).

On June 25, 1969, the federal Liberal government released its White Paper policy proposal. Reflecting the destructive and constitutive politics of liberalism, the White Paper drew on the discourse of individual equality recently enshrined in the 1960 *Canadian Bill of Rights* in proposing to eliminate Indian status, which was characterised as a form of differential treatment. This would entail the dismantling of the Department of Indian Affairs, abolishing the *Indian Act*, and phasing out existing treaties, with the implication that Aboriginal and treaty rights would no longer exist. Reserve land would be converted to private property, which could be sold by bands and its members (Purich 1986).⁴⁷ The effect would be to eliminate Indigenous peoples as a legally recognised population—a symbolic erasure with significant material implications. Symbolic erasure would make it legally impossible for the settler state to be criticised for violating human rights of a distinct population. At the same time, it reinforces the state’s commitment to equality defined by individual rights of the legal-liberal regime. The extinguishment of Aboriginal title and treaty rights, and the privatisation of reserve lands

⁴⁶ The Ojibway Warrior Society emerged in 1974, followed by the Mi’kmaq Warrior Society in 1988, the Native Youth Movement in 1996, Okijjida Warrior Society in 1997, and the West Coast Warrior Society in 1999. Warrior societies have become the ‘face’ of Indigenous militancy in Canada whether or not Warrior Societies are involved. As Alfred and Lowe (2005:23) argue, warriors have been represented in mainstream media through enduring racial stereotypes of both the “Noble Savage” and “blood-thirsty renegade”.

⁴⁷ Responsibility for remaining programs would be transferred to provinces, which would effectively be an end of the historical relationship between Canada (as proxy for the Crown) and Indigenous peoples.

facilitates settler territorial expansion and ultimately, augments the settler state's sovereignty claim by politically and territorially eliminating competing assertions of self-determination. The complete assimilation of Indigenous peoples would mean that Canada would cease to be a settler colonial state (see Veracini 2010).

The development of the White Paper involved consultations with First Nations people, but the final paper largely ignored the positions of those consulted. Yet, the *performance* of consultation could be deployed as signalling *consent* of Indigenous peoples to their own elimination. The White Paper was an important catalyst for a wide spectrum of Indigenous mobilisation, ranging from the development of counter-policy position papers (such as the Red and Brown Papers on self-determination) to more militant organising, including the formation of the National Indian Brotherhood. According to Long (1992:121), "the collective response [...] to the White Paper signified the public emergence of a politicised movement of Native Indians that persisted throughout the 1970s and 1980s." This was a period of increased Indigenous militancy, which continued at the same time as the entrenchment of the liberal legal rights regime in Canada.⁴⁸

There were a series of militant actions across Canada from the 1970s leading up to Oka in 1990.⁴⁹ One of the higher-profile events was the 1974 occupation of Anicinabe Park in Kenora, Ontario by armed members of the Ojibway Warrior Society and supported by the American Indian Movement (AIM). The park had been bought by the Department of Indian Affairs intended for use by the Anishinabek people, but was then sold to the municipality of Kenora without consultation. The reclamation action highlighted the abrogation of land rights and sought recognition of rights to the land. While the Warrior Society threatened to destroy a

⁴⁸ See also, Richardson 1989; Hodgins, Lischke and McNab 2003.

⁴⁹ Some of these actions included blockades and reclamations by the Bonaparte Indian Band (1974, housing), various communities in the 1975 "Indian Summer" in BC, the Mi'gmaq at Restigouche (1981, fishing), Nuu-chah-nulth nation (1984, logging in Clayoquot Sound), Haida nation (1985, deforestation), Lubicon Cree (1988, deforestation), Dene and Métis (1989, pulp mill), Innu in Goose Bay (1989-91, low-flying planes), the Algonquins of Barriere Lake (1989, logging), and Peigan Lonefighters (1990, dam project). See also Clairmont and Potts (2006).

pulp mill and hydro station, the occupation ended when the federal government promised to engage in settlement negotiations (Borrows 2005). On September 30 in the same year, the Ojibway Warrior Society and AIM members led a Native Peoples' Caravan from Vancouver to Parliament Hill where they encountered barricades and RCMP tactical teams that used tear-gas to disperse the caravan (see Purich 1986; Borrows 2005). According to Purich (1986), it was the first time that such a level of force had been used at Parliament Hill. That year the RCMP identified the "Indian movement as the single greatest threat to national security" but this was downplayed by politicians as isolated incidents caused by extremists (Long 1992:127). This is a discourse that continues to be articulated by politicians—as well as police—during high profile actions. The effect is to depoliticise and de-legitimate the actions and claims while reinforcing the legitimacy of rule of law and legal processes.

Kanesatake / Oka 1990

The 78-day standoff of the "Oka crisis" arguably produced the most enduring symbols/images of colonial encounter—warriors dressed in full camouflage face-to-face with members of the Sûreté du Québec (SQ) and Canadian Forces. It also sparked solidarity actions by other communities across Canada, especially in British Columbia (York and Pindera 1999), and contributed to the growth of warrior societies (Alfred and Lowe 2005). According to Alfred (2005b), after Oka, the federal and provincial governments co-opted community leaders through increased funding and negotiation processes. The events had wider effects as the BC and Federal governments quickly introduced a BC Treaty Process, which "subverted the movement" that had been galvanised by Oka (Stewart Philip of the Union of BC Indian Chiefs, in Alfred 2005b:185).

The land on which the standoff occurred has been the site of ongoing struggle since the 1700s. The Mohawks had made petitions since 1781 to have their title recognised (York and

Pindera 1999).⁵⁰ With the stated intent of addressing the land claims of the Mohawks, in 1945 the federal government purchased land in and around Oka that was under Sulpician title and occupied by the Mohawks. However, two years later, the province allowed the town of Oka to expropriate some of the land including the Pines, which were part of the Commons used by the Mohawks. In 1959, Oka planned to lease part of the Pines to a private corporation to develop a golf course. All of these transactions, which resulted in the reduction of the Mohawk land base to one percent of the original area, occurred without consultation and ignored the Mohawk claim to the lands. In 1975, a joint comprehensive claim was submitted by the Mohawks of Kanesatake, Kahnawake and Akwesasne. It was rejected on the basis that the communities could not prove their occupation since “time immemorial”. In 1977, Kanesatake submitted a specific claim, which was rejected in 1986 on the basis that the federal government did not have legal obligations to the community.

In the context of this ongoing history of conflict, the Mohawks set up barricades and engaged in protests beginning in March 1990 to prevent the expansion of the existing golf course and construction of condos on burial grounds. In late June, the mayor and council of Oka obtained an injunction and the Mohawks responded by strengthening the barricade. On July 11, 100 members of the Sûreté du Québec (SQ) carried out a dawn raid and Corporal Marc LeMay was shot and killed in the exchange of gunfire.⁵¹ The SQ retreated and surrounded the barricaded area, leading to a standoff. During the raid, the Mohawks from Kahnawake

⁵⁰ In the late seventeenth century, the Mohawks made peace with French after the destruction of towns and crops by the French. The land was granted to the Sulpicians with the understanding that it would be for Indian settlement, however no formal deeds were made indicating Mohawk land rights. In later struggles, the wampum belt recording the peace treaty with the French was not accepted as evidence of Haudenosaunee land title. After the French loss to Britain in the colonial wars, the Crown assured the Haudenosaunee that they could remain on the lands, which was included in the Royal Proclamation 1763. In 1840, the Crown recognized Sulcpian title, but also that they continued to have an obligation to hold lands for the Mohawks. However, in 1936, the Sulpicians sold portions of the land to a Belgian Baron without consultation. This land included a Commons area used by the Mohawks.

⁵¹ A Coroner's Inquiry (the Gilbert Inquiry) into the death of Corporal LeMay began in 1995, after being continuously delayed in part by the SQ (Swain 2010). The inquiry was unable to definitively identify the source of the bullet that killed LeMay. There was no other formal inquiry into the events.

blockaded the Mercier Bridge in solidarity, which lasted for a month.⁵² The day after the raid, Canadian Forces personnel and equipment were deployed in a support capacity, including surveillance and intelligence operations (Swain 2010). As negotiations were occurring in July between the provincial government and Mohawks, the SQ increased its presence, which contributed to the suspension of negotiations. Supporters arrived from other First Nations across Canada, and there were solidarity actions.

On August 6, Quebec Premier Robert Bourassa requested Canadian Forces involvement under the *Aid to the Civil Power* provision of the *National Defence Act*.⁵³ While the Canadian Forces mobilised, the federal government became involved and tri-party negotiations began again. Bourassa called off negotiations on August 27 and the military planned to remove the barricades at Kanesatake and Kahnawake. The military operation escalated at Kanesatake on September 1, and included psychological tactics such as shining spotlights at night, playing loud music, and doing constant fly-overs. The standoff ended when the Mohawks burned their weapons and left the site on September 26. Thirty-nine people were charged with a wide range of offences.

Soon after the events at Oka, the SQ, OPP, RCMP, and Canadian Forces met to develop an approach that would “move from immediate confrontational roadblock arrest to obtaining a court injunction first and only then enforcement if necessary” (King 1997:72). The injunction would provide police with the authority of law in forcefully dismantling blockades and effecting arrests. However, this approach was not evident at either Gustafsen Lake or Ipperwash, as I will discuss below. The strategy of avoiding confrontation and using enforcement as a last resort (if necessary) was part of the key recommendations of the Ipperwash Inquiry and the policy reforms enacted by the OPP (and RCMP) into the 2000s. After

⁵² The Mercier Bridge is the most direct route between Montreal (island) and the US border.

⁵³ Aid to the Civil Power enables provincial governments—as they have jurisdictional authority over the administration of justice—to request military assistance to civil authorities (i.e. police) in restoring “public order”. *National Defence Act* (R.S.C., 1985, c. N-5). The provincial legislative power is in the *Emergencies Act*, which replaced the *War Measures Act* in 1988.

Ipperwash, the use of injunctions became more contentious within government and police. At the same time that these forces were discussing strategies of de-escalation, the SQ increased the size of its Groupe D'Intervention (tactical unit) (Cormier 2011). The introduction of de-escalatory measures alongside the enhancement of coercive capacities is a pattern that occurred after both Gustafsen Lake and Ipperwash.

Ts'Peten / Gustafsen Lake 1995

Most First Nations in British Columbia did not engage in treaty-making with the British Crown.⁵⁴ Much of British Columbia remains unceded territory, including Ts'Peten, the site of a month-long standoff between Secwepemc people and the RCMP and Canadian Forces. On June 15, 1995, Secwepemc people went to hold the Sun Dance on land within a ranch near 100 Mile House, BC, which they had done for previous five years. However, after initially agreeing to have people on the land, the ranch owner Lyall James obtained an eviction notice to force the 21 participants to leave, but they and supporters refused, deciding that it was time to reclaim a sacred site. In refusing to engage in dialogue, the provincial NDP government adopted a "law and order" discourse that characterised the protesters as criminals and terrorists.

First Nations RCMP members were engaged as negotiators and had developed rapport with the land defenders. They had advised the organisation against taking enforcement action and argued for continuing negotiations. However, on August 17, the officers were pulled out and reassigned ("Native officers ignored" 1997). The next day, the RCMP Deputy Commissioner made informal inquiries into acquiring Canadian Forces armoured personnel carriers (APCs). The official request was made on August 25 for nine Bison APCs, bomb disposal units, rations, equipment, and Joint Task Force 2 (JTF2) ("A Chronology of the Gustafsen Lake Standoff"

⁵⁴ The exceptions are Treaty 8 (1899), part of the Numbered Treaties, and the Douglas Treaties (1850-54).

1996).⁵⁵ Canadian Forces initiated Operation Wallaby and “Camp Zulu” was set up as a secret joint RCMP–Canadian Forces command post. The RCMP’s Operation Iron Horse treated the standoff as a counter-insurgency operation. The defenders were armed and there were numerous exchanges of gunfire with the RCMP.⁵⁶ The standoff intensified into September, as the RCMP declared the area around the camp a “no-go zone”. On September 11, the RCMP engaged in a “gun-battle” with the defenders.⁵⁷ On September 13, the RCMP requested JTF2 take over for its depleted Emergency Response Team (“A Chronology of the Gustafsen Lake Standoff” 1996; Pugliese 2002). The standoff ended on September 17 as remaining defenders left camp after the intervention of spiritual advisor John Stevens. Eighteen people were charged and tried in a year-long trial that was the longest and most costly in history. The defense of colour of right was rejected by the judge and fifteen people were found guilty of various charges.⁵⁸

One of the key concerns informing RCMP command decisions was to avoid the kind of political and organisation fall-out of Oka.⁵⁹ Reflecting the counter-insurgency approach taken by the RCMP, commanders approved smear and disinformation tactics to criminalise defenders and build support for the force and its response. These tactics included the strategic release of information, deliberate *misinformation* and misrepresentation to the media, and denying journalists’ access to the defenders. These politics of optics were shaped by the recent events at Oka, as well as the intent to “send a message” to concurrent protests and blockades in BC at

⁵⁵ JTF2 is a special operations unit used in counter-terrorism operations; the unit and its activities are classified. It was created in 1993 when the Canadian Forces took responsibility for counter-terrorism operations from the RCMP (Special Emergency Response Team).

⁵⁶ Despite the scale of the state response and gunfire from both sides, just one woman was shot and injured by police and a Canadian Forces member lost a hand when a bomb detonated while he was setting it.

⁵⁷ The precipitating event occurred when a truck driven by two people entered the no-go zone and hit “datasheet” explosives laid by the RCMP. The two people in the truck were unharmed and contrary to RCMP claims, were found to have been unarmed. They ran under fire, and were covered by other defenders. Over three hours, the RCMP fired 20,000 rounds to 200 rounds fired by defenders.

⁵⁸ In 2000, James Pitawanakwat, one of the defenders, left a half-way house and went to Portland. Portland refused to extradite on the basis that he had been criminalised for participating in a legitimate political action (Dickason 2002).

⁵⁹ RCMP Assistant Commissioner Brown’s personal notes (August 10, 1995) [court evidence]. *Settlers in Support of Indigenous Sovereignty-Gustafsen Lake Archives*. Retrieved April 14, 2014 (<http://sisis.nativeweb.org/gustlake/trial.html#update>).

Penticton, Adams Lake, Douglas Lake and Nanoose Bay.⁶⁰ The RCMP had engaged Mike Webster, a psychological warfare expert, as a consultant during their operation. Based on the experience at Gustafsen Lake, Webster later wrote a “learning module” for the RCMP. According to Webster, one key to the RCMP's “success” was that negotiation and force were used co-jointly to “make it difficult [for the “opposition”] to disagree”. Thus, “force [was] utilized as a tool to educate not fight.”⁶¹

The operation involved over 400 officers, and the combined cost of the RCMP-Canadian Forces operation exceeded five million dollars making it the largest and most expensive domestic paramilitary operation in Canadian history to that point. It was the first time that the RCMP used APCs and that its Emergency Response Team had been deployed in an extended operation. The BC RCMP used the events at Gustafsen Lake as an argument to support requests for armoured personal carriers and in 1998, the organisation purchased 4 APCs from General Motors. Despite the scale of the operation and the evidence that emerged during the criminal trial about RCMP practices, the BC government refused to establish an inquiry.⁶²

Aazhoodena / Ipperwash 1995

Overlapping with events at Gustafsen Lake was the reclamation of Camp Ipperwash and Ipperwash Provincial Park from 1993 to 1995. Like Oka and Gustafsen Lake, the events at Ipperwash made explicit the enduring reality of settler colonial violence. At the root of all three cases is an ongoing struggle over land and cultural-political autonomy. The Kettle Point and Stoney Point reserves were created in 1827 by the Huron Tract Treaty, which allowed the

⁶⁰ These tactics were revealed during the defenders' trial, which shed light and brought criticisms of RCMP tactics. RCMP Assistant Commissioner Brown's personal notes (August 10, 1995); Sgt. Ryan's testimony, (February 3, 1997) [court evidence]. *Settlers in Support of Indigenous Sovereignty-Gustafsen Lake Archives*. Retrieved April 14, 2014 (<http://sis.nativeweb.org/gustlake/trial.html#update>).

⁶¹ Webster, Mike. 1998. “Use of Force and the Gustafsen Lake Barricade.” *RCMP Learning and Development*. Retrieved from Internet Archive April 14, 2014 (<http://wayback.archive.org/web/20000311135555/http://rcmp-learning.org/docs/ecdd0085.htm>).

⁶² During the Hughes Commission into RCMP conduct during the 1997 Asia-Pacific Economic Conference protests at the University of British Columbia, activists sought to make connections to the Gustafsen Lake events and the fact that there was no inquiry.

Crown to secure access to land for settlers. The “negotiation” of the treaty resulted in the First Nations losing more land and receiving less compensation than intended (Linden 2007a:672). Since 1912, the Crown continued to pressure the communities for additional land, leading to surrenders in 1927 and 1928. In the 1990s, the bands challenged the legal validity of the 1927 land surrender. The courts ruled that the transfer was legal but questionable in terms of the “moral” obligation of the Crown to First Nations peoples. In 1928, the province bought a portion of the surrendered lands (which were not the subject of the court challenge) from the Federal government, which became Ipperwash Provincial Park in 1936 through settler pressures for access to the shore. In 1942, under the *War Measures Act*, the federal government expropriated land comprising the Stoney Point reserve for the purpose of building a military base during World War II, with the promise of returning the land to the First Nation afterwards (Linden 2007a:673).⁶³

After decades of inaction by the federal government, members from the communities began protests in July 1990 at the Camp Ipperwash base. In 1993, Stoney Point members entered the military range and set up tents and a trailer. The Department of National Defence (DND) announced the closure of Camp Ipperwash in February 1994 and indicated that the land would be returned. This did not occur and military equipment and personnel remained on site into July 1995. Out of enduring frustrations and tensions with military personnel, the protesters expanded the reclamation and moved to occupy the military barracks on July 29, 1995. There were altercations between the protesters and military personnel, and the base commander brought in First Nation negotiators. The DND subsequently vacated the site to avoid further escalation. The OPP deployed ERT members and undercover officers to conduct surveillance. The provincial government took a “watch and see” approach” (Linden 2007b:13). The issue was

⁶³ The invocation of the *War Measures Act* is significant as it legitimated the Crown’s abrogation of existing treaty rights in the interests of (settler) state security. In chapter 6, I examine how prerogative power of the state is a continuous feature of pacification.

treated as a low-priority for the provincial government, which saw it as a federal problem. On September 4, 1995, the reclamation expanded to Ipperwash Park on the assertion that it was traditional territory and to protect burial sites. The group was composed of members of Kettle Point and Stoney Point First Nations as well as supporters. When it grew in public profile, the Conservative government of Mike Harris explicitly sought a quick end to the reclamation, treating it—like the BC government with Gustafsen Lake—as a criminal law matter.

Two days after the occupation of Ipperwash Park, Dudley George was killed by a sniper from the OPP's Tactics and Rescue Unit (TRU). The shooting occurred in the context of an escalated police operation. The Crowd Management Unit (CMU) and TRU were deployed based on unconfirmed, verbally-transmitted claims that the people in the park had weapons and were mobilising.⁶⁴ Without any communication to protesters about police plans, the presence of officers in “hard tac” gear, coupled with observed boat and helicopter surveillance, fueled protesters' perceptions that police were preparing to move in. In response, protesters engaged in defensive activities anticipating police action (Linden 2007b:58). The OPP deployment of the CMU was intended as “a show of force” to move protesters from a certain area. While protesters did move back, within the park (as intended), one person—Cecil Bernard George—verbally challenged the OPP, waving a steel pipe. The CMU moved in to arrest Cecil George, who was beaten by officers in the process. Protesters emerged to help Cecil George and the confrontation escalated leading to the OPP firing weapons and Acting Sergeant Jeffery Deane shooting Dudley George. Deane claimed that he observed Dudley George with a rifle pointed at

⁶⁴ The precipitating incident was a confrontation between protesters and Band Councillor Gerald George who had been highly critical of the reclamation. A rock thrown at his car created a dent. Gerald George reported the incident to the OPP, also claiming that that protesters had numerous weapons including AK-47s. Shared verbally within the OPP without context, this information was not recorded nor verified prior to the deployment of the CMU and TRU. “Clearly this failure in OPP intelligence that evening resulted in faulty and precipitous decisions at the command post” (Linden 2007b:56). This “critical failure” led to deployment of the TRU, the option of last resort for the OPP based on unverified, wrong information (p.62).

OPP officers, and believed he was about to shoot. There was no rifle found, and Deane did not indicate to anyone at the time that there was a rifle to be secured (Linden 2007b:72).⁶⁵

The Harris government refused calls for a public inquiry, but eight years later the new Liberal government established the Ipperwash Inquiry. In 2009, the Ontario government officially transferred Ipperwash Park to the Kettle and Stoney Point First Nations. In chapter 3 I focus on the findings of the Inquiry and consider the inquiry process as a technique of liberal governance.

The events of Oka, Gustafsen Lake, and Ipperwash were moments of rupture in dominant liberal democratic and multicultural narratives of the nation-state, and continue to shape current discourse on Indigenous-settler conflict. On one level, these events are invoked in reconciliation discourses as reflecting the implications of *past* intolerance, racism, and lack of understanding between Indigenous peoples and settlers. On another level, they are symbolic of the enduring potential of Indigenous militancy *and the galvanisation of wide-spread mobilisation*. These events have become cautionary tales for political, administrative and police institutions. The accumulated experience/legacies of Oka, Gustafsen Lake, and Ipperwash have contributed to shaping the current landscape of settler colonial police-security practices.

CONCLUSION

In this chapter I have framed the formation of the Canadian settler state as an ongoing process of pacification, focusing on the role of the police institution and Indian Affairs bureaucracy in eliminating Indigenous peoples and fabricating settler colonial order. The origins of these institutions are rooted in imperialism and colonialism. They exist because of Indigenous presence and resistance which threaten settler state assertion of sovereignty.

Liberalism has been integral in legitimating settler colonialism, and law has provided “scaffolding” for settler colonial pacification strategies of territorialisation, assimilation, and

⁶⁵ Deane was charged and found guilty of criminal negligence causing death. He was sentenced to 180 days of community service (see Edwards 2003 for more on the trial).

criminalisation. Through the application of rule of law, liberal legalism, and the human rights regime, lawfare strategies are enabled by the omnipresence of coercive power and surveillance. Even as the settler colonial state has intensified liberal strategies of pacification via this rights regime, it has not diminished the potential deployment of coercive force. Governance by lawfare is a disciplinary-juridical mode of power based on the assertion of state sovereignty. At the same time, lawfare is an arena of struggle, and Indigenous peoples have engaged with/in and against this arena, exposing inconsistencies of liberal discourse. The rise of Indigenous militancy since the 1960s makes visible the instabilities of liberal logics of settler colonialism. The events of Oka, Gustafsen Lake, and Ipperwash were significant “ruptures”, which have shaped the contemporary policing practices. In chapters 4 to 6, I examine how these “new” police practices are articulated through the liberal legal rights logic. As settler colonialism is an incomplete ongoing project, there are underlying continuities with historical practices. At the same time, enduring resistance continues to create ruptures of settler colonial order, exposing disjunctures between liberal rights discourse and actual police practices that have manifested as tensions within and between dominant institutions.

In chapter 3, I analyse the Ipperwash Inquiry and its findings in terms of the politics of liberal reconciliation. The Inquiry produced and legitimated a certain problematisation of Indigenous protests that recognises the impact of colonialism, while (re)producing ideals of liberal democratic policing reflecting liberal rights discourse. I argue that the translation of this problematisation within police reforms works to rationalise the conception of indigenous protests as high risk. The most explicit and visible deployment of rights as pacification is in the front-line policing strategies of liaison officers. In chapter 4 I examine how rights are actively used by police to define the limits of protest and as a basis for criminalisation and potential use of force. The objectives of prevention and reconciliation underlie demands for increased *knowledge* about Indigenous communities. This demand for knowledge converges with intelligence-led policing in a way that rationalises surveillance. In chapter 5, I argue that settler colonial anxieties

are translated through rationalising, scientific discourses of intelligence to legitimate expanding surveillance practices. In chapter 6 I return to the relationship between Indian Affairs and police institutions with a focus on the formalisation of ongoing surveillance of Indigenous communities within the paradigm of emergency management. I argue that this paradigm is a manifestation of the colonial emergency, a historical mechanism of executive colonial power that normalises “exceptional” forms of governance in the interest of national security.

CHAPTER THREE

(Re)Securing Legitimacy: Post-Ipperwash Reforms and Testing Grounds

In chapter 2, I examined historical pacification practices in the formation of the Canadian settler state, showing how liberal legalism and the human rights regime that emerged in the late twentieth century has been a site of settler colonial *lawfare*. I argued that resistance creates *ruptures* that make visible contradictions between liberal ideology and liberalism *in practice*, including dichotomisations of police/state power. The events of Ipperwash were amplified in the wake of Oka and Gustafsen Lake. The overt *and lethal* use of violence by police, involvement of military forces, evidence of overt political interference, racism, and disorganisation were starkly inconsistent with discursive ideals of democratic policing. As ways of “doing better”, organisational reforms after Ipperwash strengthen these discursive ideals of policing a liberal democratic multicultural nation-state, which are animated by broader discourses of individual rights and security.

The legitimacy crises faced by individual organisations such as the OPP after Ipperwash, and policing as a whole, are inextricably connected to the broader legitimacy of the settler state as a liberal democracy. The events at Ipperwash created a moment of rupture that revealed the extent that political interests permeated police activities, disrupting the democratic policing ideal of neutrality and non-partisanship. The process of public inquiries and institutional reforms are integral to the politics of pacification in (re)constituting institutional legitimacy.

This chapter draws on the Ipperwash Inquiry final reports and the OPP’s submissions, other texts, and interviews to examine the impact of Ipperwash and the Ipperwash Inquiry on police practices at the provincial and federal levels. I begin with a discussion of the politics of public inquiries and reform in remedying “legitimacy crises” as a site for the symbolic performance of liberal state sovereignty and for the production of “truths”. Through the Ipperwash Inquiry Indigenous peoples’ protests are (re)problematized as an object of policing in

a way that is consistent with prevailing discourses of “ideal” liberal-democratic policing practices. While acknowledging the unique colonial context of Indigenous protests, this (re)problematization is grounded in liberal legal rights logics which underlie ideals of democratic policing. As a public stage, the inquiry process has symbolic political power in re-inscribing these logics as ideals or norms of multicultural liberal democratic society and part of the process of reconciliation.

In the next section, I examine how these logics are evident in the main policy and structural reforms proposed and implemented by the OPP and the RCMP starting in the mid-1990s. These reforms attempted to address systemic issues through (1) the adoption of a proactive and pre-emptive policing framework with an emphasis on building relationships with Indigenous communities in Ontario, (2) implementation of a measured response approach to critical incidents, and (3) the adoption of an official intelligence-led policing framework. While presented as “new” in the specific context of protest management, the reforms implemented and proposed after Ipperwash were consistent with existing trends of community-based policing and intelligence-led policing. These reforms must also be situated in the context of the expansion of the state’s national security apparatus after September 11, 2001. With/in the convergences of these quasi-autonomous processes, Indigenous protests and communities are problematised as objects of police management and of national-security information-intelligence production in a way that is consistent with liberal-security logics of prevention.

If the Ipperwash Inquiry was an opportunity for re-establishing organisational and state legitimacy, subsequent high-profile protests were crucial stages where changes were tested. I conclude the chapter with overviews of four key “testing grounds” between 2006 and 2013 that have shaped the post-Ipperwash landscape of the police-security apparatus involved in responding to Indigenous protests and reclamations. I argue that cycles of *reform* that follow ruptures, couched in terms of *securing liberal ideals and reducing insecurity (risk)*, have the effect of (re)producing settler state sovereignty.

PUBLIC INQUIRIES AS PACIFICATION: ASSERTING POLICE AND STATE LEGITIMACY

As Martin (2007) notes, crises of legitimacy in policing occur when things go significantly wrong, the issue gains public attention, and the problem cannot be simply dismissed as wrong-doing by a few “bad apples.” The shooting of Dudley George and the efforts of his family and community to seek justice brought the OPP’s actions and underlying issues to public attention. The accumulated experiences of Oka, Gustafsen Lake, and Ipperwash occurring in succession within a relatively short period of time exacerbated the scope of the crisis of legitimacy beyond individual “bad apple” actors and even beyond individual police forces. These events revealed disjunctures between existing *norms* of police practices and dominant liberal democratic discourses. This creates moments of rupture in broader hegemonic order, leading to processes of reconstructing police legitimacy and re-securing dominant discourses. In the liberal-legal human rights regime, these processes of “repair” are articulated in terms of *recognition* in the politics of reconciliation.

Politics of Public Inquires and the Politics of Reconciliation

Public inquires and organisational reforms are important venues or conduits of these politics of reconciliation. As “accountability” processes, they are political processes (and performances) that work to re-assert organisational and state legitimacy. As such, they can be understood as a mode of liberal politics, in the framework of pacification, that (re)construct the status quo of ruling relations. The inquiry as a mode of governance originated as an exercise of monarchical prerogative power and was “resurrected” in early nineteenth century Britain as a mechanism of knowledge production about “social problems” (Ashforth 1990:5; Foucault [1973]2000). In the colonial context, inquiries were a means of developing knowledge about colonial populations to inform strategies of control and therefore worked as modes of racial governance (Stoler 2009;

Mawani 2009).⁶⁶ Although this role of knowledge production shifted to bureaucracies, public inquiries remained significant mechanisms of legitimation (Andersen and Denis 2003, drawing on Foucault 1978). They also remain an exercise of executive power as only governments have the authority to establish “official” public inquests, inquiries, or (royal) commissions. Like its historical monarchical use, inquiries work to secure social “peace”. Inquiries can function as “emergency apparatus[es] of government” in response to crises (Platt 1971, in Simon 2005). Simon (2005:1434) argues that commissions of inquiry work to “pacify both proponents and opponents of change” by signaling that “something is being done” but also by delaying change until an inquiry is completed; they are a means of institutionalising and depoliticising conflicts. As Ashforth (1990:12) writes, inquiries “serve in the transforming [of] contentious matters of political struggle into discourses of reasoned argument.” The *rationalisation* of politics occurs through two core dimensions of public inquiries: they are symbolic-performative spaces of liberal-democratic governance, and they are processes of producing and validating knowledge in *defining the “problem”* of inquiry.

As such, Ashforth (1990:9) describes inquiries as “theatre[s] of power” in which the “truth” of state power, as existing to secure “the common good”, is enacted. This is reflected in the characterisation of inquiries as *independent* and thus impartial processes, and through public engagement (via direct participation or as audience). Demands for inquiries or commissions reflect the institutionalisation of this mechanism as a means of “truth” seeking about a precipitating event or social conditions. The initiation of an inquiry thus reflects the state’s commitment to establishing “truth” in the interests of the “common good” (Ashforth 1990).

The second legitimating dimension of inquiries is in the production of “truth” about events or a “social problem”. Through “the rational, impartial, objective and independent procedures” of

⁶⁶ Foucault ([1973]2000:52) describes the inquiry as “a political form—a form of power management and exercise that, through the judicial institution, became, in Western culture, a way of authenticating truth, of acquiring and transmitting things that would be regarded as true”.

inquiries, the findings and final reports (re)produce and legitimate certain narratives about the “problem” which shape dominant discourses and inform policy responses. An inquiry’s final reports are rhetorical texts, which become part of the (colonial) archive as sources of “facts” (Ashforth 1990:7; also Stoler 2009).

While varying in form and mandate, official state apologies, truth and reconciliation commissions, and public inquiries are *lawfare* strategies (Comaroff 2001) of addressing wrongs and reconciling relations between groups, institutions and/or government. These processes/performances signal an “end” or closing point of wrongdoing and the beginning for new relationships (Cornthassel and Holder 2008). While public inquiries (including inquests, inquiries and commissions) have made visible settler colonial violence perpetrated on Indigenous peoples, Razack (2011) and Monture-Angus (2000) argue that this violence tends to be naturalised and relegated to the *past*. As Wakeham (2012:2) writes, reconciliation processes work as “strateg[ies] of containment” that “manage Indigenous calls for social change” according to terms set by the state. Cornthassel and Holder (2008) describe reconciliation processes as a “politics of distraction” grounded in a legal-rights framework that precludes the possibility of the restitution of Indigenous nations’ land and resources. The reparative solutions of these processes are “affirmative” in that they aim to *incorporate* marginalised, or “wronged,” groups into the social order by securing their “buy-in” into dominant liberal-legalistic discourses through their participation in the process of reconciliation (Woolford 2004; see also Cornthassel and Holder 2008; Wakeham 2012). These processes reassert the sovereignty of the liberal democratic settler state through the power to “give” apology and allow for reconciliation while determining their terms.

In the context of public inquiries such as the Royal Commission on Aboriginal Peoples (RCAP), the Ipperwash Inquiry, and the Hughes Inquiry into RCMP actions during the 1997 APEC meetings, the inquiry process and the responses of the institutions that are subjects of the inquiries produce—symbolically and/or materially—changes to organisational practices and

rhetoric that are consistent, or realign, with dominant logics of the state. The public inquiry signals liberal democratic progressiveness through “truth-seeking” and resolution as a matter of *public good*. They are symbolic performances or exercises that demonstrate (and thus, reinforce) the supremacy of rule of law and the narrative of liberal democracy. In the case of Ipperwash and APEC, the OPP and RCMP introduced changes built upon the rejection of “old” practices. These are presented as “progressive” and representative of the ideals of liberal democratic social order.

Repairing the Ruptures of Oka

Oka was a precipitating factor leading to the establishment of the Royal Commission on Aboriginal Peoples (RCAP) on August 26, 1991. The RCAP had a mandate to examine the relationship between the Canadian government, Canadian society and Indigenous peoples. In addition to Oka, an impetus for the Royal Commission was the failure of the Meech Lake Accord, which was filibustered by Manitoba MLA Elijah Harper in protest of the refusal to include constitutional recognition of Aboriginal self-government. Both Oka and Meech Lake reflected failures to uphold the spirit of section 35 in the relatively recently adopted *Constitution Act*.

The RCAP is an example of how public inquiries and commissions are quasi-legal mechanisms of governance that can channel anger and resistance into a settler state process with outcomes (recommendations) that have little material impact. The final reports of the RCAP were released in November 1996, thus overlapping with the events at Gustafsen Lake and Ipperwash. There was significant symbolic value in the RCAP’s overall recommendation that Indigenous-settler state relations be reorganised to recognise Indigenous nations “as political entities”.⁶⁷ However, despite the 440 recommendations, there has been little concrete change

⁶⁷ Andersen and Denis (2003) critique the RCAP’s validation of a conception of nation(hood) as territorially-grounded, which marginalizes urban Indigenous people. This reflects a Eurocentric conception of sovereignty applied to Canadian-Indigenous relations.

by government (Borrows 2002; Andersen and Denis 2003; Monture-Angus 2011). The RCAP was the first major reconciliation initiative of the Canadian government in relation to Indigenous peoples and one of the effects was to reinforce the liberal status of the state and its adherence to human rights after the events at Oka and the Meech Lake process exposed ruptures in those discourses (see Andersen and Denis 2003). While the RCAP findings have not led to material changes, the findings and recommendations continue to be referenced by First Nations groups and in judicial venues (including during the Ipperwash Inquiry), which reflects its symbolic power to shape future political engagements in the reconciliation arena (Andersen and Denis 2003).

The Ipperwash Inquiry

After Ipperwash, the Conservative government of Mike Harris rejected calls for a public inquiry, including from the provincial Ombudsperson and the UN Human Rights Committee in 1999.⁶⁸ Eight years after Dudley George died the newly elected Liberal government launched a public inquiry into the OPP's conduct at Ipperwash and what led to George's death. The Ipperwash Inquiry was established in November 2003 with Justice Sidney Linden, an Ontario judge, appointed as Commissioner with a two-part mandate. The first mandate was a specific inquiry into the events around the death of Dudley George. As an investigative inquiry, the objective was to engage in an "independent, comprehensive and transparent review" of events through a fact-finding process to determine the "truth" of what occurred. The objective was not to identify liability, and thus differs from criminal and civil proceedings. The second, broader mandate of the Inquiry was a policy-oriented review to develop recommendations aimed at "the avoidance of violence in similar circumstances" (Linden 2007c:1). Linden noted that inquiries also serve a third core purpose as a public forum for the presentation of evidence and a space for public

⁶⁸ The George family filed a lawsuit against Mike Harris and other members of government as a means of obtaining information about the events at Ipperwash. The case was continuously delayed by procedural motions by the government lawyers (see Edwards 2003; Hedican 2013). The lawsuit was dropped when the inquiry began.

participation. The inquiry ended in August 2006 and the final reports were released in May 2007. The underlying land claim was settled in 1998, which included \$26 million for the Kettle and Stoney Point First Nation. Camp Ipperwash base was cleaned up, and in 2009 the Ontario government officially transferred Ipperwash Provincial Park to the Kettle and Stoney Point First Nations.

The politics of calling the Ipperwash Inquiry reflected competing provincial political interests. While the Harris government rejected calls for an inquiry and delayed civil proceedings, for the Liberal government the Inquiry was an opportunity to secure its own legitimacy, drawing on the discourse of liberal democratic accountability to distinguish itself from the Harris Conservatives. In the realm of policing, the span of twelve years between the events at Ipperwash in 1995 and the release of Commissioner Linden's final reports in May 2007 provided an extended stage for these politics to play out. Most of the reforms identified as responses to police "failures" at Ipperwash were established or initiated within those twelve years, even prior to the establishment of the inquiry in 2003. This highlights the symbolic power of the inquiry process. Along with the public performance of "truth seeking" regarding the police response and political interference—an exercise of "responsibility"—for the OPP, the inquiry was also a stage on which their reforms could be presented and credibility rebuilt. Commissioner Linden's acknowledgment and tentative approval of OPP initiatives further contributed to re-securing legitimacy for the organisation moving "forward."

The OPP reforms reflect an indirect "affirmative repair" (Woolford 2004) of ruptured social relations by (re)inscribing dominant discourses and working to incorporate Indigenous peoples into a reconciliation process. The findings of the Ipperwash Inquiry are based upon a (re)problematization of the unique context of Indigenous protests as an object of "democratic policing." This official discursive problematization, discussed in the next section, sets the grounds for the "new" way forward for police-Indigenous relations and the basis for re-securing police legitimacy in settler society. These reforms reinforce dominant discourses without

threatening the foundations of settler-colonial society, and the position of Canada as a liberal democracy within the global context. Specifically, self-determination struggles are framed in legal-political terms while strengthening the ideological de-politicisation of police practices.

These organisational reforms are articulated in and through the discourse of legal liberalism; they should not be interpreted as reducing or lessening the potential of violence, which remains an enduring characteristic of police power.

(RE)PROBLEMATISATION OF INDIGENOUS PROTEST AS AN OBJECT OF DEMOCRATIC POLICING

The Ipperwash Inquiry findings and recommendations reflected a (re)conceptualisation or problematisation of Indigenous peoples' protests in liberal democratic societies and the role of police in relation to them. By (re)problematization, I mean the process through which Indigenous protest is understood as a "problem" to be managed by police forces and government. This (re)problematization is contextualised by broader "shifts" in public order policing that have emerged in Anglo-American and western European policing since the late 1980s. The effect of the Inquiry was to legitimate certain policing approaches. In this context, and echoing the recommendations of the RCAP, the Ipperwash Inquiry (1) acknowledges the history of colonialism in Canada and (2) distinguishes Indigenous protest(ers) as "a unique and discrete category" from other forms of political contention in Canada because of the underlying colonial relationship (Linden 2007a:24). As I will discuss, the elements identified in Linden's report as making Indigenous protests *different* from others are rooted in the fundamental conflict of Indigenous self-determination against the settler colonial state assertion of sovereignty.

Liberal Democratic Public Order Policing

Democratic policing is foremost characterised as *consent-based*, dependent on the perceived legitimacy of the police institution and its authority—i.e. the rule of law. As Reiner (2000) notes,

consent depends on acceptance of police authority by the majority of society even when people may disagree with some police actions. By definition, “policing by consent” is the absence of use of force to compel obedience or compliance because it is accomplished through deference to the law. The *minimisation* of the use of violence is essential to maintain police legitimacy in liberal democratic contexts (Bittner 1990), dichotomised with repression-based policing in “non-democratic” or authoritarian regimes.

The legitimacy of the police institution and its practices in providing the “public good” is bound up in the perceived legitimacy of the governing apparatus of the state (i.e. government) and of law itself. At the same time, police legitimacy in Canada and the US is grounded to a significant extent in the foundational ideology of police independence from political influence; police are accountable to law rather than to political interests. This myth of apolitical, non-partisan policing has been thoroughly challenged from within the police studies literature (see e.g. Westley 1970; Skolnick 1975; Manning 1997, 2010; Reiner 2000). Yet this myth continues to be an integral discourse in articulations of “democratic policing”. As discussed in chapter 1, this ideological separation of police and politics plays upon binaries of hard versus soft policing strategies (i.e., the minimisation of use of force), and the distinction between high and low policing (Brodeur 2007, 2010). These binaries of liberalism have been integral in the legitimation of the police institution since the nineteenth century. With the mid-twentieth century emergence of the liberal-legal rights regime as a basis of state sovereignty, the democratic policing principles of consent and political-neutrality have been articulated through the discourse of rights. This has perhaps been most evident in public order policing.

Public Order Policing

Beginning in the 1980s, and crystallising in the 1990s, there was a shift in Anglo-American public order policing to an approach de-emphasizing the use of force in favour of flexibility, communication, and a respect for protest as a democratic right. This shift occurred in the context of the emergent rights regime and the enshrining of individual rights in many of these

states, including Canada. The term “negotiated management” has been used in the US social movement studies literature to describe the “softer” approach in contradistinction to “escalated force” characterised by aggressive reactive policing. This terminology has been adopted by scholars writing in other Anglo-American and European contexts (see e.g. della Porta and Reiter 1998; McPhail and McCarthy 2005; della Porta, Peterson and Reiter 2006). “Negotiated management” is foremost characterised by an explicit emphasis on respect and protection of individual *rights*, including the rights associated with dissent. Second, police forces will often establish designated units to engage in outreach to protesters on an ongoing basis. These units engage potential protesters in the planning of an event.⁶⁹ This third aspect of the negotiation approach involves the “negotiation” of the parameters of an event, such as location and route, timing, types of activities, use of marshals, and police escorts. A central mechanism in this process is the requirement to obtain a permit to hold an event in public space. Fourth, police interaction with protesters is defined by flexibility and discretion in enforcing law with the aim of minimising the use of force and potential escalation.

The overly-simplistic dichotomising of “negotiated management” and “escalated force” has led social movement scholars to develop other explanatory and descriptive models to account for the persistent deployment of aggressive, coercive police tactics during global justice protests, particularly with marginalised peoples and “radical” or transgressive groups (see e.g. Soule and Davenport 2009). Researchers have described other models such as “command and control” (Vitale 2005), strategic incapacitation (Noakes, Klocke and Gillham 2005; Gillham and Noakes 2007; Gillham, Edwards and Noakes 2013), and the Miami model (Vitale 2005, 2007).⁷⁰

⁶⁹ Depending on the size of a force, it may have specialized units or teams assigned to different “populations” or groups, such as labour, Aboriginal, and major events.

⁷⁰ Gillham, Edwards, and Noakes (2013) argue that negotiated management shifted to a “strategic incapacitation” approach in the late 1990s to deal with “transgressive” protests. They describe it as characterized by spatial containment (use of ‘zones’), surveillance, and controlled information production and dissemination. This is similar to de Lint and Hall’s (2009) articulation of “intelligent control”. Vitale (2005, 2007) describes the NYPD’s “command and control” approach as restrictive “micromanagement” of protests and willingness to use coercive force for minor transgressions of law. “Miami model” refers to the approach used at the 2003 Free Trade Area of the Americas

Hadden and Tarrow (2007) attribute these policing approaches to the emergence of large-scale transnational global justice protests and the experience of the “Battle of Seattle” protests in 1999. While these models utilise coercive tactics, they do not represent a reversion to “escalated force” because force is deployed in a *preventative* rather than *punitive* capacity. The aim is to contain and maintain police control of the event, reflecting a risk management approach (see Noakes, Klocke and Gillham 2005; Hadden and Tarrow 2007; Vitale 2007).

There are also *liaison* policing approaches that reflect the “softer” principles of negotiated management, but are still control-oriented. Where “negotiated management” is an *operational* approach, specific to events, liaison policing is ongoing with longer-term objectives of developing and maintaining relationships and ‘trust’ with communities, organisations, and groups that may be *likely* to engage in protests and demonstrations. There is a clear continuity with the community policing philosophy.⁷¹ Palmer (2003) and de Lint and Hall (2009) identify the origins of this approach in Canada in the context of labour conflict in the 1970s. By the mid-1990s, liaison policing was adopted by most forces in Canada.

The conception of ideal public order policing articulated in the Ipperwash Inquiry and the Hughes Commission (APEC), which has become the organising logic informing official police policy, is based on three interconnected themes reflecting a rights-based articulation of consent-based and politically-neutral policing. First, there is an emphasis that *peaceful* protest is a fundamental democratic right that must be protected and facilitated. Second, the police role is to “keep the peace” and maintain public order by preventing violence. Third, police must respect and balance the right to protest with the rights of other parties who may be affected, including

meeting in Miami. It is characterized by surveillance and pre-emptive arrests, use of public relations to create negative publicity for event/protesters, establishing joint-command centres, use of less-than-lethal weapons/special tactics, mass arrests, mass detentions, shows of force, and use of force to clear the streets (Vitale 2007).

⁷¹ On liaison and “dialogue” police in the UK and Sweden, respectively, see Clifford Stott, Martin Scothern and Hugo Gorringe. 2013. “Advances in liaison based public order policing in England: Human Rights and Negotiating the Management of Protest?” *Policing* 7(2) 210-224; David Baker. 2013. “Police and Protester Dialog: Safeguarding the Peace or Ritualistic Sham?” *International Journal of Comparative and Applied Criminal Justice* 38(1):83-104.

property owners. Fourth, the police remain neutral in disputes and their operational decisions are autonomous from political influence.

Indigenous Protest as an Object of Policing

Commissioner Linden (2007a) identified several key factors that distinguish Indigenous protests from other forms of protests, which he situated in the historically-grounded colonial relationship. These dimensions introduce added *complexity* in applying the idealised liberal democratic public order policing model to Indigenous protests. This complexity also increases the *riskiness* of Indigenous protests for police and the state. The most significant factor is the nature of the issues, which often involve land claims and the assertion of Aboriginal and treaty rights. This includes considerations of “colour of right,” which is a legal defence that, in the case of reclamations or blockades, participants have an “honest belief” that the land belongs to them and there is therefore a “moral right” for their actions. These considerations complicate the police objective of balancing and facilitating rights. Another aspect of this complexity is that the issues giving rise to protest actions are long-standing struggles that usually endure after the conclusion of a specific protest action. Because the issues are rooted in settler colonialism, Indigenous protests are often directed at governments, and therefore require responses from them to bring the specific protest action to a conclusion. In terms of the police role, the historical context of police-Indigenous relations, as outlined in the previous chapter, can make it difficult to develop trust on an ongoing basis and in the specific context of protests.

Linden also identified several dimensions that could have operational implications for policing. Indigenous protests often involve a greater number of parties—“stakeholders” in current police vernacular. This includes groups representing different intra-community perspectives (such as political schisms between elected and traditional leaderships), third parties such as property developers, non-Indigenous residents, municipalities, provincial and federal governments, and multiple police forces. Linden’s report (2007a) also identified the

location or setting of protests as distinct because of a tendency to occur in non-urban settings and often on or near Indigenous territories, which complicate issues of policing jurisdiction and resource deployment. Linden (2007a:187) suggests that this may also shape the willingness of protesters to “push back” or at least to feel more secure in their position in the face of police attempts at enforcement—in short, there is a greater likelihood that Indigenous protesters will stand their ground and not disperse (as there is nowhere else to “disperse” to). The other important distinction of Indigenous protests is their greater geographical “disruption potential” through sympathy or solidarity actions by other Indigenous communities across the province and the country.

The articulations of an idealised model of liberal democratic public order policing, and of the unique context of Indigenous protests, emerge from the Inquiry’s findings and inform Linden’s recommendations for police reform. While they are not necessarily “new” discourses, they are (re)affirmed and legitimated as consensual “truths” through the Inquiry and its reports.

INQUIRY RECOMMENDATIONS AND POLICE REFORMS SINCE THE MID-1990s

One of the key themes that emerged in the Ipperwash Inquiry is the importance of communication in managing “critical incidents” and the use of coercive force only as a means of last resort. Underlying this is the recognition of the specific context of Indigenous protests. However, it also resonates with police awareness that coercive responses can have escalatory effects. This “knowledge” about police practice and the specificity of Indigenous protests are reflected in three areas of policy and structural reform by Canadian police forces since the mid-1990s: (1) the establishing of liaison-based policing, which is tied to building relationships with communities; (2) the formalisation of command and control decision-making processes; and (3) the adoption of intelligence-led policing. I begin with a summary of the Inquiry recommendations, followed by a discussion of the first two areas of reforms introduced by the OPP before, during, and after the Inquiry. I also discuss the introduction of policy for municipal

policing in Ontario. I then examine changes within the RCMP affecting their policing of Indigenous protest. While influenced by Ipperwash, RCMP reforms were more directly shaped by the events of Gustafsen Lake and the recommendations of the Hughes Commission. I end the section with a discussion of intelligence-led policing, which was a broader paradigmatic shift that was not a direct effect of these events.

Ipperwash Inquiry Findings and Recommendations

The final Inquiry reports had two sets of recommendations reflecting the dual mandate of the Inquiry. The first set of findings stemming from the investigation of Dudley George's death were largely focused on the OPP but also addressed the actions—or lack of actions—by both the provincial and federal governments. The second set of policy recommendations were more wide-ranging, addressing: treaty relations in Ontario; the land claims process; the duty to consult in relation to natural resources; protecting burial sites; greater public education about treaty relationships; the creation of a provincial ministry of Aboriginal Affairs; policing Aboriginal occupations; First Nations policing; bias-free policing; and clarifying police-government relations. My discussion will focus on the findings and recommendations directed at the OPP and the policing of Indigenous protests.

Linden identified two core elements as contributing to the escalation of conflict and the shooting of Dudley George. First, although the OPP's operational priority was to resolve the event peacefully through negotiation, there was a complete failure to actually engage in negotiation with, and to communicate police interests or intentions to, reclamation participants. Contributing to this failure was the lack of trained OPP personnel with knowledge of the communities, histories, and issues, and not drawing on external facilitators or mediators. This reflected a lack of understanding of the unique context of Indigenous protests (Linden 2007b:17). Linden (2007c:693-696) recommended that police operations should have a communication strategy for conveying messages to protesters (#2.a.), account for technical

aspects of communications (#2.b.), and identify potential external facilitators/mediators (#2.c.). He also emphasized the importance of ensuring that the unique context of “Aboriginal occupations and protests” is addressed in police strategies and training (#9), and that First Nations police services and mediators are engaged (#11).

The second contributing factor was the “critical failure” of the police intelligence function (Linden 2007b:62). The intelligence component was treated as an “afterthought” to the overall operation and not incorporated into the organisational structure of incident command.⁷² One of the most significant issues was that raw information was not being analysed—i.e., verified and assessed for reliability—prior to being disseminated and provided to the incident commander. The lack of verified information was a direct factor leading to the deployment of the Crowd Management Unit (CMU) and Tactics and Rescue Unit (TRU) based on claims that protesters were preparing an offensive action and had firearms and other weapons. The offensive strategy of deploying the CMU as a “show of force” led to the escalation of conflict during which Deane shot Dudley George. Based on these findings, Linden’s (2007c:693-696) recommendations emphasized the importance of integrating intelligence operations into decision making (#3.a.), the timely recording of information and intelligence in written form (#3.b.), analysis and centralisation of intelligence data (#3.c, d.), direct reporting of the intelligence unit to the incident commander (#3.e.), and training senior officers in intelligence (#3.f.).

A third concern pertained to the relationship between the police and government and the perception of political interference. While Linden did not find that there was actual political interference, he was critical of the relationship and the disorganised lines of communication and chains of command among government, the Ministry of Natural Resources (MNR), and the OPP. This resulted in “the appearance of inappropriate interference in police operations”

⁷² The intelligence unit was not reporting directly to the incident commander but through an intermediary who was not trained in intelligence. Senior members, including the incident commander, were not trained in intelligence. There was also no intelligence analyst assigned to the unit.

(Linden 2007c:677). The provincial government's desire to have the protesters removed quickly was shared with the incident commander, John Carson, who then relayed this to other officers. In doing so, Carson "created the risk or the perception of risk that his officers would be influenced in their actions" which "could compromise the approach of the OPP" and the objective of peaceful resolution (Linden 2007b:23). The presence of the MNR Park Superintendent at the command post also created potential for perceptions of government interference (Linden 2007b:24). Linden (2007c) recommended that greater caution must be taken by incident commanders in sharing political information, and that there should be a buffer—such as a liaison—between the incident commander and politicians (p.694). Stemming from the lack of clarity in communications and decision-making responsibility, Linden found that operational decisions were "neither transparent nor accountable."⁷³ In addition to creating obstacles to identifying responsibility, "secrecy or the lack of transparency" in the police-government relationship fuels the perception of interference (Linden 2007c:677).

Based on his specific findings directed at the OPP, Linden made broader policy recommendations for the policing of "Aboriginal protests" and, as I discuss later, these are reflected in municipal policing and RCMP reforms. The central recommendation was that police should adopt a "peacekeeping" role with objectives to "minimize the risk of violence," "preserve and restore public order," "facilitate the exercise of constitutionally protected rights," "remain neutral as to the underlying grievance," and "facilitate the building of trusting relationships that will assist the parties to resolve the dispute constructively" (Linden 2007a:237).

Significantly, these recommendations reflect the recommendations *suggested by the OPP* in its submission to the Inquiry (OPP 2006a:102-3). The final recommendations thus reflect the reforms that had already been instituted (or proposed) by the OPP and presented in the course of the Inquiry. In other words, Linden's recommendations adopted the language of the

⁷³ There were inconsistent and incomplete records of phone calls to and from the command post and of meetings involving the incident commander, all of which should be mandatory (Linden 2007c:693).

OPP or explicitly referenced its reforms. Initiatives such as the *Framework for Police Preparedness for Aboriginal Critical Incidents* and the Aboriginal Relations Team were identified as “high priorit[ies]” that “the OPP should maintain” and support with a “commensurate level of resources and executive support” from the organisation (Linden 2007a:238). Although directed at the OPP, the Inquiry’s recommendations can also be read as *validation* of their reforms.

OPP Reforms

Building Relationships and Trust

One of the central findings from Ipperwash was that police lack of understanding of the reasons and issues underlying Indigenous protests contributed to enforcement-based responses.

Several recommendations addressed the importance of developing organisational awareness and resources regarding the historical, legal, and cultural context of the relationship between Indigenous peoples and the Canadian state. This is linked to the lack of trust and lack of communication characterising the relationship between police and many communities.

In 2006, the OPP presented the Inquiry with its program of “Building Respectful Relationships”, a bundle of initiatives that the organisation had undertaken since 1995 to address these trust and communication issues (OPP 2006b). The initiatives were framed as measures for improving the professionalism and accountability of the organisation. A key piece of this package of initiatives is the *Framework for Police Preparedness for Aboriginal Critical Incidents* (hereinafter, the *Framework*), a policy document outlining objectives for operational responses to public order and critical incidents involving Indigenous people. Underlying the *Framework*, which I will discuss in detail below, is a commitment to relationship-building. The other key initiatives of the “Building Respectful Relationships” program were enhanced “cultural awareness” training, outreach and recruitment platforms aimed at youths and ethno-cultural groups, developing the OPP’s First Nations policing partnerships, and mentorship of Aboriginal members. My discussion focuses on liaisons and outreach.

Liaisons and outreach Community liaison or outreach units in policing are usually introduced within the umbrella of “community-policing”. The adoption of a “community policing” philosophy in Canada sought to address an entwined problem of tenuous relations between police and racialised communities, which made “information uptake” and communications difficult. In the context of official multiculturalism, this was problematic for organisational and institutional legitimacy and for the authority of police forces. Operationally, the lack of access to *information from and about racialised and immigrant communities* contributed to an intelligence deficit (Deukmedjian and de Lint 2007). Many of these community liaison and outreach units are “community” specific, targeting local ethno-racial communities that the police force has lacked connection with, or, been in conflict with. One aspect of this “outreach” has been targeted recruitment activities to address the lack of diversity in the organisation. As with “cultural awareness” training initiatives, the underlying assumption in bolstering liaison and outreach activities is that police-community conflict arises from communities’ suspicion or mistrust of police, as well as from police suspicion and lack of understanding of “cultural differences”. Consistent with multiculturalism discourse, “diversity” has become a key aspect of “democratic” policing.

Often arising from “crises” of legitimacy, community outreach activities reflect the politics of *reconciliation* aimed at mending relationships and incorporating marginalised communities into dominant institutions—whether through employment within the police organisation, participation in police-community liaison committees, or more generally in subscribing to the “common good” discourse. The onus for persistent conflict shifts to members of racialised and ethno-cultural communities who “fail” to contribute to these “democratic” processes.

First Nations liaisons have long been a part of policing, but since the 1990s these positions have been formalised and elevated to more prominent and visible roles within police organisations. The OPP created the office of the Aboriginal Liaison Officer-Operations (ALO) in 1996 to provide operational advice and support to senior members on historical, legal, socio-

economic, and political issues affecting Indigenous communities.⁷⁴ The Aboriginal Relations Team (ART) initiative provides similar capacity on the front line and like the ALO was developed in response to the events at Ipperwash. The concept originated in 1997 with the Western Region Aboriginal Strategy Committee which was mandated to build relationships with First Nations communities in West Region, which includes the Stoney Point First Nation and Ipperwash Park.⁷⁵ The Western Region committee was instrumental in developing the first ART in 2004, tasked with a dual mandate of community liaison and operational support (Interview, OPP9). The ART was a unit composed of First Nations OPP officers who engaged in an ongoing relationship with First Nations communities with the goal of building trust.

The ART and ALO members became central components of the *Framework for Police Preparedness for Aboriginal Critical Incidents*. In the event of a critical incident, ART officers act as liaisons to facilitate communication of the interests and intentions of police and protesters to each other, and provide advice to the ALO and incident commanders. During major events where Indigenous people and issues may be involved, the ART would work with Major Event Liaison Teams (MELT), which engaged with non-Indigenous activist groups.⁷⁶

By 2006, Aboriginal Strategy Committees were established in each of the OPP's five regions, and from 2004 to 2006, there was a move to expand ART to each region (Interview, OPP9). However, Clairmont and Potts (2006:38) found that at the time of their 2006 report for the Ipperwash Inquiry, ART teams had not been fully implemented and were "more on the books than in the field." The 2006 reclamation of Douglas Creek Estates near Caledonia by members of Six Nations of Grand River was a key catalyst in the refinement and formalisation of

⁷⁴ The ALO role also includes supporting internal organizational development with respect to cultural awareness and fostering the OPP's external relations with Indigenous communities and organizations. In 2006, the OPP elevated the rank of Aboriginal Policing Advisor and Aboriginal Liaison Officer from inspector to superintendent, reflecting the prioritization of these roles within the organisation.

⁷⁵ Gwen Boniface, who later became OPP Commissioner during the Six Nations reclamation, was instrumental in establishing the Western Region Aboriginal Strategy Committee.

⁷⁶ MELT was developed in 2004 in the Field Support Bureau (then known as Field and Traffic Support), influenced significantly by the recommendations of the APEC Commission of Inquiry (Hughes report) (Interview, OPP9).

the ART and MELT programs, which will be discussed in more detail in the concluding section of this chapter and in chapter 4. In September 2007, responsibility for Native Awareness training and the ART/MELT programs was brought within the newly established standalone Aboriginal Policing Bureau (APB). Within this housing, the ART/MELT now had dedicated full-time positions (Interview, OPP9).

Following a review of the ART and MELT programs in 2008, they were combined to form the Provincial Liaison Team (PLT), which would deal with all public order events including “Aboriginal critical incidents”, while also maintaining the community liaison mandate. Since 2006, ART and MELT had already been operating as one unit. The adoption of the PLT program name was approved in July 2009.⁷⁷ As part of this process the organisation developed formal selection criteria, Course Training Standards, and Standard Operating Procedures, which have been revised on an ongoing basis. According to several members of the Aboriginal Policing Bureau, these initiatives are crucial to building the credibility of the program within the organisation (Interviews, OPP5, OPP9). The first PLT course was held in October 2009. Officers applying to be PLT members now go through an initial interview that includes a psychological assessment, followed by a two-week training course in which they are assessed on a pass-fail basis (Interview, OPP9).

As of November 2013, the PLT consisted of a provincial coordinator, five regional coordinators, and approximately 70 trained members across the province. The PLT is a speciality unit like the Emergency Response Team (ERT). Like the ERT, most PLT members are part-time, meaning that they have regular full-time positions and will be called upon in their PLT capacity by their regional PLT coordinator when circumstances dictate—usually for specific events/incidents. While there is significant regional variation due to demographics, in 2009-

⁷⁷ OPP. 2011. Provincial Liaison Team Review 2009-2010. MCSCS FIPPA request CSCS-A-2012-03063.

2010, 61 percent of PLT work was on “Aboriginal-related” issues.⁷⁸ Several PLT members interviewed emphasised that relationship-building with First Nations communities and groups is a priority for the program despite the “name change” and combined mandate. The housing of the program within the Aboriginal Policing Bureau reinforces this priority in the PLT’s work.

In 2007, the OPP’s existing First Nations Policing programs were consolidated within a standalone Aboriginal Policing Bureau (APB), which was the first in Canada. The APB has been actively building its relevance and legitimacy within the organisation and beyond, through active promotion and things like bulletins and newsletters. Corporately, the APB and the OPP as a whole have cultivated an “expertise” in the area of police Native Awareness training and public order liaison work. This is evident in their training of personnel from other police forces in these “competencies” and in the diffusion of their *Framework* as an operational policy. In 2006, the ART/MELT received the International Association of Chiefs of Police Civil Rights Award for exemplary protection and promotion of civil and constitutional rights. In 2008, the program received the Jim Potts Award for contributions to policing in First Nations communities (Interview, OPP9). Such accolades hold important symbolic value for securing the credibility of new programs and for the organisation as a whole.

Measured Response

The second major finding of the Ipperwash Inquiry related to the lack of clear operational decision-making processes. Not only did this contribute to the escalation of conflict, but it also limited transparency and accountability for the events leading to Dudley George’s death. Since the mid-1990s, the OPP and RCMP developed operational policies for managing Indigenous protests that incorporate explicit guidelines for incident command decision-making and use of force.

⁷⁸ OPP. 2011. Provincial Liaison Team Review 2009-2010. P.14. MCSCS FIPPA request CSCS-A-2012-03063.

Operational policies and measured response guidelines The most visible articulation of the (re)problematism of Indigenous protests within the discourse of liberal rights is in the creation of formal operational policies. The standardisation of police action, as manifested in official policy, is a mechanism of professionalisation and transparency that is in large part *fulfilled by the existence of the policy itself*. Organisational performance can be measured and evaluated against the policy internally and, in the case of the OPP, *publicly*. As a concrete document, the OPP's *Framework for Police Preparedness for Aboriginal Critical Incidents* was the hallmark of post-Ipperwash reforms. The first version was called a "Framework for Police Preparedness for First Nation Related Issues", which identified issues that officers should consider when responding to indigenous protest or crisis events. In 2005, the *Framework* was revised and re-named, incorporating the operational roles of new initiatives such as the Aboriginal Relations Teams and Aboriginal Liaison-Operations. Based on suggestions emerging from the Ipperwash Inquiry process, including recommendations from the Chiefs of Ontario, the *Framework* was further revised.⁷⁹ As will be discussed later in this chapter, the 2006 events related to the Six Nations reclamation led to the designation of the *Framework* as a critical policy within OPP Police Orders, providing formal operational guidelines for police responses to critical incidents.

Reflecting the (re)problematism of the police role vis-à-vis Indigenous protests, and consistent with the respecting and *balancing* of rights common to a liaison approach, the *Framework* opens with a statement of the OPP's commitment

to safeguard the *individual rights ...inclusive of those specifically respecting the rights of Aboriginal persons of Canada as set out in the Canadian Charter of Rights and Freedoms*. ...It is the role of the OPP and all of its employees to *make every effort prior to a critical incident to understand the issues and to protect the rights of all involved parties throughout the cycle of conflict* (OPP 2006c:2, emphasis added).

⁷⁹ The consultative process of review and recommendations undertaken as part of the inquiry process arguably works to legitimate the end-product as the outcome of democratic practice and implies buy-in from participants such as the Chiefs of Ontario.

The principles of a liaison or negotiated management approach are clearly reflected in the *Framework's* purposes of implementing “flexible approach[es] to resolving conflict and managing crisis”, emphasising “accommodation and mutual respect of differences, positions and interests,” and using strategies that “minimize the use of force to the fullest extent possible” (OPP 2006c:2). These principles are to be implemented on an on-going basis—before, during and after a critical incident—emphasizing proactive relationship-building with communities with the goal of preventing an “Aboriginal related issue” from becoming a critical incident such as a demonstration, reclamation, or blockade. The problematisation of “Aboriginal critical incidents” as a “unique and discrete category”—to use Linden’s words—is reflected in its definition in the *Framework* as: “An incident where the source of conflict may stem from assertions associated with Aboriginal or treaty rights, e.g. colour of right, a demonstration in support of a land claim, a blockade of a transportation route, an occupation of local government buildings, municipal premises, provincial/federal premises or First Nations buildings” (OPP 2006c:2).

The *Framework* also explicitly positions police as neutral in these conflicts, which “often do originate with government agencies other than the police” (p.3). The guidelines of the *Framework* apply to all OPP members involved in an “Aboriginal critical incident”; however its implementation relies significantly on Aboriginal Policing Bureau resources, particularly the Provincial Liaison Team (PLT).⁸⁰ PLT officers are supposed to “remain neutral throughout a major incident” and not engage in intelligence-gathering or enforcement (OPP 2006a).

Decision-making: Incident command The OPP’s *Framework* incorporate three key components in applying a measured response approach to managing major events and critical incidents: the incident command structure, integrated response, and graduated use of force

⁸⁰ The first version of the *Framework* identifies a third role, the Critical Incident Mediator (CIM). According to one OPP member, the CIM was never an actual position but rather a role or competency that most ART members were trained in. Reference to the CIM has subsequently been removed from a revised version of the Framework (Interview, OPP1).

strategies. Outreach and liaison officers are an integral component of the measured response approach as a support resource in the “use of force”.

Addressing the Inquiry’s critiques of the lack of accountability in decision-making, and the impact of political interference in responding to protests, the OPP introduced a command and control model for public order policing and an integrated response protocol for responding to “critical incidents”. These reforms reflect a formalisation and institutionalisation of decision-making responsibility and protocol aimed at reducing discretionary, reactive responses by front-line officers during protests while clearly designating lines of responsibility.

All major events and incidents will have an incident commander in charge of the police response. In 2001, the OPP adopted a formal incident command structure for public order events. Modeled on the “gold-silver-bronze” structure implemented in Britain, this practice institutes a formalised division and hierarchy of decision-making. Gold, silver, and bronze refer to three levels of incident command. While bronze commanders will always be assigned to an event, activation of gold and silver command depends on the seriousness and scope of the incident. The gold commander has overall responsibility and accountability for an event and is responsible for strategic decision-making, which informs the tactical planning of the silver commander. Silver commander is responsible for planning and coordinating missions, and for deciding deployment priorities. Bronze commanders are in charge of public order units (POUs) and engage in ongoing assessment of the situation including risk assessment and identifying potential opportunities for pre-emption. Bronze commanders make operational decisions to deploy resources and implement tactics. The on-site presence of bronze commanders is a shift from earlier practices where decisions may have been made by off-site incident commanders (OPP 2006d). The decisions and activities of all incident commanders are recorded by “scribes”

as a means of accountability.⁸¹ As noted in Linden's report, the gold-silver-bronze incident command model has been adopted by most police forces in Canada.

Between 2006 and 2010, the OPP has further developed its incident command structure from the basic gold-silver-bronze model. In part, this was influenced by the emergence of a standardised Integrated Command System (also referred to as Integrated Management System) that was being adopted by police, emergency response agencies, and government ministries (Interview, OPP2). In 2007, with the experience of the Six Nations reclamation, the OPP established three full-time Aboriginal critical incident commander (ACIC) positions within the Field Support Bureau. Whereas the standard critical incident commander role is fulfilled by personnel trained in those competencies (such as detachment commanders), the ACICs are dedicated positions without other command responsibilities. In addition to having additional training on Indigenous issues, an ACIC is able to manage incidents for extended periods without being pulled away to fulfil their regular duties. With three members responsible for managing all "Aboriginal critical incidents" in OPP jurisdiction, the ACIC positions can contribute to establishing a degree of consistency in OPP operational responses to events (Interviews, OPP1; OPP2; OPP5).

Integrated response and use of force continuum The "triangle" of incident command decision-making is one element of the *integrated response* approach. Integrated response refers to the combined deployment of specialised police resources in the management of critical incidents including liaisons, crisis negotiators, criminal investigators, intelligence, and tactical units. The practice of integrated response was in place prior to 1995, but it was gradually *formalised* through the introduction of policies and training standards (OPP 2006e). Tactical units such as Emergency Response Teams (ERT) and Tactics and Rescue Units (TRU), are specially trained for "high risk" situations and are equipped with a range of less-than-lethal and

⁸¹ The use of scribes was not new, but became a requirement and systematized. The OPP scribe program was formalised in 1999 with introduction of a week-long scribe course.

lethal weapons options. These units will often be activated in a standby capacity and the decision to mobilise them during an incident lies with the incident commander based on information and input provided by commanders of each of the tactical units.⁸² The incident commander for a “critical incident” works from a command post that is geographically removed from the location of the incident. This physical separation of the ultimate decision-maker from the events reinforces the “neutrality” of his or her decisions, which are based on the expert assessments of the multiple perspectives from the units involved on the ground.

In the case of Indigenous protests, the OPP’s *Framework* is the operational guide for integrated response, which involves a critical incident commander, ERT, TRU and crisis negotiators. The OPP’s Provincial Liaison Team and/or Aboriginal liaisons are considered part of the police use of force continuum as the first step of engagement with protesters. Escalating in use of force options are regular duty officers, public order units, and tactical teams. Recognising that the visibility of uniform presence is itself a display of force (OPP 2006e), public order and tactical units can be deployed in a range of “show of force” options. For example, the public order unit can be mobilised in “soft tac” mode without visible “use of force” (i.e. weapons) or full protective gear, which can be incrementally escalated to fully-equipped “hard tac” mode.⁸³

While liaisons and tactical units may be on different ends of the use of force spectrum, they are not dichotomous. They are strategies on a use-of-force continuum and work simultaneously towards common operational objectives, as I (un)map in chapter 4.

⁸² “Activation” of a unit means that they are called up for duty but not yet deployed or mobilised. “Deployment” or “mobilization” means that a unit is actively engaged in an operation. RCMP. 2010. Tactical Operations Manual (part 2 (3.1, 3.4). RCMP ATI request A-2012-07569.

⁸³ Since 2000, ERT training includes intelligence gathering, operational planning, tactical rifle/shotgun, team movement, arrest techniques, less lethal and chemical weapons. In 2005 this was expanded to also include Native Awareness, ethics, conducted energy weapon training, and joint training with TRU, canine, security and intelligence sections as well as external training with the military (OPP 2006e). This reflects enhancement of tactical capacities, or “militarization” of these units.

Policing in Ontario

Linden (2007a) recommended that the principles and practices of the OPP's *Framework* should be adopted by all Ontario police forces. At the municipal level, there has been a move to standardise police responses in Ontario through the development of policy by the Policing Standards Advisory Committee, which was established to address the recommendations of the Ipperwash Inquiry. In February 2012, the Ministry of Community Safety and Correctional Services added a new public order policy (PO-003 Policing Aboriginal Occupations and Protests) to the province-wide Policing Standards Manual. The Ottawa, Waterloo, Hamilton, Midland, Port Hope, Brantford, Peterborough Lakefield, and Niagara Region Police Services have adopted PO-003.⁸⁴

Like the *Framework*, the Ontario Policing Standards Manual identifies policing principles following the *Charter* and the Ontario Human Rights Code, as well as “sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.”⁸⁵ The PO-003 policy is intended as a model for individual police forces to adopt. The sample provided identifies priorities of discretion, “communication, negotiation and building trust with participating and affected communities.”⁸⁶ The role of police is to “preserve the peace, prevent offences, and enforce the law in a manner that respects the rights of all involved parties” while “remain[ing] neutral as to the underlying grievance, where possible; and facilitating the building of trust.”⁸⁷ The guidelines set out suggested procedures to be adopted by police forces in their policies that emphasize these principles as well as the importance of having clear communications strategies for engaging with protesters and those affected by protests.

⁸⁴ the Toronto Police Service has not adopted a formal policy but a “Statement of Commitment and Guiding Principles” for Aboriginal Policing, which is not specific to occupations and protest.

⁸⁵ Ministry of Community Safety and Correctional Services [MCSCS]. 2011. “Policing Aboriginal Occupations & Protests”. Policing Standards Manual. P.1. Provided by interview participant.

⁸⁶ MCSCS. 2011. “Policing Aboriginal Occupations & Protests”. Policing Standards Manual. P.2.

⁸⁷ MCSCS. 2011. “Policing Aboriginal Occupations & Protests”. Policing Standards Manual. P.3.

Many municipal and regional forces have been developing their capacities for managing protest according to these principles through participating in the OPP's PLT training. Participation by external agencies has increased over time, with officers from certain RCMP detachments, Windsor, York Regional, Niagara, Ottawa, Calgary, Sarnia, and Winnipeg Police Services having attended PLT training, as well as members from CP Rail Police (Interviews, OPP9, OPP1). This interest appears to reflect wider "buy-in" of the approach among police forces; at the same time, there is also a symbolic value for these police forces in securing legitimacy.

RCMP Reforms

While indirectly influenced by the Ipperwash Inquiry, the key catalysts for the institutionalisation of liaison-based policing and measured response in the RCMP were the events at Gustafsen Lake and the Hughes Commission—which examined the RCMP handling of protests during the 1997 APEC summit in Vancouver (see Ericson and Doyle 1999; Pue 2000; King and Waddington 2006). RCMP reforms were not specific to Indigenous protests in the way that OPP reforms were, but there are clear similarities, reflecting broader ideals of "best practices" in policing.

Measured Response: The Incident Management Intervention Model

The concept and terminology of "measured response" was first articulated in the late 1990s by the RCMP in describing its approach to public order policing, and specifically in the context of labour conflict (Clairmont and Potts 2006:31). According to Clairmont and Potts (2006:31), at the root of measured response is the prioritisation of maintaining "peace and order, and avoiding harm" in a "disinterested approach on the substantive issues" underlying the protest. Like the OPP's *Framework*, the RCMP Incident Management Intervention Model (IM/IM) reflects three components of measured response: incident command, integrated response, and graduated use of force.

Guided by the IM/IM, the RCMP's measured response approach reflects principles of communication-based, negotiated, flexible management of public order events to avoid escalation of conflict. The RCMP's Tactical Operations Manual states that "[t]he RCMP is committed to resolving potentially violent incidents using an integrated, measured approach response in accordance with the RCMP Incident Management and Intervention Model and the *Criminal Code* while ensuring the rights of Canadians are respected."⁸⁸

While the RCMP had an "open door policy" of communication with (potential) protesters prior to 1997, this approach was enhanced and formalised after APEC through initiatives such as designated outreach and liaison teams (Commission for Public Complaints Against the RCMP 2001; Bradley 2002). Major urban centres such as Ottawa, Toronto, Montreal and Vancouver have full-time demonstration units that will respond ad hoc to major events. In the case of large events, where an integrated security unit is set up, community outreach/relations groups will be established.⁸⁹ The implementation of liaison/outreach units is specific to each of the Divisions. For example, A Division has a Major Events Liaison Team, developed specifically in response to anti-globalisation protests (Clairmont and Potts 2006:32). Where an event might involve Indigenous issues or communities, the demonstration unit is supposed to engage divisional Aboriginal liaisons or outreach personnel (Interviews, RCMP6; RCMP9).

Incident Command

After Gustafsen Lake, the RCMP established a Major Case Management Task Force, which was tasked with reviewing the RCMP's readiness for critical incidents. Emerging from one of the Task Force's core recommendations, the RCMP established its Critical Incident Program (CIP)

⁸⁸ RCMP. 2011. Tactical Operations Manual, Part 2 (1.1). RCMP ATI request A-2012-07569. In response to the Hughes Commission recommendations, a National Policy was implemented by the RCMP in 2001 regarding independence from political interference. Principles of operational independence and police accountability to law were incorporated into the RCMP's Protective Policing Manual (Bradley 2002).

⁸⁹ The first use of a joint Community Relations Group (CRG) was established for the 2002 G8 Summit in Kananaskis, Alberta, consisting of Calgary Police Service and RCMP members. The CRG included a specific liaison team focusing on Aboriginal communities (separate from the "activist liaison team") (O'Rielly, Mike. 2002. "Community policing in action during the 2002 G8 Summit." *RCMP Gazette* 64(1):10).

in 1999 to centralise incident command, negotiation, and public order (Roush 2002). Originally set up under the Criminal Intelligence Directorate, the CIP moved in 2002 to Contract and Aboriginal Policing (Roush 2002). The mandate of the CIP is to provide the basis for tactical, operational, and strategic coordinated planning and response “for all-hazards events” at the regional, national and international levels. This includes responses to natural disasters, terrorist attacks, civil unrest, hostage situations, and other “high risk critical incidents”.⁹⁰ A “critical incident” is defined as “an event or series of events that require specialized and coordinated response”.⁹¹

Like the OPP’s command-and-control model, the formalisation of incident command in the RCMP sought to address issues of continuity, consistency, and accountability in decision making during an event. During a critical incident, the incident commander works in a “triangular” manner with negotiators and the Emergency Response Team in “coordinating, managing and responding” and are therefore accountable for all decisions made during a critical incident (Roush 2002), including use of crisis negotiators, and deployment of public order units (tactical troop) and Emergency Response Team (in consultation with troop commander). Incident command has also been described by interviewees as a “triangle”, with the overall critical incident commander at the top and liaisons and tactical response as the two other arms. Although the RCMP does not have dedicated *Aboriginal* critical incident commanders like the OPP, they are directed to draw on Aboriginal liaisons and National Aboriginal Policing Services.

Addressing the Specificity of Aboriginal Protests

While there had been an emphasis on utilising trained conflict negotiators and resources such as Aboriginal liaisons and the Aboriginal Policing program since the early 1990s, the RCMP had no formal policy akin to the OPP’s *Framework* until 2011 when a section on “Aboriginal Protests

⁹⁰ RCMP. 2007 (February 12). “Critical incident Program – Aboriginal Initiative.” RCMP ATI request 2007-02463.

⁹¹ RCMP. 2010. “Incident Commanders”. Tactical Operations Manual (part 1.1 (2.1.1)). RCMP ATI request A-2012-07569.

and Occupations” was added to the RCMP Operational Manual.⁹² Development of this operational policy was most directly spurred by the 2007 Assembly of First Nations National Day of Action (NDA). Leading up to the NDA, the RCMP’s Critical Incident Program and Aboriginal Policing program were working to entrench a conflict negotiation approach to minimise the use of force, with direct reference to the Ipperwash Inquiry⁹³ and identifying the OPP’s *Framework* as an example of good practice.⁹⁴ While the OPP’s policy was made public in the course of the Ipperwash Inquiry and has been directly referenced during subsequent protest events in the face of criticism, the RCMP’s policy is part of its *internal* Operational Manual. It does not have the same *reified* quality that the OPP’s *Framework* has.

Consistent with a rights-based negotiated management approach, the Operational Manual section on “Aboriginal Protests and Occupations” begins with statements regarding section 35 Aboriginal and treaty rights, and the *Charter* guarantees of the rights to engage in protest. In the context of these rights, “A measured response based on accurate and timely intelligence must form the basis for the management of aboriginal demonstration or protest.” In responding to a critical incident, members are directed to “attempt to negotiate the conflict before taking enforcement action” and to use discretion when enforcing injunctions. Reflecting a preventative orientation, RCMP commanders are expected to “keep informed of issues that are prevalent in your community which may lead to a demonstration or protest.”⁹⁵ In developing an operational plan in the case of an incident, the commander and divisional Criminal Operations (CrOps) Officers are expected to consult with Aboriginal Affairs at the federal, provincial, or territorial level, and with First Nations, Inuit or Métis leaders “when necessary.” Operational

⁹² RCMP. 2011. “Aboriginal Protests and Occupations”. Operational Manual. (38.9). Obtained from interview participant.

⁹³ RCMP. 2007 (February). “RCMP Response to Aboriginal Occupations and Protests” [deck]. PSC ATI request 1336-A-2007-0121; RCMP. 2007 (February 12). “Critical incident Program – Aboriginal Initiative”. RCMP ATI request A-2007-02463.

⁹⁴ RCMP. 2007 (January 4). “Subject: Ministerial Deck for PM” [email]. RCMP ATI request GA 3951-3-00060.

⁹⁵ If a potential incident arises, the commander is to advise the local governing body and notify National HQ. RCMP. 2011. “Aboriginal Protests and Occupations.” Operational Manual. (38.9). Provided by interview participant.

activities are also supposed to draw on Divisional Aboriginal Policing Services which provide “support” through intelligence gathering, providing historical or contextual information about the community or issues, and identifying a liaison person to support the commander.⁹⁶

Aboriginal Policing and Liaisons

In 2003, the RCMP made “Aboriginal communities” one of its five strategic priorities for the organisation reflecting a commitment to improve relations with communities. In 2006, the RCMP created a position of Chief Superintendent for Aboriginal Policing, which had previously been an Inspector-level rank. The elevation of the position in the organisational hierarchy was a symbolic and structural reflection of the force’s recognition of the importance of the role (Clairmont 2006).

The RCMP’s National Aboriginal Policing program is a central resource to support this priority. The program is coordinated and managed by National Aboriginal Policing Services at HQ and the Aboriginal Policing Sections (APS) located in each division (Interview, RCMP2). In Ontario and Quebec the RCMP does not have provincial policing jurisdiction; however, the APS operates as a liaison program in which officers work with and in Indigenous communities. In Ontario (O Division), the RCMP’s APS was established in 2004 and now consists of seven personnel who support First Nations police services and communities in crime prevention activities. Previously, Aboriginal policing in Ontario was the responsibility of a single coordinator. Despite the organisation’s priority of “Aboriginal communities,” the Ontario APS has not had a permanent coordinator since 2008 (Interview, RCMP10). One of the roles that many of the APS liaison officers take on is conducting presentations or training for fellow members.

The RCMP’s Divisional Aboriginal Policing Sections are the bases from which the organisation engages in the relationship building that is central to a liaison approach. In the context of a major protest or reclamation in Ontario, the RCMP’s liaisons in O Division may be involved in a support capacity by providing advice or awareness on the community dynamics

⁹⁶ RCMP. 2011. “Aboriginal Protests and Occupations”. Operational Manual. (38.9 (6)).

and issues in the context of Aboriginal and treaty rights to RCMP members who may be brought in to assist the OPP (Interview, RCMP10). A Division (with jurisdiction of the National Capital Region) currently has an Aboriginal and Ethnic Outreach liaison officer who is based out of the division's National Security Criminal Investigations program as part of the National Security Community Outreach team. As discussed further in chapter 5, the outreach program was established as part of the RCMP's bias-free policing policy with the aim of building trust between all "diverse" communities and the National Security Program, and "to ensure all persons are treated equally and with respect in RCMP national security criminal investigations" (RCMP n.d.). The role of the Aboriginal liaison officer is to build relations with First Nations communities to facilitate communication while also serving as a "subject-matter expert" (SME) for the rest of the division (Interviews, RCMP9; RCMP6).

Intelligence-Led Policing

One of the major contributions to the escalation of the police response at Ipperwash was attributed to the failure to corroborate rumours of weapons and violence by protesters (see Edwards 2003; Linden 2007c). As one OPP member notes, "I'd say back in the time of Ipperwash we were acting on information" and not "real intelligence" (Interview, OPP1). This was tied to problems with communications and a lack of coordination among units and commanders, which impacted on the decision-making process. The new incident command structures of the OPP and RCMP are based on the importance of having reliable intelligence at each level of decision-making, which is directed at *proactive and pre-emptive* responses when possible. As discussed, the measured response orientation to Indigenous protests (and protests in general) seeks to minimise the police use of force by adopting proactive strategies to address issues before they become "critical incidents" and to manage events to avoid escalation. As one RCMP member explains, the "old" way of approaching protests was to

Tactically, go in there and break it up. Remove it, haul everybody away. Go back if you have to and haul another group away. Just keep hauling 'em away until you've got everybody in jail. Well, we moved away from that; and we moved away from that for a couple of reasons. One is that you can't haul everybody away. People started to get a lot more coordinated, organised, about what they're doing, and a bunch of different things happening at the same time, and they realise ways to... deflect or go around enforcement actions, and it just got to the point, 'whoa, whoa, whoa. Okay, let's stop and think about this'. So the intelligence-led model came out and said, we really shouldn't be doing anything, unless we've got some intelligence behind it. (Interview, RCMP1)

The RCMP's Operational Manual explicitly states that "A measured response *based on accurate and timely intelligence* must form the basis for the management of aboriginal demonstration or protest", and commanders are encouraged to stay informed of potentially volatile issues.⁹⁷ While not explicitly identified in the OPP's *Framework*, Linden (2007a:202) notes in his report that the principles of intelligence-led policing are evident in the *Framework* through its emphasis on informed decision-making.

The use of intelligence in operational and tactical decisions had been a common practice, but the growing emphasis on intelligence *analysis* and the production of *strategic intelligence* reflects a much broader paradigmatic shift towards intelligence-led policing (ILP) independent of Ipperwash, Gustafsen Lake and APEC. For the OPP, Ipperwash was a catalyst for explicitly proclaiming the organisation as "intelligence-led" in 1999. In 2001, the RCMP also officially branded itself an ILP organisation. However, both the OPP and RCMP had already been moving towards intelligence-led policing in the early 1990s. In 1995, the OPP established a Strategic Intelligence Unit responsible for intelligence analysis—a function that had not previously existed in the organisation. This restructuring of the Intelligence Bureau included the creation of specialised sections and units to focus on anti-terrorism, and hate crime/criminal extremism (OPP 2006f:21-25). In 1999 intelligence training was incorporated into existing

⁹⁷ RCMP. 2011. "Aboriginal Demonstrations or Protest". Operational Manual. (38.9 (2.3)) (emphasis added).

courses, including incident commander courses.⁹⁸ Between 1999 and 2006, the OPP institutionalised an ILP framework to define the organisation as strategic and prevention-oriented, emphasizing increased collaboration with partners and on priority setting. There was also a professionalisation of intelligence gathering and analysis through measures such as the creation of formal competency requirements. The intelligence analysis function was also centralised so that all intelligence products are “filtered” from a single ‘focal point’ (OPP 2006f:33). Stemming from the Inquiry recommendations, an Aboriginal Issues Unit was set up in 2008 within the field intelligence section of the Provincial Operations Intelligence Bureau (POIB) to focus on organised crime issues affecting First Nations communities. The Unit also works closely with the PLT program (Interview, OPP9). The adoption of ILP directly addressed the major factors contributing to ‘intelligence failure’ during Ipperwash.

Many of the reforms introduced by the OPP and the RCMP came in the span of time immediately following the events at Ipperwash and before the release of final reports. The direct impact of the inquiry on bringing these changes about is limited. On one hand, inquiries lack the power to enforce compliance with recommendations. At the same time, many of the reforms reflected existing trends in policing. Without discounting the value of the inquiry for Dudley George’s family and those involved in the reclamation, the *power* of the inquiry as a mechanism of pacification lies in its symbolic affirmation of state legitimacy and (re)production of a certain problematisation of Indigenous protests for policing. In drawing on this authoritative “truth” established by the inquiry, police reforms and practices gain credibility and legitimation.

THE NATIONAL SECURITY NEXUS OF POLICE REFORMS

While presented as “new” in the specific context of protest management, post-Ipperwash reforms were consistent with existing currents of community-based policing and intelligence-led

⁹⁸ This is an example of a reform adopted by the OPP that preceded the Inquiry. The effect was that this (and other) reforms were effectively validated by being adopted as one of Linden’s eventual recommendations.

policing. They have also emerged in the context of intensified security logics. In Canada the events of September 11, 2001 led to the introduction of the *Anti-Terrorism Act* as well as a National Security Policy, which established coordinated policy frameworks and new institutions based upon an emergency management orientation to securing critical infrastructure. This apparatus has implications for *normalising* the characterisation of Indigenous protests as potential “national security” threats. With/in the convergences of these quasi-autonomous processes, Indigenous protests and communities are problematised as objects of police management *and* of national-security information-intelligence production *in a way that is consistent with liberal-security logics of prevention*.

Anti-Terrorism Act and National Security Policy

The *Anti-Terrorism Act (ATA)* came into effect on December 18, 2001, introducing legal mechanisms such as security certificates, and enhancing investigative powers for police forces and intelligence agencies.⁹⁹ The use of surveillance is facilitated under the *ATA* by decreased external and judicial oversight. Unlike similar measures in the US and UK, this enhanced investigative power is not limited to the federal level but extends to provincial, territorial and local police. The definition of “terrorism” added to the *Criminal Code* centres on threats to critical infrastructure, which has implications for Indigenous struggles. Under the *ATA*, terrorist activity is defined as

an act or omission that is committed in whole or in part for a political, religious or ideological purpose, objective or cause, and in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organisation to do or to refrain from doing any act... that intentionally causes serious interference with or serious disruption of an essential service, facility or system, whether public or private, [...] [that] causes a serious risk to the health or safety of the public or any segment of the public.

⁹⁹ See Murphy 2007; Bell 2011; P. Macklem, R. Daniels, and K. Roach, eds. 2002. *Security of Freedom: Essays on Canada's Anti-Terrorism Bill*. Toronto: University of Toronto Press.

There is an explicit exception for “advocacy, protest, dissent or stoppage of work” unless it causes “serious risk to health or safety.”¹⁰⁰ Critics have expressed concerns that direct actions by Indigenous activists such as blockades could be considered threats to critical infrastructure and thus, “terrorist” offences (see Roach 2001; Schneiderman and Cossman 2001). Indigenous groups argued that the *ATA* would formalise, or legally institutionalise, existing practices of government, law enforcement, and media that characterise indigenous resistance as terrorism (Orkin 2003). The potential breadth of the *ATA*’s definition of “terrorism” is reflected in the range of initiatives undertaken since 2001 as part of the federal government’s National Security Policy.

On April 27, 2004 the federal government introduced Canada’s first National Security Policy (NSP), titled “Securing an Open Society”, intended as a framework and “action plan” for the Government of Canada to create an “integrated security system” of state departments and agencies in a whole-of-government approach to “prepare for and respond to a range of security threats, including terrorist attacks, outbreaks of infectious diseases, natural disasters, cyber-attacks on critical infrastructure and domestic extremism” (Government of Canada 2004). In addition to integration, the NSP outlines six strategic areas of intelligence, emergency planning and management, public health, transportation, borders, and international security. The NSP provides structural and policy foundations for the priorities of system integration, enhanced intelligence capacity, and an emergency management framework based on the protection of *critical infrastructure*. Towards meeting the objectives of the NSP, the federal government established new security institutions: the Integrated Threat Assessment Centre within CSIS, a National Security Advisory Council and National Security Advisor,¹⁰¹ and the department of Public Safety and Emergency Preparedness Canada (PSEPC) (later renamed Public Safety Canada). These institutions have been central to the development and administration of a new

¹⁰⁰ Terrorist activity “[i]ncludes conspiracy, attempt or threat to commit any such act or omission.” (s. 83.01(1)(b)(i)(E)), *Anti-Terrorism Act*, S.C. 2001, c. 41.

¹⁰¹The council consists of security experts external to government; the National Security Advisor (NSA) is located in the Privy Council Office (PCO) providing advice and information on security and intelligence related matters directly to the Prime Minister. The NSA gives intelligence assessments to the Prime Minister, ministers and senior officials.

Emergency Management Framework and a Critical Infrastructure Strategy focused on securing “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” (Public Safety Canada 2009a: 2). As will be explored through the next three chapters, this emergent national security object(ive) of protecting *critical infrastructure* permeates the contemporary policing of Indigenous protests.

Securitisation in Policing: Expanding Mandates

There was a significant influx of funding to police and security agencies as part of the government’s national security policy (\$7.8 billion between 2001 and 2006), and a disproportionate share went to police forces—specifically, the RCMP—rather than to CSIS (Beare 2007).¹⁰² In addition to the extension of police investigative powers through the *ATA* and solidification of the intelligence-led policing framework, the emergency management paradigm has been incorporated into the mandates of police forces (see Murphy 2007). The more generalised impact of the augmentation of the national security apparatus on police forces is the prioritisation and demand for “more” and “better” intelligence as part of the intelligence-led policing framework in relation to “crime control” and contributing to national security awareness. Through the formation of new platforms and mechanisms to facilitate the exchange and circulation of information and intelligence, the localised policing response to an indigenous protest is interwoven with this extensive apparatus.

While Brodeur (2010) and de Lint and Hall (2009) describe these dynamics in terms of a shift towards “high” policing practices, I contend that the formalisation or institutionalisation of long-standing practices of information sharing among government entities, security services, and law enforcement agencies renders the inherently politicised nature of policing clearer. While

¹⁰² By December 2001, the RCMP received \$576 million out of the federal government budget for 17 anti-terrorism and national security initiatives (RCMP 2002).

this would seem to “contradict” liberal democratic values of rights as a basis for freedom—as is a common critique of “securitisation”—the post-September 11, 2001 security discourses position security measures as necessary to secure these rights and freedoms (Neocleous 2008). This is the symbiotic and self-justifying logics of security and liberalism at work.

The pre-existing rhetoric and experiments with community policing and intelligence-led policing approaches provided a political, discursive, and structural groundwork on which new initiatives with respect to managing Indigenous protests, or “Aboriginal critical incidents”, could piggy-back. It is important to emphasize that problem-oriented community policing and intelligence-led policing are constructed programs developed at the policy and management levels within police organisations, influenced by the diffusion of strategies in other Anglo-American states. Each is underpinned by philosophies of “best practice” articulated within the broader dominant discourses of liberalism and security, and the objective of “public safety”.

To a large extent, these are political strategies of restoring organisational and institutional legitimacy by redefining the “problems” of “crime”, “security”, and the role of policing in society. As they are often introduced as responses to ruptures or crises of legitimacy, they represent ways “forward” in transcending the conditions that give rise to ruptures. Police reforms are continuous, as practices are shaped by subsequent encounters between the state (police and government) and Indigenous peoples. For the OPP and RCMP, this has manifested in deepening organisational consciousness—*reinforced (validated) by the authority of public inquiries*—in relation to the complexities of Indigenous protests and how to manage them. Successive experiences have contributed to the entrenching of some practices and discourses as norms, the reconfiguring other practices, and creating conditions for other changes.

TESTING GROUNDS

With the conclusion of the Ipperwash Inquiry, there was extra attention to the OPP’s response to a series of high profile direct actions by Indigenous peoples. Without discounting the

uniqueness and potential impact of every protest action, I focus here on four events which highlight disjunctures between ‘old’ and ‘new’ practices of relationship-building, liaisons, measured response, and incident command. Reflecting the continuous dialectic of pacification, each of these events posed unique and novel challenges to be reconciled with recent changes.

Arguably the most significant event in Ontario after Ipperwash was the 2006 reclamation action by members of the Six Nations of the Grand River, which began prior to the conclusion of the Inquiry. As such, it was of particular significance and noted by Commissioner Linden in his final reports as a testing ground for recent OPP reforms.¹⁰³ Indeed, the events related to the Six Nations reclamation had a significant effect on the OPP’s ART/MELT, incident command, and intelligence operations. As one OPP member noted,

you know... I mean, Dudley George lost his life, in Ipperwash, and that certainly, the impact cannot be understated. But as time goes on, there’s other events that build on that. And Caledonia, I would, from an OPP perspective, would probably be the biggest single event since Ipperwash that has impacted things, and lessons learned. (Interview, OPP2)

Subsequent events have therefore all become “testing grounds”, so to speak, for the lessons learned through the accumulated experience of earlier encounters. One of these crucial tests involves the Tyendinaga Mohawks of the Bay of Quinte, located near Deseronto and Bellville, who established rail blockades in solidarity with the Six Nations of Grand River in 2006 and 2007. In June 2007, the Assembly of First Nations held a National Day of Action during which Tyendinaga Mohawks engaged in another blockade—one of the few direct actions of the day. Where the Six Nations reclamation was the first major “test” of the OPP’s new formalised approach, the National Day of Action could be seen as an opportunity to address issues with the OPP’s *Framework* with the experience at Caledonia.¹⁰⁴ The National Day of Action is also a significant testing ground for the new government-wide emergency management paradigm into

¹⁰³ In June 2006, a discussion paper was issued by the Inquiry that indicated the OPP might revise the Framework based on its experience at Caledonia (Ipperwash Inquiry 2006).

¹⁰⁴ As Clairmont and Potts (2006) note, disjunctures between rhetoric/formal policy and actual practice at Caledonia would make it difficult to make assessments or evaluations.

which localised policing is interconnected. The Idle No More movement, emerging in December 2012 and peaking throughout December into January 2013, produced another unique test for police forces. In the chapters that follow, I draw on these events as concrete reference points and examples in (un)mapping *how* the reforms and frameworks introduced since the events of Ipperwash have worked in practice.

Six Nations of the Grand River Reclamation, Kanonhstaton

On February 28, 2006, members of the Six Nations of the Grand River community halted the construction of houses forming the Douglas Creek Estates (DCE) development. Protesters set up barricades and made camp on the site, which they called Kanonhstaton, beginning a reclamation action that would last for years. There is a long history of struggle by the Six Nations that preceded the reclamation action, reflecting the ineffectiveness of “legitimate” legal channels for resolution (DeVries 2011). In 1784, the British Crown granted land, known as the Haldimand tract, to the Six Nations. Between 1982 and 1995, 28 land claims relating to the Haldimand tract were filed with Indian and Northern Affairs Canada. The specific claim covering the DCE tract was filed in 1987. Despite being the subject of this outstanding land claim, the provincial government sold the land to Henco Industries to build DCE. In 1995, the Six Nations sued both the Ontario and federal governments over this sale. In 2006, Henco Industries commenced construction of the housing development on the contested land.

Facing the real possibility that construction would be completed before any progress in the claims process, the direct action of reclaiming the land and disrupting construction was the only means of ensuring that the land was not lost permanently. Exercising its private property rights, Henco obtained an injunction on March 3, 2006 to force people to leave the site. By March 17, 2006, three injunctions had been ordered and all were ignored leading to a finding of contempt by the presiding judge. Protesters were given five days to leave before warrants would be issued. After the five days, a criminal contempt charge was added to the existing civil charge

and the OPP were instructed by the judge to enforce the warrants and remove the protesters from the site. Reflecting their new approach, the OPP did not enforce the warrants, seeking to avoid unnecessary escalation. However, at 4:30 in the morning of April 20, OPP Emergency Response Team members conducted a raid and arrested sixteen people. Hundreds of supporters arrived at the site, at which point police disengaged and retreated and protesters re-established blockades. At the time, the OPP rationalised the raid as necessary due to an increased assessment of *threat*, which was never identified.¹⁰⁵ On April 22, an agreement was reached between Six Nations representatives and the Canadian and Ontario governments to resume negotiations. On June 16, 2006, the Ontario government purchased the land (back) from Henco. Throughout the reclamation, there has been conflict involving settler residents of Caledonia targeting Six Nations as well as government and the OPP for a perceived “double-standard” in not enforcing the law against the Indigenous activists.

The immediate escalation of the conflict was attributed to the OPP’s raid. From the perspective of Six Nations Police,

[...] it started with young people and then... they, I guess occupied, for lack of better word, that subdivision, to stop the building and then the OPP response to that triggered everything that blew up from there, right? Which led to highways being blocked and railways being blocked... so nobody was really expecting that and we certainly weren’t, even as the police service for our territory, there was no plan... on our part, our part being this community, to see it escalate like that. But the morning that happened – actually prior to that, we had been saying to the OPP, because there had been some, they asked us, like we met with them a couple of time – we, being the Six Nations Police Service – and they had asked, on more than one occasion, what we thought the response would be if they actually went in and tried to remove some of them and we just kept telling them that’d be a bad idea, don’t think that would be, I’d think you would see a pretty significance response, right? So for whatever reason the decision was made that morning that they were going to remove them and all hell broke loose, right? (Interview, SNPS)

There was acknowledgement of the disconnect from the rhetoric of negotiation, and the of escalatory effect of the raid on the OPP side as well:

¹⁰⁵ See comments by OPP Deputy Commissioner Maurice Pilon in Kate Harries. 2006. “Standoff at Caledonia.” *Globe and Mail*, April 21; Katie Rook, 2006. “Two Arrested as Tension Mounts in Caledonia.” *National Post*. April 25, A7.

[...] with the injunction there, look, they didn't, they weren't moving. And if you look back actually, when this whole thing started? We... corporately, from our police service, we had, when there was only 19 people at that demonstration at Douglas Creek – corporately, from the OPP side, we... like I said before, it's all systemic, it's nobody's fault, right? Anybody who was dealing with the ... with the folks of different communities, different stakeholders involved, we were saying, look we're not going to come in and arrest anybody right now, we're going to try to negotiate, right? But we went in there the early hours in April of 2006, we arrested 19 people just like that. But look what happened hours later. We didn't have enough police officers. So they're saying 'you lied to us. You said you wouldn't come in; you came in and you took us all out'. Right? But it's just the way, whoever made the decision, and, in fairness, nobody saw that coming (Interview, OPP8)

The policing of the DCE conflict—both the reclamation and the counter-protests by settlers—was highly significant in the future trajectory of the OPP's approach. The highly visible nature of the conflict, magnified in the context of the Ipperwash Inquiry, put the OPP, its *Framework* and Aboriginal Relations Teams (ART) at the centre of the policing response. At the time of the reclamation the *Framework*, which was technically still a draft document, was made a critical policy and implemented “hot off the presses” (Interview, OPP1). Interviewees from the OPP, RCMP, Six Nations Police Service, and government commented on the immense political pressure on the OPP to prove the effectiveness of its post-Ipperwash initiatives and commitments to communication, flexibility, and negotiation. There was a pressure on ART/MELT teams in particular, as the front-line response under the *Framework*, to demonstrate their value to the policing world as well as to the general public. Operationally, one OPP member recalls, “it was trial by fire and officers trying to follow the Framework—a Framework that people hadn't heard about before” (Interview, OPP1).

Contributing to the overall volatility of the Caledonia situation for the OPP's credibility and legitimacy, internal dissension became public in June when the Ontario Provincial Police Association openly criticized the new policing approach. According to the OPPA president at the time, “we're supposed to be the law enforcers and somehow we've ended up in a United Nations peacekeeping mission” (quoted in Oliviera 2006). The OPPA claimed that “political

pressures and optics” were prioritized over officer safety as officers were instructed not to wear full gear (quoted in S. Clairmont 2006).

As a “test”, there was a relatively immediate impact on key OPP programs relating to Indigenous protests: the ART/MELT, public order units, and incident command. One of the major changes was a re-evaluation of the operation of ART and MELT teams. The OPP’s ART teams had focused exclusively on the Six Nations community and protesters, and little work was done vis-à-vis Caledonia residents. As one member noted,

we were so busy ... as an organisation, trying to play catch-up on the First Nations background that we totally forgot about the folks in Caledonia that actually live there and also are affected by the event, because their lives were disrupted as well; never mind the land claim, which is a whole other issue, right? (Interview, OPP8)

The ART teams were also heavily criticised from outside and *within* the OPP based on what was perceived as bias because of their close work with Six Nations protesters.

The review of the ART/MELT program in 2009, which led to the renaming of the program to Provincial Liaison Team (PLT), was in large part driven by the experiences at Caledonia. Since 2006, the ART and MELT had been operating as a single unit, while using two names. This gave rise to challenges that became evident at Caledonia and subsequent events stemming from the confusion of having two names for what was the same team. This contributed to the optics of police bias, particularly for the ART members perceived as being “for the Indians” only: “having two separate programs almost made it look... almost like they were competing against each other. Or we had one for the First Nations folks, and one for the non-First Nations folks, when really it was the same thing” (Interview, OPP9). Discussions over the renaming of the team were not unanimous as some members had concerns about losing any reference to First Nations. The ART designation was seen to have been useful in facilitating relationship building with First Nations communities, but also in holding symbolic value as a reflection of the Ipperwash recommendations and thus, of change. As one OPP liaison shared,

“they were—folks were always happy to see, when you said you were there with Aboriginal Relations Team” (Interview, OPP8).

The duration and intensity of the DCE events were significant stressors for the OPP organisation:

you know, that up until that point, I think our organisation was very secure in the fact that, oh yeah, we’ve got enough public order people, we’ve got enough incident commanders, we’ve got enough, you know whatever the resource was, and Caledonia was so intensive, staffing-wise, over such a period of time, we had to rethink on a number of fronts. (Interview, OPP2)

At the time, only Emergency Response Team (ERT) members were trained for Public Order Unit (POU) duties. After Caledonia, the POU program expanded its resource pool by not limiting POU training to ERT members. The stress on resources was also a catalyst for establishing the Aboriginal Critical Incident Commander positions: “If we hadn’t been tasked so heavily, for so long, I don’t know that we would have necessarily ... seen the higher priority of putting full time critical incident commanders in place. It was always something that was talked about. But learning from that experience really taught us, okay, we need to have that extra bit of depth and flexibility, you know” (Interview, OPP2).

2007 AFN National Day of Action

The National Day of Action (NDA) occurred on June 29, 2007, just over a year after the beginning of the Six Nations reclamation. It began with a resolution put forward by Chief Terrance Nelson of Roseau River First Nation that was approved at the December 2006 Annual General Assembly of the Assembly of First Nations (AFN). The NDA was organised with the aim of raising awareness of the situation of Indigenous peoples across Canada. Diverging from Nelson’s initial plan to blockade the rail line passing through his community’s territory, the AFN leadership emphasized that the NDA would be a non-confrontational and non-violent event. A wide range of events were held across the country, which reflected the official NDA theme of

“building bridges not blockades”. According to the RCMP, the NDA involved more event “sites than any other demonstration in Canadian history.”¹⁰⁶ Events included over fifty demonstrations, including five blockades. While Chief Nelson eventually stood down his blockade plan, several groups engaged in direct actions that were not endorsed by the AFN. Along with a blockade related to the ongoing conflict at Caledonia, one of the most high profile actions organised on June 29, 2007 was a blockade of the CN Rail tracks and of highways 401 and 2 near Deseronto and the Tyendinaga Mohawk territory.¹⁰⁷

If Caledonia was the key test for the OPP, the NDA was the key testing ground for the RCMP as a national force after Ipperwash. Taking the role of lead agency, the RCMP was responsible for coordinating law enforcement responses across the country and took a preventative approach, led from National Aboriginal Policing Services (NAPS) at headquarters by a small group of First Nations officers (Interview, RCMP3). In a briefing note to a Deputy Commissioner, NAPS noted that the RCMP had addressed many of the final recommendations of the Ipperwash report (released before the NDA on May 31) over the course of the twelve years since 1995, and NAPS was assessing the final report for “its alignment with the [RCMP’s] policing approach for June 29”.¹⁰⁸ A national steering committee was established to coordinate the NDA policing response, an approach that had never been taken by the RCMP before.¹⁰⁹ A central emphasis was put on implementing a consistent measured response approach utilising conflict negotiation strategies. Soon after the December AFN resolution, a proposal was made to establish dedicated RCMP intelligence resources, citing intelligence gaps and shortcomings

¹⁰⁶ RCMP. 2007 (September). The National Day of Action Debrief – Draft. P. 13. RCMP ATI request A-2012-00178.

¹⁰⁷ Days of Actions have been held in subsequent years but with significantly less attention than the 2007 NDA.

¹⁰⁸ RCMP. 2007 (June 4). Briefing Note to Deputy Commissioner (BN CCAPS-07-069). P. 2. ATI Request GA-3951-3-00060.

¹⁰⁹ The committee’s mandate/objective was that “[w]hile respecting and protecting the right to lawful and peaceful demonstration, the RCMP is committed to working collaboratively and pro-actively with our communities to provide a safe and secure environment for all Canadians during the National Day of Action” (RCMP. 2007 (September). The National Day of Action Debrief – Draft. Pp. 3-4. RCMP ATI request A-2012-00178).

that occurred with the Six Nations reclamation.¹¹⁰ This led to the creation of the Aboriginal Joint Intelligence Group (JIG) and the formation of an information and intelligence-sharing network of partners in law enforcement including the OPP and SQ, as well as CSIS, Canada Border Services Agency, Department of National Defence, Natural Resources Canada, Transport Canada, Health Canada, Department of Fisheries and Oceans, and Indian and Northern Affairs Canada (INAC).

Blockades at Tyendinaga Mohawk Territory

The blockades during the NDA 2007 were part of an ongoing effort by the Tyendinaga Mohawk community to address issues of poverty, the lack of access to safe water, and ongoing land struggles. The rail line and highways cross the Culbertson Tract—land adjacent to Tyendinaga Mohawk Territory that the federal government recognises as unceded by the Tyendinaga Mohawks.¹¹¹ The Tyendinaga Mohawks challenged the sale of the Culbertson Tract in 1837 by John Culbertson to the Crown on the basis that Culbertson did not have authority to sell the land without consent of, or surrender by, the Tyendinaga Mohawk nation (see Pasternak, Collis and Dafnos 2013). In 1995, the band council of the Mohawks of the Bay of Quinte filed a specific claim seeking return of the land and compensation. INAC verified the claim as legitimate in 2003, which opened the process of negotiations.

On April 20, 2006, Tyendinaga Mohawks had blockaded the CN rail line as a show of solidarity with the Six Nations of Grand River in response to the OPP's raid early that morning. The next year, there was another blockade on the one-year anniversary of the raid.¹¹² With the

¹¹⁰ RCMP. 2007 (January 23). Project Plan RCMP Criminal Intelligence. RCMP ATI request 2007-02463.

¹¹¹ A land claim was filed in 1995 and in November 2003 the federal government acknowledged that the Tyendinaga Mohawks had never surrendered the 923 acres of land. However, it has taken a position that it will not purchase the land back from private owners in order to return it to Mohawk control.

¹¹² People from Tyendinaga have been actively engaged in direct actions, including reclamation of the Thurlow Aggregates gravel quarry located on the Culbertson Tract. On March 10, 2007, members of the Tyendinaga Mohawk community blocked the entrance to the quarry and set up camp inside. This action occurred after the company was given 60 days' notice to leave the site. In 1979, the Ontario Ministry of Natural Resources issued a licence to Thurlow

history of blockades and the publicising of plans to blockade the rails again on June 29, 2007, CN Rail pre-emptively cancelled all trains scheduled to run through the area, including both freight and passenger service. Protesters blocked Highway 2 on the night of June 28, and the OPP closed a section of Highway 401 before protesters erected their own barriers. The protesters opened up their barricades on Highway 401 in the mid-morning of June 29, but maintained the blockade of the rail line and Highway 2 until midnight. Shawn Brant, acting as spokesperson for the action (and previous actions) was charged with mischief and breaching bail conditions.¹¹³ Like Caledonia, the OPP claimed that its handling of the blockades was a success of its “measured approach” (Valpy 2007). During Brant’s preliminary hearings, it was revealed that ERT and TRU teams had been deployed on standby, and that Julian Fantino, OPP Commissioner at the time, had pressured commanders to go in and arrest Brant despite Brant’s active negotiations with police liaisons on site, and CN Rail’s willingness to wait until morning.¹¹⁴ After those events, the OPP instituted guidelines prohibiting the presence of the OPP Commissioner in command posts during an incident (Interview, OPP2).

Idle No More

Beginning in December 2012, Indigenous people and non-indigenous supporters engaged in a wide range of quasi-autonomous protests and direct actions including round dance flash mobs, demonstrations, blockades of rail-lines, highways and bridges, and hunger strikes affiliated with the Idle No More movement. Driven by social media, solidarity actions have occurred around the world. As of January 29, 2013, there had been 429 protests in Canada, including 129

Aggregates allowing the company to begin gravel mining on a plot of land located in the centre of the Culbertson Tract (see Pasternak, Collis and Dafnos 2013).

¹¹³ Following the preliminary hearing, a plea agreement was reached in which Brant was sentenced to stay on reserve for 3 months and then 1 year of probation. The Crown had initially been seeking up to twelve years imprisonment. There was speculation that the plea agreement was accepted by the Crown to keep Fantino (and the OPP) from being subpoenaed to provide additional testimony. Brant and two other protesters who participated in the June 29 blockade were then sued by CN Rail.

¹¹⁴ R. v. Brant. Preliminary hearing transcripts (testimony of Julian Fantino). Retrieved June 28, 2014 (<http://www.ocap.ca/supporttmt/files/fantino-testimony.pdf>).

highway, road, rail, and bridge disruptions.¹¹⁵ On December 21, Aamjiwnaang First Nation blockaded the CN Rail tracks in Sarnia. CN Rail obtained an injunction, but Sarnia Police did not take immediate enforcement action and events concluded without conflict. As in the Six Nations case, the Ontario Superior Court judge who had ordered the injunctions directly criticised Sarnia Police as well as the OPP for failing to enforce them. The OPP—which were not the force of primary jurisdiction—defended itself with reference to the *Framework* and argued that it was “too dangerous” to enforce injunctions and that taking “unnecessary aggressive action” would “undoubtedly” cause greater risk to police and public safety (Canadian Press 2013). As of March 2013, Ron Plain has been the only person to face charges, related to the Aamjiwnaang rail blockade. One PLT member reflected on the significance of the OPP’s change of approach:

Can you imagine Idle - now we say this, that Idle No More that happened? Put that 10 years ago, 15 years ago, if that would have happened? God knows what we’d look like today, right? Which is, it wouldn’t have been good at all. There would have been thousands of charges, probably, and people hurt, and, right? So it’s hard to imagine without it now. So luckily we do do business that way. (Interview, OPP8)

In Ontario, the management of Idle No More by the OPP involved several parts of the organisation in addition the PLT: the Aboriginal Policing Bureau, intelligence units, the Provincial Operations Intelligence Bureau, and field support (which includes the incident command program). The OPP also worked with municipal police services—as many events occurred in urban centres—as well as other external partners including the RCMP, First Nations Police services, CSIS, Canada Border Services Agency, and private sector entities such as bridge authorities (Interview, OPP9).

Idle No More presented several unique dynamics that posed new problems for policing. The vast majority of events were grassroots-led, often by people who had not previously been in contact with liaisons in the context of protests. This was exacerbated from a police perspective

¹¹⁵ AANDC. 2013. “Cheat Sheet – Supplemental Flood, Wildland Fire Season and Other Issues Update as of Tuesday January 29, 2013.” Pp. 3-4. INAC ATI request 2012-01680.

by the *exclusion*, in some cases, of elected chiefs and councils from community event planning, which meant that those relationships cultivated by police liaisons could not be relied upon in the lead-up to events. The frequency of multiple Idle No More-associated actions, often occurring simultaneously in different jurisdictions, and the protracted duration of the “peak” over several weeks during December and January were significant pressures on police resources, particularly for the OPP’s PLT. This was further compounded by the prevalent use of social media by event organisers. As several OPP members noted, prioritisation was crucial in determining the deployment of PLT officers based on assessment of potential disruption. As one member described it, “with the ... the community members organising instead of the chiefs and council, and the social [media]—that was killing us” (Interview, OPP8).

It was, however, a learning experience for the program and OPP, which was likened to Caledonia: “We’re better because of [Caledonia]. And ... you have to have events like that” (Interview, OPP8). Several PLT members noted that the experience of Idle No More allowed the PLT to expand its network of contacts with “non-traditional leaders and youth” (Interview, OPP9). The central involvement of PLT in managing events associated with Idle No More, particularly during the peak of the movement was also crucial for the program in building credibility within the organisation (Interview, OPP9).¹¹⁶

The events outlined here have been “testing grounds” for the range of “new” policing policies and practices introduced after Ipperwash to address what were perceived as systemic issues contributing to the escalation of conflict during Indigenous protests. At the same time, these are encounters in which policing practices and knowledge are shaped through a dialectic

¹¹⁶ On March 18, 2013, Idle No More organizers and Defenders of the Land issued a joint statement calling for “escalating action” in the spring and summer of 2013, dubbed “solidarity spring” and “sovereignty summer”. The declaration calls for “co-ordinated non-violent direct actions” such as blockades. Defenders of the Land is a network, formed in 2008, of Indigenous communities and activists engaged in defending land and indigenous rights. The alliance between Idle No More and Defenders of the Land itself signals an intensification of the movement as Idle No More had not previously explicitly endorsed direct action (i.e. disruptive tactics). While intensified, disruptive direct actions did not occur in the summer of 2013, the RCMP raid of an anti-shale gas fracking blockade on October 17, 2013 in Elsipogtog, near Rexton, New Brunswick, sparked many solidarity actions across Canada, many under the banner of Idle No More.

relationship with resistance, which provides the basis for changes in institutional strategies. What has emerged between 1995 and 2013 is an assemblage of formal and informal policies, practices and relationships amongst police-security institutions that has been shaped by these encounters.

CONCLUSION

Public inquiries such as the RCAP, Hughes Commission, and the Ipperwash Inquiry are quasi-legal processes consistent with the liberal politics of recognition and reconciliation that channel political struggles into institutionalised venues in which the parameters of engagement are established by state institutions. While they can be arenas for competing perspectives, inquiries are “theatres” for the enactment of the “common good” that legitimates the state’s assertion of sovereignty. The authority of inquiries and their findings stems from the perceived independence and rationality of the inquiry process. The final reports of inquiries—while lacking compliance or enforcement mechanisms—affirm certain “truths” about events or broader social “problems” that have disrupted dominant legitimating discourses of the nation-state.

The Ipperwash Inquiry articulated a (re)problematisation of Indigenous protests as an object of policing that addressed the history of colonialism. This understanding of “the problem” informed three core sets of recommendations for police practices stemming from the events of Ipperwash: (1) to develop understanding of the unique context of Indigenous protests and communities, (2) to address the “intelligence failure” of Ipperwash, and (3) to ensure independence from political interference. These recommendations and the police reforms undertaken since the mid-1990s resonate with broader trends in public order policing in Anglo-American and western European states.

The conditions giving rise to the unique dimensions of Indigenous protests identified by Linden have been *created by* historical and ongoing settler colonial pacification strategies such as displacement to reserves and the expropriation and privatisation of land. When situated in

the context of quasi-autonomous organisational and philosophical shifts in the policing and security realm, the conciliatory liberal recognition of the “uniqueness” of Indigenous protests is an implicit confirmation of the *riskiness* of Indigenous struggles for the settler state. This riskiness is *rationalised* through the legitimating discourse of the Inquiry and by organisation reforms which reflect ideals of democratic consent and rights-based policing.

The post-Ipperwash “testing grounds” make visible some of the tensions between the “ideals” of “new” reforms and the complexities of actual implementation. These tensions emerge from a disjuncture between the post-Ipperwash liberal-democratic discourse and the historical material conditions constituted by settler colonialism which shape encounters between police and Indigenous peoples. The Six Nations reclamation, 2007 National Day of Action, Tyendinaga blockades, and Idle No More protests demonstrate the ongoing dialectic of pacification strategies as police organisations have continued to modify practices and policies. In each of the following three chapters, I focus on a specific dimension of these practices and ruptures as entry-points to the larger constellation of the contemporary police-security apparatus. In chapter 4, I focus on the cluster of practices and organisations involved in the front line police management of protests “on the ground” through the liaison-led, measured response approach. Chapter 5 analyses how these front line practices are reconciled with the dominant intelligence-led policing paradigm. I show how the shared prioritisation of *prevention* entwines front line policing and national security. In chapter 6, I revisit the role of Indian Affairs as a central pillar in the process of securing settler state sovereignty through the interfacing of its administrative-legal strategies of pacification with the practices discussed in chapters 4 and 5. The interfacing of these institutional clusters makes visible a constellation of institutions and practices mobilised in managing Indigenous struggles, which disrupts the legitimating logics of settler state institutions.

CHAPTER FOUR

The “Meat in the Sandwich”: Front-Line Policing

In the previous chapter, I mapped the various policies and structures that emerged after the events of Ipperwash. These changes were responses to a crisis of legitimacy for police forces as events like Ipperwash, Gustafsen Lake, and Oka ruptured the “sacredness” of the police institution, revealing disjunctures between the actions of the OPP and RCMP and the ideals of consent and political neutrality that underlie democratic policing. After crises, public inquiries can work as liberal governance mechanisms consistent with a politics of reconciliation. I argued that the Ipperwash Inquiry (re)produced a narrative about the “problem” of Indigenous protests that acknowledges the unique colonial context while lending legitimation to organisational reforms. These changes in policing were consistent with prevailing trends, characterised by an explicit prevention and pre-emption orientation and drawing on liberal-legal rights discourse to reinforce the “neutrality” of police.

In this chapter I focus on the most *visible* set of reforms undertaken by the OPP and RCMP: the use of outreach and liaison units and the measured response approach. These reforms have been most visible because (1) they manifest in the activities of front-line officers who are the first point of contact between police organisations and protesters as well as with the broader public (directly or indirectly via media); (2) there has been a (political) “selling” of these approaches by police leadership as evidence of progressive change based on the “lessons” of past events; and (3) they depart—at the very least, discursively—from conventional or traditional policing approaches. Furthermore, the “testing grounds” between 2006 and 2013 were visible stages on which these reforms could be implemented.

As described in chapter 3, the use of liaisons as part of the measured response approach is grounded in the liberal democratic policing objectives of facilitating political rights of dissent and refraining from the use of physical force. Drawing primarily on interviews with OPP

and RCMP officers, I begin the chapter by discussing how *prevention* is conceptualised by these officers, and how these conceptions inform their activities aimed at developing “trust” with First Nations communities and those involved in protests as a basis of consent-based policing. In the next two sections, I (*un*)map how “trust” and relationships are mobilised in managing protest activities. Liaisons and measured response work as a governing strategy that deploys the legal liberal rights discourse to responsabilise protesters and to manage risks to “critical infrastructure” as well as risks to police personnel and organisations. These practices *strengthen* police grounds for escalating their use of force, as well as for the expanded use of *covert intelligence operations*, which is discussed in chapter 5. While not always applied directly, the *coercive potential* of police forces enables the effectiveness of negotiation-based management. Operational decisions—including any escalation of police response—are *rationalised* through the formalisation and “transparency” of police protocols. Rather than constraining police activities and decision-making, the introduction of formal policies, guidelines, training, and incident command structures have augmented and rationalised police discretion.

Relative to other forms of dissent, the colonial relationship and the unique features of Indigenous protests carry greater risks for police organisations and for the settler state itself. This colonial relationship contributes to internal frictions and tensions within police organisations as well as with the judiciary and government. Despite these tensions—or perhaps *because of some of them*—the liaison approach to managing Indigenous protests is a relatively “successful” mode of governing through negotiation. As part of the broader police response, negotiation, as a strategy, works in ways that institutionalises protest and criminalises radical direct action. The “success” of these reforms is based on neutralising the political-economic leverage of Indigenous direct actions while reinforcing “legitimate” institutional avenues of dissent. While responsabilisation and “governing through rights” tend to be taken up as emblematic of (neo)liberal governmentality, I argue that as an explicitly articulated policing *strategy*, these are *lawfare* practices that are more aptly described as disciplinary-juridical modes of power. Rights

and law work as *rules*, and “choice”—as a basis of responsabilisation—is constrained by the potential for “*punishment*” through criminalisation and/or police use of force when people do not conform to settler state (legal) authority.

PREVENTION THROUGH RELATIONSHIPS AND COMMUNICATION

Consistent with trends in public order policing in most Anglo-American states, the OPP and RCMP rolled out proactive, formal measured response approaches through the 1990s and into the 2000s. Prior to this, public order policing was largely reactive with the objective of containing, isolating, and dispersing public disruptions (see King 1997). The “new” approach is associated with the policing of labour conflicts and the emergence of transnational global justice protests in the late 1990s (see King 1997; King and Waddington 2006; de Lint and Hall 2009). The Gustafsen Lake and Ipperwash “crises” for the RCMP and OPP fueled additional initiatives specific to addressing organisational relations with Indigenous communities. The introduction of dedicated Aboriginal policing bureaus, liaisons, and expanded “Aboriginal awareness” training signalled a commitment by these forces to address their often volatile relationships with Indigenous peoples and are consistent with broader reconciliation politics. While officially adopted as force-wide priorities by both the OPP and RCMP, the task of (re)building relationships with Indigenous communities falls largely to Aboriginal policing programs and designated liaison and outreach officers. In the context of protests, the “repairing” of relationships, or building of new ones, hinges on the assertion of political *neutrality* on the part of police. This underlying objective is linked to the ability of police to *prevent* threats to police and to public safety.

Articulations of Prevention

Liaison and outreach officers engage in a wide range of activities that reflect multiple understandings of “prevention”, which intersect with, or inform, activities undertaken in two

contexts. On one hand, prevention is articulated through an understanding of the liaison role (and police more generally) as a kind of *social service* concerned with issues grounded in colonialism (such as poverty and housing). On the other hand, prevention activities are instrumentally-oriented to the specific task of managing protest actions. These understandings shape police activities in both general and event-specific contexts. There is fluidity among these strategies and conceptions, and the specificity of how they are articulated at certain times and places reflects both individual and organisational motives and objectives. Most often, there is a balancing between the requirements of “getting the job done”—managing protests so that they do not cause significant disruption or lead to violence—and building trust on an interpersonal level and as representatives of an organisation (see Table 5).

Table 5 Police Conceptions of Prevention

Articulation	Social service: Preventing and addressing root issues / causes such as housing, water will prevent growth of frustration	Instrumental: Make connections with communities because they are vital sources of information, communication, and can self-police during events
Context	Issue-oriented Regular part of the job	Event-oriented

From a “social service” perspective, officers see themselves as often being the sole representative of the state in First Nations communities, especially those in remote locales. One RCMP liaison described a large component of his role as working to identify and obtain social service or health resources for communities (Interview, RCMP10). Many of the officers involved in Aboriginal policing emphasize the importance of addressing issues such as poverty, housing, education, and access to water, which can eventually become the issues that lead to protest actions out of frustration with Indian Affairs and other state agencies’ failure to act. These officers see government inaction in addressing basic necessities and in fulfilling obligations as

foundations for continued and growing frustration (Interviews, RCMP10; RCMP1; RCMP3). Police initiatives such as youth programs have a preventative role that extends to stemming anger and militancy.

From an “instrumental” perspective, the integration and intervention of police within communities provides a means of developing interpersonal relationships that can be drawn upon if community members engage in protests or direct actions. These relationships and officers’ knowledge of community dynamics enable the flow of communication between protesters and police that is necessary for a measured response approach. Where the primary emphasis is on “getting the job done” to successfully manage protests, the development of “trust” with community members and leaders is essential to negotiate parameters that allow police to meet their objectives of minimising disruption and risks to public, police, and protester safety. The ideal scenario is to pre-empt the emergence of a “critical incident” through facilitating resolution of the underlying issue. As one OPP member puts it, “if we do our job correctly—and we do—if you get in there early enough when an issue is starting to kind of smoulder, and try to resolve it? Then it doesn’t turn into a critical incident. And that’s where I think our biggest success is” (Interview, OPP9). This kind of intervention could be to encourage two sides—such as in the case of intra-band conflicts—to enter a mediation process. Liaisons would “give the concept” but not participate in the actual mediation (Interview, OPP8). This understanding of the role of police liaisons reflects the overlapping of the social service and instrumental concepts of prevention.

This convergence of prevention roles echoes the historical role of police in governing Indigenous peoples through the administration of “bare life” (Agamben 1998), which sustains settler state “peace.” As discussed in chapter 2, since the nineteenth century the police have been a primary agent in containing Indigenous peoples in a ‘state of exception’ by sustaining their existence through, for example, administration of rations, while maintaining their exclusion from the body politic of the nation-state. Settler colonialism has produced the conditions in

which the contemporary social service interventions of police are made necessary. It is also significant that the treaty obligations of the settler state continue to be mediated by and through the police institution.

Building Relationships in Practice

There are a number of ways that police organisations have sought to build relationships with Indigenous people including formal relationships with organisations and people in leadership positions (both traditional and elected), being a visible presence with/in communities in a social sense as well as physically, and proactively reaching out to groups and organisers prior to protest events. All three strategies reflect elements of the social service and instrumental aspects of prevention.

In terms of formal relationships, one key mechanism is the establishing of protocols. According to Public Safety Canada, “protocols can be a valuable tool” that can help to “institutionalize contention through communication and formal procedures.”¹¹⁷ One of the most significant protocols is the RCMP and the Assembly of First Nations (AFN) “Public Safety Cooperation Protocol.” Signed on June 19, 2004, the two-year protocol is a formal example of the policing emphasis on prevention and the centrality of information sharing. The protocol sets guidelines for the involvement of both the AFN and the RCMP in responding to (potential) conflict situations, but most significantly it establishes a formal agreement to share information on an ongoing basis. According to the protocol, the AFN’s role is “to identify situations that could lead to crisis” in First Nations communities, to share information with the RCMP, and to provide advice as to the RCMP’s response. The exchange of information is facilitated through local, regional, and national level AFN and RCMP liaisons. The protocol also provides for the

¹¹⁷ Public Safety and Emergency Preparedness Canada. 2007 (March 30). “Response to Aboriginal Occupations and Protests” [briefing note]. PSC ATI request A-2007-0121.

establishing of joint RCMP/AFN Crisis Response Teams.¹¹⁸ The protocol was strategically renewed for three years in June 2007, just prior to the AFN National Day of Action.¹¹⁹ Similar protocols were established at the Divisional level with regional organisations and chiefs in BC, Manitoba and the Northwest Territories.¹²⁰

More specific to Indigenous protests than those carried out by non-Indigenous people is the emphasis on developing visible and active police presence in communities. As several OPP liaisons describe it, it is about being there “for the good times” and not just responding in times of conflict: “we’re not always there for the bad stuff, so they say, ‘hey, they’re not just here for the bad news, they’re also here because they want to be here,’ right?” (Interview, OPP8). In addition to reaching out and identifying themselves to both elected and traditional leadership, liaisons seek opportunities to participate in community activities where appropriate. The degree of initiative undertaken by full-time liaison and outreach officers varies, but includes activities such as attending pow-wows and other community events, running youth programs, connecting with friendship centres, coaching sports teams, and helping with food and clothing drives.

Some interviewees describe this as an important way to learn more about individual communities, cultures, histories, and issues, which allows them to develop greater understanding that can be relayed to their organisations as a way of challenging misconceptions and potentially defusing conflict if a protest occurs:

So some of our education involves our own boys and girls in blue, right, who might show up to a roadblock or whatever, and in the past the ignorance has maybe not allowed for the most effective response. Whereas we’re helping to educate within; and so, and they like that, because everybody wants to know what’s going on. And... and that helps a lot too. (Interview, OPP4)

¹¹⁸ Operationally, the protocol was almost immediately utilized during the high profile protest and occupation by members of the Secwepemc nation at the Sun Peaks resort near Kamloops, BC in August 2004. Anticipating an impending enforcement order by the BC Land and Water Agency to remove protesters, the E Division Deputy CrOps officer contacted a representative of the AFN, referencing the protocol, asking for “suggestions, ideas or comments” on the situation and the potential for escalation. RCMP. 2004 (September 1). “Subject: Sunpeaks” [email]. RCMP ATI request A-2011-05620.

¹¹⁹ RCMP. 2007 (June 12). Briefing note to the Commissioner (CCAPS-07-077). RCMP ATI request 3951-60.

¹²⁰ RCMP. 2007 (June 12). Briefing note to the Commissioner (CCAPS-07-077). RCMP ATI request 3951-60.

At the same time, proactive outreach with communities is *strategic* with a view to mitigating potential future conflict. According to the Standard Operating Procedures for the OPP's Provincial Liaison Team (PLT), liaisons should "build upon existing relationships and initiate new contacts where it is determined that communication with these persons/groups would assist in resolving issues and events, i.e. National Day of Action or ongoing occupations."¹²¹ This *liaison* work of building trust has long-term aims in building relationships that can be transferred beyond the interpersonal connection of individual officers. Liaisons will also proactively approach individuals, and groups involved in activism—or who have simply been *vocal*. Prior to any incident occurring, the OPP *Framework* states that officers (general duty and liaisons) should watch for "real or perceived inequities in privilege or power within the community or between the community and society," planned or ongoing initiatives with potential for conflict, "words and images used to describe an initiative or event that could generate negative emotions, dissension, disagreement, or conflict," and statements made by people that conflict "will ensue" "if an initiative or event is not dealt with sensitively" (OPP 2006c:4-5; OPP 2013:14).

These "signs" of potential conflict could be observed in the course of their everyday interactions with/in communities, or through open sources (such as community mailing lists or media). PLT officers may also attend open community and organising meetings, although this is subject to the discretion of the people present. Balancing the need to maintain credibility and trust with operational objectives can become a "fine line", and we can see how "transparency" and "openness" can be used strategically to gain access to groups of interest to police when presented as being in the interests of organisers:

Actually, I will not go to any meetings, for anybody, without telling them that we're there. 'Cause I could walk in like this—to any meeting, and just sign in as 'Joe Blow'. Or just take out my licence; they don't know who I am. But I don't do that, I'll say I'm with the PLT, I'm coming to listen; so that maybe one day if we're ever needed, I'm somewhat effective. And we kind of go through our spiel. But we say too, don't tell everybody on the mic that the police are here tonight, 'cause it's going to freak them out. If you want us

¹²¹ OPP. 2010. PLT Standard Operating Procedures. P. 5. MCSCS FIPPA request CSCS-A-2012-03063.

to address these folks at a future meeting, we'll plan it together and we'll do it, but this is your meeting, it's not about the police, right; we're just there to learn. But we don't go incognito and sneak in. Sometimes they're not happy. But we just say, that's why we're here, we want to hear, 'cause we can forecast by your meeting –if there's going to be issues down the road. 'Cause we hear what people are saying, right, and stuff.

[TD] If there was a sense that people weren't happy having you there, I mean, would you leave?

If they were really adamant, they really didn't want us to go, I probably wouldn't go—to that meeting. But I would, I would push to ... and that's the fine line, is what the boundaries are—to meet with them later, for ten minutes. 'Cause I know that ten, fifteen minutes of conversation will probably get us to the next meeting. (Interview, OPP8)

Liaisons consistently claim that the majority of people and groups that they have approached have been receptive, although not always immediately. Some liaisons noted that it can take “years” to open “just a tiny little door and you have to take baby steps” (Interview, OPP4; also RCMP4). The refusal of people to speak with police before or during a protest action is taken up in different ways. Refusal is sometimes recognised as rooted in longstanding tensions and mistrust of the police by Indigenous communities. Officers do not necessarily characterise them as “bad” or suspicious but as a challenge for the immediate police objectives of managing an event and for the longer-term priority of building a relationship, but with the recognition that it can take years to do so, or not be possible at all. As one OPP liaison describes, they must navigate refusals in ways that create future opportunities for dialogue:

If they say no, we'll say, well can—you know, and some groups, it's a fair statement 'cause you don't know what they've dealt with before, right—and, you know, in a month can I check in with you? 'I'll think about it', and you call back in a month; sometimes it takes four months to meet. Especially if it's something that's down the road and you have the benefit of time, right. If it's really, really, close and they really don't want to talk, we just try to say, look—you know, you're going to go do it but I'm telling you, we're going to get called to, we're going to be there anyway, we have to go, they're going to call us, we know it's coming; so can we just talk about it. And then usually they're like, 'wow, we didn't realise you guys would actually do this kind of stuff. (Interview, OPP8)

In the case of an impending protest or blockade, liaisons might point out the inevitability of having to deal with them anyways. This is implied by another OPP officer:

[I]f there's the very, the militant people that are, that don't want anything to do with you; they'll tell ya they don't want anything to do with you. So you try, right? 'Hey, how you doing guys?' Well, they tell you to screw off, you know, then, at least you tried. But sooner or later, they're going to need somebody to talk to, right? (Interview, OPP1)

One of the central preventative outcomes sought by formal organisational agreements and interpersonal relationships has been to encourage people to proactively contact liaisons prior to protest actions or even where "unrest" may be emerging. As one RCMP member puts it, "we are proactive... in order to assist, not to deter" (Interview, RCMP8). According to members of the OPP, there has been a significant shift in the proportion of events that they are notified about in advance, as opposed to doing the legwork to find out what is happening. Several participants noted that they "don't seem to get surprised anymore" (Interview, OPP8) and identified Idle No More events between December 2012 and January 2013 as an important catalyst in establishing this dynamic. As I discuss below, having a "head's up" has significant operational benefits for police because it allows for planning and early interventions to shape protest actions. This is a crucial form of responsabilisation establishing a norm for organisers to contact the police to advise them of upcoming events and to seek assistance with planning.

In addition to potential protesters, the OPP's PLT program has increasingly spread their attention to other parties, especially those who may be impacted by protest actions. In the case of a reclamation or blockade, this might include nearby residents and business owners. The Six Nations reclamation at Caledonia was a key catalyst in this shift as much of the conflict after the April 20 raid stemmed from confrontations by Caledonia residents. The proactive outreach to keep "stakeholders" informed is seen as important to mitigate hostilities and the possibility of counter-protests, as was seen in Caledonia. Where an action may directly impact a corporation such as a mining company, liaisons will also outreach to them. Liaisons' communication with "stakeholders" may involve providing updates, explaining their approach, offering advice to better cope with disruption, or even educating affected parties on the underlying issues. These activities further reinforce the "neutrality" of police in conflict situations. Several interviewees

described the police role as being “the meat in a sandwich” between protesters and government, as well as with other involved or affected parties such as business owners. As an RCMP member notes, “that’s kind of my opening line when I talk to cops, is that we are the meat in the sandwich in these conflicts [...] we’re the meat here; all we’re here [for], is to keep the peace” (Interview, RCMP3). In the process of responsabilising other parties to maintain “peace”, these outreach activities work to establish police credibility and legitimate how they manage the protest.

Interpersonal Trust and Internal Tensions

Aside from formal relationships forged via protocols or memoranda of understanding, the preventative approach of liaison policing is based largely on the interpersonal rapport of individual officers with the people they engage with. Key to this is overcoming trepidations and suspicions by minimising the power differential—a defining feature of consent-based policing. One of the priorities for liaisons is to be transparent and open about their roles and to be visible. There is a paradox as liaisons seek to be open and clear about their roles *as police officers* while also downplaying the coercive power associated with their positions. One way of addressing the latter is by dressing in plain clothes, recognising that the police uniform itself can be perceived as a symbol of coercion or intimidation:

We, first of all, wear plain clothes because, you know, there’s the adage of the whole use of force thing, which has always been a cultural issue; and so I find that when we work in, when we approach in very low-key kind of way—jeans, t-shirt—people in general are, you know, it’s that authority and with the use of force showing, you’re less approachable. And I can honestly say, in a career of twenty-five years that I believe that’s true in a lot of ways. (Interview, OPP4)

When it comes to the specific context of potential protests or direct actions—and thus, a more operational role for liaisons—plain-clothes are important to reduce antagonism, while also subtly signifying their *neutrality in relation to the issue of contention*. As one liaison put it, “I always say we dress like the folks dress. So if I’m going to a lumber demonstration, I’ve got my plaid jacket

on, you know. Just 'cause then they relate; they don't want to talk to a tie, they don't want to talk to a uniform" (Interview, OPP8).

Conveying approachability in building rapport involves more than dressing in plain clothes. The personal characteristics and training of individual officers plays a significant role, and is a major part of the OPP's recruitment process, particularly since 2009 when the Aboriginal Policing Bureau established formal selection criteria (Interviews, OPP9; OPP5).¹²² The role of First Nations officers working as OPP and RCMP liaisons can sometimes be beneficial in building relationships, but most interviewees emphasized that the individual character of officers is most important regardless of whether they are settlers or First Nations. The personal risks, however, are often greater for First Nations officers. Some interviewees spoke about the importance of maintaining their reputations in "Indian country" as past actions could either help or "haunt" them in developing channels of communication (Interview, RCMP4). As an interesting juxtaposition to the *rationalisation and formalisation* of police practices, some First Nations officers identify their own informal, personal networks in "Indian country" as one of the most important means of de-escalating situations by disseminating information or countering rumours when police actions may be inflammatory (Interviews, RCMP4; RCMP3; OPP8). However, officers have experienced situations when identity is "thrown in my face" (Interview, OPP3) as "being Native" can also be "a double-edged sword because... I get called a traitor, right. [...]—what are you doing? This is your people, you're... you know" (Interview, OPP8).¹²³ While First Nations members can generally be important resources for the police organisation in creating opportunities for communication with First Nations communities, or providing contextual

¹²² OPP. 2011. "Position Descriptions" in Provincial Liaison Team Review 2009-2010. MCSCS FIPPA request CSCS-A-2012-03063.

¹²³ While liaisons are generally seen as being in a precarious position as the "front line" dealing with people who are more likely to have negative perceptions of police, this is exacerbated for First Nations officers, especially for those who may be working with/in their own communities, but also in the broader world of Indian country. The SNPS member suggested that it was probably the "worst choice" for the OPP to assign a liaison to his or her own community because of the immense "pressure and the conflict that he must be dealing with now as a community person, and the expectations [...] from the OPP side of things".

information that can de-escalate policing responses, their social position can compound the difficulties of navigating their role as the “meat in a sandwich” vis-à-vis First Nations communities and their colleagues.

The interpersonal relationships developed by liaisons (both settler and Indigenous) can become sources of tension or conflict for individual officers and for liaison units as a whole on various levels. If a protest occurs, liaisons will be the first response in managing the event, and communicating the interests of the incident commander to protesters. On an individual level, liaisons must manage the boundaries, which can be “difficult because, you know, you always have to maintain a professional relationship. As much as we have elders we work with who provide, perhaps, a more personal relationship, when we’re, during an event, we try to be—like when the event’s actually taking place—we’re more professional” (Interview, OPP4). Liaisons have to be careful “not to be overly friendly, but you know what I mean, like to the point where you’re best pals; and now, as best pals, I’ve gotta arrest you because you just punched somebody” (Interview, OPP3). For some officers, there can be personal frustration when “you care, genuinely care for” the people who end up at risk of getting injured because they do not follow police advice intended to prevent harm (Interview, OPP3).

Organisationally, there are enduring suspicions of liaisons from other parts of the force because of the uniqueness of the liaison role and the interpersonal relationships, which are sometimes seen as affecting liaisons’ impartiality. Several OPP members noted that there is a persistent lack of understanding about liaisons’ relationship-building activities such as attending meetings, participating in community events, and “going for coffee with the chief” (Interview, OPP8). As one member shares, colleagues may have perceptions of “so your job is just to go talk to people? Or go have coffee with the chief and council, like, that’s it?” (Interview, OPP9). The non-traditional nature of liaison work is viewed as “fluffy-duffy” (Interview, OPP9), “huggy-feely” (OPP7), and liaisons as “warm and fuzzy marshmallow types” (Interview, OPP4), which is not associated with “real” police work (Interview, OPP6) and at odds with traditional police

subculture. This can create tensions when it becomes a staffing issue for local detachments. While there are a handful of full-time liaisons across the province, the majority of the program is made up of officers who are trained as liaisons but have regular duties with their detachments. They will be called upon for special duty in their PLT capacities when an event is on the horizon or actually occurring, which takes them away from their regular jobs. One PLT member relayed that “if you’re gone for PLT duties, away from your office and the shift is running short, you get blamed for making the shift short when you come back” (Interview, OPP8). The same process occurs with officers who are part of other speciality units such as Emergency Response Teams, but according to the interviewee, PLT “members take it pretty good” (Interview, OPP8) because PLT is sometimes not valued in the same way that tactical units are. This is supported by findings in the internal 2009-10 OPP PLT Program Review that less than 20 percent of PLT members felt that their role was understood and valued by other front line officers.¹²⁴

This suspicion or misunderstanding of the liaison role has had operational implications on the ground. During the 2006 Six Nations reclamation, criminal investigators were cautious about sharing information about their operations with the Aboriginal Relations Team (ART) members (Interview, SNPS). Similarly, at Tyendinaga in 2008, OPP investigators did not notify the critical incident commander or ART that they planned on arresting several people who had been involved in the occupation and road blockade.¹²⁵ After the arrest of spokesperson Shawn Brant, who had been speaking with journalists, the ART representative reached an agreement with activists to defuse tensions but officers “suddenly and forcefully arrested four of the activists,” which led to an escalation of the situation (Amnesty International Canada 2011:19).

¹²⁴ OPP. 2011. Provincial Liaison Team Review 2009-2010. P. 8. MCSCS FIPPA request CSCS-A-2012-03063.

¹²⁵ On April 21, 2008 the Tyendinaga activists had occupied a site of a future housing development located on the Culbertson Tract. Road blocks were set up after non-Natives passing the site showed aggressive behaviour. On April 22, activists reported an escalation of police presence including helicopters and the Tactics and Rescue Unit. 200 Public Order Unit officers were sent in and the activists took down the barricades to avoid further escalation (Amnesty International Canada 2011).

Intra-organisational tensions may also be fueled by suspicions of liaisons' community relationships, especially for First Nations officers. One RCMP member shared that "[u]nfortunately a lot of times, what I've seen over my years, is that once you're working in these communities and you've built trust in these, the organisation kind of has concerns sometimes in sharing stuff with you" and operational members may not contact them for consultation when they should (Interview, RCMP10). The 2009-10 OPP PLT Program Review included comments from members who felt they were not being called on when they should be: "when an incident occurs on the First Nation and ERT, marine and canine respond I am not advised. I even worked there as a First Nations officer for 6 years." Another comment was that "[o]n many occasions we are called at the last minute unless it is an on-going land claims issue."¹²⁶

According to the Review,

While just over half the PLT members agreed that their job as PLT members puts them in situations where they sometimes feel conflicted by traditional police roles and the need to maintain the relationships they have built, three quarters felt there were sufficient checks and balances in place to protect the integrity of the relationships they build. Very few PLT members find it difficult to keep their personal and professional relationships separate and the vast majority felt their roles and responsibilities in PLT were very clear. Nearly all PLT members were aware of the risk of falling prey to the "Stockholm Syndrome".¹²⁷

In the Review, while all PLT members responded affirmatively in their confidence to maintain impartiality, only 54 percent of Aboriginal Critical Incident Commanders, regional commanders, intelligence officers, and regional intelligence coordinators were confident. For most of these respondents, this was attributed to a belief that existing PLT members were not suitable for the role.¹²⁸ Some of the interviewees echoed the findings of the review in that they may sometimes experience conflict in their roles, but are able to keep it in check. Several OPP members acknowledged that this was a problem when the ART program began, but improved training,

¹²⁶ Another comment was that "On many occasions we are called at the last minute unless it is an on-going land claims issue". OPP. 2011. Provincial Liaison Team Review 2009-2010. Pp. 16-17. MCSCS FIPPA request CSCS-A-2012-03063.

¹²⁷ Provincial Liaison Team Review 2009-2010. P. 4

¹²⁸ Provincial Liaison Team Review 2009-2010. P. 29.

stringent selection criteria, and internal check and balance mechanisms have been effective in *preventing* potential “Stockholm syndrome” (Interviews, OPP9; OPP5). At the same time, some officers had a more nuanced reflection on the criticisms of the former ART members. As one OPP member put it, “[t]hey were dedicated officers that were put in some really tough, tough situations. It is challenging at times; like, you can’t help but be emotionally invested in this stuff too being an aboriginal person” (Interview, OPP1).

Overall, most interviewees acknowledged that there is still internal resistance to the new approach to policing Indigenous protests and the role of liaisons, but most emphasized that things were “definitely getting better” (Interview, OPP9). Most interviewees felt that greater acceptance among colleagues has come through on-the-ground exposure to the de-escalating potential of the PLT’s work and the *Framework* approach.

Drawing on First Nations Police Services: The Politics of Cooperation

One of the key recommendations of the Ipperwash Inquiry was that First Nations Police Services should have a lead role in managing protests in their own communities, and should be drawn upon in a substantial capacity as part of decision-making when outside forces such as the OPP or RCMP become involved. OPP interviewees emphasize that there is generally a strong working relationship with First Nations Police Services, although with variation depending on the status of the service as stand-alone versus OPP-administered.¹²⁹ The OPP will “work with [OPP-administered services] a lot more” because they have reporting requirements to the organisation and are considered “part of the OPP umbrella” (Interview, OPP3). They are seen as being

such a valuable resources for us; and perhaps understand both the players and the issues better than we do, right? Because they’ve got a history of I don’t know how many years in that community—they’re born and raised there, right? So you have to recognise that they’re... consulting them is absolutely necessary, and hearing what, you know,

¹²⁹ For a comprehensive history and discussion about First Nations policing in Canada, see Clairmont (2006).

allowing them, the consultation to have weight is another important aspect. (Interview, OPP4)

Conflicts on First Nations territories where outside police forces may become involved can have significant implications for local First Nations police, who must continue to live with and manage the longer-term repercussions professionally and personally. In the case of a standalone force like the Six Nations Police Service (SNPS), it is important to maintain credibility as members of the community (Interview, SNPS). For OPP-administered forces, there is a significant conflict-of-interest that can emerge in being community people employed by band councils but also under OPP administration. Sometimes in these cases—especially with political conflicts within communities over issues such as governance—the intervention of outside OPP members is seen as a way of insulating the local service and its members from negative fall-out: “[I]ike their bosses are chiefs and council and all that. So we [...] recognised that part of the situation, so we wanted to make sure that... they weren’t caught, in this melee because it’s really... they don’t want them to be... caught in the vortex” (Interview, OPP3). This kind of outside intervention reinforces the “peacekeeping” image of liaisons.

On the other hand, working with standalone or regional services can be “very difficult” (Interview, OPP3). As one of the first standalone services, the SNPS has dealt with and managed numerous protests and conflicts on Six Nations, without involving outside forces (Interview, SNPS). In cases of collaboration such as with the Douglas Creek Estates reclamation, the degree of input that SNPS might have into ultimate decisions about enforcement was felt to be limited. Prior to the April 20 raid, SNPS had strongly advised the OPP against taking any action because of the potential for escalation:

they had asked, on more than one occasion, what we thought the response would be if they actually went in and tried to remove some of them and we just kept telling them that’d be a bad idea, don’t think that would be, I’d think you would see a pretty significant response, right? So for whatever reason the decision was made that morning that they were going to remove them and all hell broke loose, right? And...so, we weren’t expecting it. (Interview, SNPS)

According to the SNPS member, they were not privy to the ultimate decision by the OPP to conduct the raid. There is an ethos of self-determination underlying many stand-alone First Nations police services. The rejection of the enforcement option by SNPS was important to building the force's own credibility within the community by distancing itself from the OPP.

Reflecting on his own experiences, the SNPS member highlights broader colonial dynamics underpinning the involvement of Indigenous peoples with/in the police institution:

[...] it's easy to get into this, well... you know, you're cops that's your job' yeah, we are cops but we're also community people and... don't make us, don't put us in a position where we have to make that choice between... because it's not as simple for us as it is your average Canadian cop, I guess, because... way back when we started this, I remember an OPP officer saying, 'well now', you know, 'now that you're into policing and that, your colour is blue' – 'like the rest of us', right? And it's like, our colour has never been blue. (Interview, SNPS)

While First Nations police services and the OPP and RCMP may share concerns about community safety, tensions often arise in the context of protests, which reflect conflicting perspectives on risk and threat.

In March 2007, Tyendinaga Mohawk community members occupied the site of a gravel quarry. The OPP-administered Tyendinaga Mohawk Police Service had an agreement with the OPP that they would maintain primary responsibility for managing the occupation. According to former Tyendinaga Mohawk Police Chief Larry Hay, the OPP were “anxious to have the occupation ended as quickly as possible to protect the property rights of the quarry owner” (Amnesty International Canada 2011:15). On April 17, then-OPP Superintendent Brad Blair who was in charge of the Ontario First Nations Policing Program informed Hay that the OPP would no longer provide compensation to the Tyendinaga Mohawk Police for overtime costs in relation to policing the occupation, and “he required an exit strategy.” According to notes from a meeting between Blair and then-Deputy Commissioner Chris Lewis, if Hay refused to withdraw from the

quarry situation, he would be suspended.¹³⁰ On April 18, Larry Hay was suspended and the OPP assumed control of policing the occupation.

Later that year, on the night before the 2007 National Day of Action, Tyendinaga Mohawk activists blockaded rail lines and a small highway. The OPP then pre-emptively closed highway 401. While Tyendinaga Police liaisons were actively meeting on site with activists, then-OPP Commissioner Julian Fantino became directly involved in attempting to negotiate an end to the blockade with spokesperson Shawn Brant. In wiretap transcripts of his conversations with Brant, Fantino dismissed these negotiations as well as Brant's repeated emphasis that any decision to end the action must be a collective one amongst those involved. In the final conversation, Fantino tells Brant, "I'm now telling you, pull the plug or you will suffer grave consequences."¹³¹ The experiences at Six Nations and at Tyendinaga were at odds with the OPP's official rhetoric of prioritising the engagement of local First Nations police as a first responder and respecting the knowledge and authority of First Nations police "partners" in managing events. This is especially evident in cases involving "militant" direct actions and advice or approaches by First Nations Police services that are at odds with the objectives of the outside force.

There is a reconciliatory discourse underlying the emphasis by police organisations to (re)build relationships based on "trust" with First Nations communities as a means of preventing future conflict. Towards this, police have sought to establish formal and informal-interpersonal relationships with and in communities, including engagement of First Nations Police Services.

Social service and instrumentalist articulations of prevention converge in a common objective of

¹³⁰ Hay v. Ontario Provincial Police. 2012. HRT0 2316. CanLII. 124. These events were coloured by comments that Larry Hay had made about tensions with the OPP in an interview with the *Online Pioneer*, a student publication at Loyalist College, Hay stated that the OPP's reluctance to provide resources to the TMPS was underlined by racism, and "[...] They (OPP) want to at least create the impression, to satisfy the Canadian taxpayer, that the police have the situation under control, when in fact, if they were here, it would be nothing but an escalation of violence." (Hay v. Ontario Provincial Police. 2012. HRT0 2316. CanLII. 118). Hay's suspension was officially attributed to these comments.

¹³¹ OPP transcript of phone conversation between Shawn Brant and Julian Fantino (#3) (June 29, 2007), lines 237-239. Retrieved June 28, 2014 (<http://www.ocap.ca/supporttmt/files/brant-transcript-26a.pdf>); also Amnesty International Canada (2011).

institutionalising or normalising the presence and the proactive engagement of police. Liaisons are central to this relationship-building and must manage paradoxical presentational strategies of being visible and “transparent” about their intentions while minimising their coercive power as police officers. This can be a source of tension vis-à-vis communities but also within the policing world in their own organisations and with other agencies. These tensions are rooted in the fact that police organisations are settler colonial institutions that are ultimately concerned with containing conflict.

“NEGOTIATING” PROTESTS: PRODUCING LEGITIMATE PROTEST AND (AND SUBJECTS)

Of all the reforms after Ipperwash, the use of liaison officers who engage in negotiations with protest organisers and participants before and during events has been the most prominent. Within the broader public order policing framework objectives of prevention and balancing democratic rights to protest with “public safety” concerns, the activities undertaken by liaisons reflect varying levels of flexibility, informality, and management strategy. The rationalisation of activities by officers range from, on one end, a *desire* to assist (without specific reference to the requirements of “the job”), to the other end where there is a direct association with “getting the job done” through conscious and deliberate shaping of events to enable police management and avoid escalation.

Officers frequently describe their role as “facilitating” or assisting organisers in the planning process and during the course of the event. Thus, the community relationship-building work is central to enabling police involvement *prior* to a protest. Forms of police involvement include (a) educating or advising people of their rights, the limitations on those rights, and about the role of police; (b) advising and assisting with other aspects of planning; and (c) being the main point of contact for communications between protesters and incident commanders. These are *lawfare* strategies of responsabilisation that (re)produce liberal democratic ideals of “legitimate” protest. While this is largely defined by individual rights, it also incorporates degrees

of “tolerance” for violations of law and disruption. In the specific context of Indigenous protests, this “tolerance” is often linked directly to the recognition of Aboriginal and treaty rights, which conflict with individual and property rights. As de Lint and Hall (2009) have noted in the context of labour conflicts, police liaisons take on the role of experts—not of crime control, their traditional area of expertise, but of protest organising. In the case of Indigenous protests, this expertise is amplified in the post-Ipperwash context with the expectation that liaisons have specialised knowledge of Indigenous communities, issues, histories, and legislation through their training (e.g. “Native awareness” and PLT courses), other education, community engagement activities and/or personal experiences.

One of the themes of the Ipperwash Inquiry recommendations was the importance for police to maintain neutrality in managing protests, reflecting the conception of policing as “peacekeeping”. As discussed in chapter 3, this is an important legitimating device for the police institution in distancing itself from the executive of government—i.e. “political interests”. Police actions are framed in reference to the objective of maintaining “peace” or order. This position of neutrality enables police to *facilitate* protest while simultaneously maintaining their law enforcement mandate and power of discretion. For liaisons, maintaining neutrality is what allows them to establish relationships and to facilitate communication and mitigation strategies. Incident commanders who are responsible for the overall management of critical incidents also emphasize impartiality in their decision-making. As I noted earlier, several police interviewees described the police role as being “the meat in the sandwich” between protesters and government, and with various other “stakeholders” linked to a protest such as private corporations, settlers, and municipalities. The emphasis on the “meat in the sandwich” analogy reflects an assertion of police autonomy from government in not being willing to “die in a ditch” (Waddington 2003) for politicians’ failure to deal with the issues giving rise to protests. After the fall-out of Ipperwash for the OPP, and Gustafsen Lake and APEC for the RCMP, there are interests in insulating the organisation and its members from further damage.

Nevertheless, the device of neutrality lends itself to the activity of *negotiation*, placing police officers as mediators of multiple sets of rights and interests that are often in conflict. This includes the interests of the police organisation in terms of successfully containing the protest. Liaisons occupy a unique role of being this “mediator” or negotiator and simultaneously acting in the interests of their organisation. As I will discuss, this creates internal and external tensions.

Law: Educating and Advising on Legal Rights and Responsibilities

One of the key roles of liaisons is advising organisers and participants of *Charter* rights associated with protest as *the boundaries for acceptable, legitimate actions*. As Brown (1995) and Ford (2002) argue, individual rights establish particular forms of behaviour as norms of liberal democratic citizenship. The centrality of rights discourse in how police manage protests disrupts the dominant conception of rights as safeguarding individuals from the arbitrary or excessive power of the state (Ford 2002)—which police represent. Instead, we can see how rights are used by police as an active form of *regulation* that is based on the presumption of state sovereignty. As I discussed in chapter 2, in the neoliberal context, rights and the politics of recognition have become a foundation for the assertion of settler state sovereignty. In the practices discussed below, rights are overtly used to establish grounds for negotiating the parameters for “legitimate” protest.

Liaisons suggest that organisers and protesters are sometimes unaware of *Charter* limits or the illegality of certain actions, such as blockading a highway, and see their role as “educating” people to ensure their well-being. This is reflected in one PLT member’s example of how protesters might be approached: “I also am very well-rehearsed on our constitutional right to protest or have your say; could we sit down and just talk about what that might look like because I want to make sure that you, yourself, don’t get arrested or come out of this with a criminal offence or whatever” (Interview, OPP4). Liaisons will often provide organisers and participants with hardcopy pamphlets with the text of section 2 of the *Charter*, as well as the

section 1 limit on the guarantees of these rights. The RCMP and OPP materials both include a non-exhaustive list of *Criminal Code* offences that would serve to limit section 2 freedoms. There is a particular emphasis on the section 31 breach of peace provision, which is not a chargeable offence but used as grounds for arrest to “end the breach and restore order.”¹³² The role of police during demonstrations is also described. In addition to reviewing these parameters with protesters, liaisons will also advise event organisers of the potential legal liabilities of engaging in an action that carries risks for participants and the implications for ignoring precautions; organisers are thus responsabilised in a legal capacity.

[...] Freedom of speech, that’s the first thing that I mention. The *Charter of Rights*; everybody has a right to demonstrate and speak their minds. So we do adhere to that strictly. But at the same time, okay, if it goes awry, well then you will be informed that here’s the boundary. You cannot cross that. You cannot throw things, you cannot make threats to anyone, because then it’s criminally, it’s not acceptable, and ... there’ll be a reaction from the police... to this. (Interview, RCMP8)

The effect of being directly advised of your rights and the possible implications for transgressing the limits of “legitimate” protest—verbally and/or with a pamphlet—evokes a parallel with the requirement that police advise people of their *Charter* rights upon arrest. The intentionality of this parallel is not as important as how it *operates* in shaping how police assess the risk or threat posed by protest participants and in informing their management strategies. The educating or advising of protest organisers and participants is framed as a form of transparent, open communication.

[...] we’re not there to intimidate because we gave them, like we have this little handout on, there’s a thing about peaceful demonstrations, of what the *Charter* says you can do, basically what you can and cannot do; and the consequences of non-peaceful demonstration, and the charges that could occur there. And it’s not to be used as an intimidating factor; it’s sharing, being, giving them—like anybody who’s done a [forum] can say, ‘yeah, let’s go do a rally and go shut down the highway’. But if they don’t know it’s a criminal offence... given that informed information, they might give it a second thought. ‘Oh, if I do this, I might get charged. Should I do this, or shouldn’t I.’ And the

¹³² See Esmonde (2002) for a critique of the breach of peace provision. As a non-chargeable offence, there is little to no opportunity for challenging one’s arrest. The standards for what qualifies as “breach of peace”, and thus for arrest, are ambiguous and thus highly discretionary.

ball's in their court. And like I said, whether they decide to do it or not... you know?
(Interview, OPP3)

This education and transparency about the police role shifts ultimate responsibility for any negative outcomes of events to protesters, and especially organisers, who make an *informed* decision to risk criminal sanction or harm.

Part of the legal “education” provided by liaisons is informing organisers of any requirements to obtain use of space permits, and the processes for obtaining them. Many municipalities have instituted bylaws requiring anyone planning on holding a large event in public space to apply for a permit, and this has become one of the mechanisms by which police can manage potential protests on multiple levels: first, the “choice” of organisers as to whether or not to obtain a permit, having been fully *informed* of this administrative requirement by police; second, if a permit is obtained, it provides police with information about protest plans which allows for preparation or further negotiation of parameters; and third, enforcing participants’ adherence to the terms of the permit. According to an RCMP member in Protective Operations, the utility of the permit processes is mainly for police planning:

[...] we encourage people to apply for a permit, which gives us an opportunity to plan. It's not, it's not law. They don't have to apply for the permit—well, actually it's a bylaw I believe, a city bylaw, but you know, a city bylaw that the city's never charged anybody yet with breaching the bylaw... with respect to failing to comply with a permit or failing to file for a permit. But we encourage it so that we're able to plan appropriately. (Interview, RCMP7)

The permit process is used primarily as a preventative, governing mechanism rather than a punitive one. None of the interviewees from the OPP or RCMP indicated that the lack of a permit alone would be a basis for fully preventing an action from happening or taking enforcement action, yet the communication of this to organisers can have a suppressive effect.

And it also depends on the person too; because some people think we're threatening as well; 'cause we say, anybody, anything happens here, or goes wrong today, you created this incident, you could be held liable... and somebody could sue you. 'Oh, you're just trying to scare me, so I don't do it'. And it's like, no, no, no. You go ahead and do what you want, you know, but understand that this could happen; or you could get a ticket, or

you could—we might not arrest you right today, but you could get charged and get arrested down the road; because you're breaking the law or whatever. We're not ... telling you not to do this; we're just giving you the information. You make your choice. [...] like I know where there was going to be a protest up in [town] one day, you know, typically the town says you need a permit, and you need insurance. And to get the permit you need the insurance policy. And if you don't do that... you know, now there's bylaws. We found that out and we told the organiser, that's what the town's saying; he cancelled his protest. To the full extent that they were going to do it – they modified it to, so that they took away that issue, some of those issues. But... so, you know, they... it works in a lot of cases, and sometimes, you know, they say, 'oh you're just threatening me,' or they say, 'yeah, I know, don't care.' (Interview, OPP7)

There is explicitness in the communication of rights and the role of liaisons to protesters; however, in practice there is a significant degree of discretion and contingency in how police ultimately respond to transgressions. While concrete in the sense of being “on the books”, *Charter* rights, limitations, and *Criminal Code* provisions such as breach of peace, are subject to interpretation in their application by police on the ground (see Esmonde 2002).

Contingency also arises in large part from officers' recognition of the complexities of Indigenous protests such as assertions of colour of right and the potential to spark solidarity actions elsewhere. In the context of land reclamations or disruption of resource extraction activities (e.g. mining, logging, fracking), these actions might occur on land that is under private ownership, the legitimacy of which is often the point of contention. Regulation via permits is irrelevant in such cases where space is governed by private property rights; instead, trespassing becomes a possible criminal charge. Yet, even in the case of public events, the expectation for Indigenous peoples to obtain permits to be on traditional lands—in many cases, unceded—is a more subtle example of Aboriginal and treaty rights being swallowed up by the liberal rights-based regimes of (a) delimited “freedoms” of expression and (b) private property. This complexity, and disjuncture from the “letter-of-the-law” communication of *Charter* rights and *Criminal Code* offences, surfaces in the absence of section 35 Aboriginal and treaty rights from the standard information pamphlet. Yet establishing legal parameters sets the grounds for further negotiations:

Like the example of setting a tent on Parliament Hill grounds. That's illegal, but let's negotiate something so... you know, the protest group can make their point and, and for the police, is that ...there was no, nobody got hurt, no damage, no injuries. So that's the ultimate objective. So I think over the years, and many years, and it hasn't been just recently, you know, law enforcement agencies realised that in order to achieve a good result ... we need to show some flexibility... and then protest groups also need to show some flexibility. So usually if you meet somewhere in the middle, um, the results will always be better. Where we found in the past, things don't work out of course if you draw the line in the sand too early... then it's just a dare of crossing that line, and it just gets worse. (Interview, RCMP6)

Facilitation: Shaping Legitimate Protest

The “educating” role of liaisons is directly connected to their involvement in the shaping of events to conform to the parameters of “legitimate protest”. Taking a direct role in the planning of protest activities is often framed in positive terms of providing assistance, showing the goodwill of the police, and a willingness of the police to “bend”, all of which are presented as a “win” for the protest organisers and participants.

One common form of assistance is to close lanes of traffic or redirect it, which reduces potential for injuries or retaliation from those inconvenienced by an action. As much as individual officers may genuinely intend to “help”, their actions are foremost informed by the *public order* impetus of managing how an event unfolds. As discussed above, interpretations of “prevention” vary in terms of relationship-building, and “facilitation” also takes different forms. In some cases, this is a means of *restricting* activities. As one OPP liaison explains, “[s]o we kind of point out some of those things and try to have alternate, alternate solutions to help... to help facilitate their right to freedom of speech, and peaceful assembly—but maintaining public safety is the biggest thing, right?” (Interview, OPP9). Rather than explicitly restricting activities, liaisons will suggest alternatives and may facilitate access to venues or resources with the underlying objective of maintaining control and minimising overall disruption:

Yeah, and you know what, and... they still got their protest across, traffic still moved freely—and we've had some of those discussions around some things, like, and that's a really good thing of PLT; PLT will ask them, what do you want? 'Well, we want to get out message across to the media'. Okay, if we set up a media staging area... over here, off the roadway... for you... will that help? You know? Or they'll suggest to them, 'hey, if

you really want to get your message across, why don't you do just a traffic picket?' You know? As opposed to a blockade. And they'll provide them with some options that may, yeah, may... serve the police and public purpose, by increasing safety, but also allow them to meet their goal if that's ... what it's all about. (Interview, OPP2)

An RCMP liaison gives a similar example of facilitation:

If you guys can give me that hour, I'll make sure you'll go in the Metcalfe gate... which, the Metcalfe gate is where I wanted them to go. But I made it sound like this is a big thing. [...] It's less impeding traffic and it's to—they're off the street quicker. But I made it sound, 'we'll take you right in the middle, Metcalfe'. So, to them, they were getting a deal from that end [...] it's just that little, as I said, give and take [and be able to bend]. Like I mean, if I go down there and said 'no, you can't do this, ain't going to happen'—and then push to shove. (Interview, RCMP9)

Other liaisons and critical incident personnel also talked about helping protesters with accessing electricity, bringing vehicles or equipment to Parliament Hill, gassing up generators, and setting up space for media personnel. The level of assistance offered by police sometimes catches protest organisers off-guard: "And people look at us and, 'oh, the police are doing this for us?'" (Interview, RCMP8). One of the objectives of facilitation is to encourage proactive engagement *in the future* as people are familiarised with what liaisons can do "for them." Often this assistance is leveraged to gain concessions from protesters, appealing to issues of safety for the participants themselves and people impacted by their action, the objective of their action, and the potential for negative optics:

So what is your intention today; 'we want to get some media attention'; okay, so how about we do a traffic slowdown for whatever, ten minutes on the hour, so you're not really pissing off the public because you—a lot of them they want their support, they want to get their message about what their grievance is. That is their goal. Okay, so if that is your goal, then ticking public off, closing down a highway for eight hours isn't going to get your message out. So then it turned into a lot of information sharing, pamphlet sharing; if people take them they take them, if they don't, they don't. They're getting their message out, the media can get through, they can get their ten minutes of... of... media attention and then, so that's how we try to help facilitate that whole... process. (Interview, OPP9)

Evident in the preceding comments, the aim of liaisons is ultimately to discourage significant disruptive actions, especially those targeting critical infrastructure with the potential for economic disruption. Reflecting the liberal democratic ideals of civic participation (and even

multiculturalism), liaisons tend to identify “cultural” events, information sharing, and awareness raising events such as information pickets or rallies as legitimate forms of protest. Liaisons will try to shape how protests with disruptive potential are carried out—whether information pickets, marches, or blockades—which often involves negotiations relating to flow of traffic and the duration of the event.

The willingness of protesters to heed police “advice” is taken as reflecting their *reasonableness*, which along with the perceived credibility of their intentions and legitimacy of their claims or cause, informs police assessments of the overall legitimacy and lawfulness of a protest action and its participants. One OPP PLT member describes how protesters’ cooperativeness informs police distinctions between peaceful and “criminal” protests:

So... first of all, like... is the protest peaceful; is their intention to have a peaceful protest—and Idle No More, very much peaceful protests. What’s the rationale behind the protest. Is it—you talked about—is it about an Aboriginal treaty or inherent right, is it about hunting, is it a land claim, is it just about the fact that, um, I don’t know, I’m ... cigarettes, something, what is the rationale behind the protest. Was there prior notice—and a lot of times they’ll call... so is it just that random—that you said, how many times are we surprised and I said ‘very little’? Because most of them know our, the people. [...] Specific location and timeframe disclosed. So if we have a protest, if we’re out there, random protest, and they’re not disclosing the time and location, like so they’re not cooperating with the police? They’re, like these are just, these things to talk about the criminality of a protest compared to being peaceful. (Interview, OPP9)

One of the central themes in assessing legitimacy of protests is the degree to which protesters or organisers are perceived by police to be representing the interests of the wider community as opposed to acting out of “self-interest” or even having ulterior (i.e. ‘criminal’) motives. By extension, this is taken as a measure of the legitimacy of the *issue or assertion* at the root of the protest. As indicated above, the explicit assertion of Aboriginal and treaty rights *using rights-based discourse* is associated with legitimacy as protesters are engaged with/in the dominant liberal-legal institution. This reflects a dual layer of rights-based regulation as the framework of Aboriginal rights is the “legitimate” arena of contention towards which individual *Charter* rights of protest can be exercised.

Many officers in Aboriginal policing recognise the complexities of determining “community interest” and are cautious about automatically associating representativeness with endorsement by elected (or even traditional) councils (Interviews, RCMP2; OPP4). A related indicator of representativeness for police is the demographics of participants. A member of the OPP compares events at Tyendinaga with Idle No More:

...you go back to the protests in 2008, 2009, there’s a small nucleus of people that were causing... criminal issues. It was not the community en masse showing up... to block the road. You look at the difference between that and the Idle No More events in December and January. And you look at, for example, um, over in the London-Sarnia area where you had hundreds of people come out, ranging from toddlers to seniors—they came out, they came out as a community; the issue was strong enough that, as a community, they felt this was an action they had to take. Far different than... you know, 10 or 15 or 20 people who do not represent the views of the entire community, deciding to take action on their own—under the reason that they are furthering the land claim or furthering whatever the issue is that, and you know, that’s, you know, that’s a big difference we have to take into account. (Interview, OPP2)

The presence of elders, women and children was mentioned by some interviewees as an indicator that the action represents wider community interests. The implication is that elders, women and children are generally *not* “militants”. The distinction between legitimate and illegitimate—and *criminal* activities—is also assessed according to the tactics used by protesters:

Is it high visibility, is there women and children involved in the protest—again, so Idle No More, women and kids, signs, during the day; it’s, compared to under the cover of, in the middle of darkness, sneaking in on a railroad track, no lighting, no visibility, you’re not getting your message across. If your issue is to get your message across about a land claim or an inherent right, then why are you covered in balaclavas, on a rail line, blocking a highway—and not communicating with the police, not telling us when you’re leaving, not—you know what I mean? (Interview, OPP9)

The expressions of contention *outside* the dominant rights regime and land claims processes coupled with the use of direct action tactics are juxtaposed with the legitimate “civilised” avenues of liberal democratic participation, and participants are often “labelled defiant or *unreasonable*” (Fleras and Elliott 2003:199, emphasis added). They are often categorised in police and mainstream media discourses as “criminals”, “militants”, “extremists” or “splinter

groups” (see also Alfred 2005b; Adese 2009) with personal or questionable motives. The isolation of individuals and groups reflects a divide and conquer strategy based on responsabilisation. This responsabilisation is enabled or enforced through criminalisation and the potential use of coercion discussed in the next section.

Responsibilisation: Self-Policing and “Choices”

Another aspect of liaisons’ facilitation of *legitimate* protest is to assist organisers in preserving the integrity of the event, which could be disrupted by “outsiders”. The main approach is to instill responsibility for self-policing among organisers based on agreements reached through negotiations. One common strategy is the use of marshals—organisers or volunteers from among participants to monitor and help contain participants during actions such as marches. As an RCMP member with Protective Operations indicates, self-policing is presented as being in the interests of protesters:

And sometimes with specific organisers, we go back and we say, ‘you know what? This is not acceptable. If you cannot control your people—well, within your own group, we want you to be organised.’ And we’re giving them some tips. [...] So what we had said to the, actually there were two organisers, we said why don’t you take some people and give them [...] the little vests, traffic vests, okay? So the group will be marching, so put some on the outside. And try to keep them within one or two lanes of traffic. And then yes, we will have our police officers to assist but we want you. So, it’s going to be better if your own people police themselves. (Interview, RCMP8)

A central role of liaisons is to prevent “troublemakers” from either “hijacking” an event or engaging in actions that may change the tone or plans of a “legitimate” event. There are three categories that emerge in how police interviewees describe people presenting risks: “troublemakers”, militants”, and outside “hijackers”. The common elements of risk among these categories are their tactics and their rejection of police authority. “Troublemakers” are described as opportunists who attend and participate in protest actions with a primary aim of “causing shit” and to “start a fight with the police”:

[...] there were individuals who were obviously involved on the negative aspect of the law who were... who were all of a sudden, now they have a cause. And these individuals weren't, some of them were... [...] you'd be very careful what you'd say because they would twist anything you would say [...] they just, you know, they were just there for, just to cause shit. (Interview, OPP3)

Event organisers might be coached, in a sense, on how to manage potential “troublemakers” and “outsiders” who might seek to “infiltrate” and “cause problems” (Interview, RCMP8), or to “hijack their cause” to gain attention for their own agendas (Interview, OPP4). This includes encouraging organisers to point people out to police (Interview, RCMP9). Organisers are made responsible for ensuring that their events proceed as planned, with the understanding that police will react if “trouble” occurs. The advice provided by police liaisons to their contacts can sometimes reflect a degree of paternalism, particularly when organisers are relatively inexperienced:

And we have some ... that have stronger skill sets, who have done it; sometimes if they're a community... say they're the band office administrator, or somebody, they've been doing that job for a while, they've got more of the skill set; so they can be the leader and organise the logistics. If it's a first-timer? That's where they don't sleep and they have issues. But someone with a strong skill set, we'll tell them – 'cause it's not up to us to tell them—you need to tell the other group coming in that this is what you're doing; you plan on doing nothing that's illegal. No violence, no drinking; it's a march together, it's all good. And if they don't want to abide they can go home. And it works well. [...] 'Cause if not, that's where the issues are; 'cause it's someone who has nothing to do with the main cause that causes an issue—it can disrupt the whole thing. And they don't want that. 'Cause I always remind them, that all they're going to remember is that; they're not going to remember all the good work that was done, right? (Interview, OPP8)

One of the concerns with Indigenous issues is the increased presence of settler-dominated groups, and especially “environmental groups, or left-wing extremists, who ... jump in on any cause, right? [...] And try to hijack that, their issue, and so you see a lot of support for, and solidarity for First Nations issues; some of it is good, and some of it there are those extremists who just want to cause ... create criminal activity” (Interview, OPP9).

Self-policing is encouraged by police as allowing organisers and participants to maintain autonomy over their protest actions. It also encourages the adoption of police categories of

legitimacy and risk as cooperative organisers are expected to distance themselves from troublemakers, militants and potential hijackers. However, people will self-police for a range of reasons and should not be assumed to be a result of internalised responsibility or desire to cooperate with authorities. Decisions to self-police can be strategic to minimise the amount of contact with police, which could take into consideration the greater risks of non-cooperation for racialised and marginalised people. While on one level self-policing may reflect liberal governance as “action at a distance” (Rose and Miller 1992; Rose 2000), it is the *coercive potential* of the police institution that is integral in shaping the exercise of autonomy. This resonates with colonial governmentality critiques that emphasize the enduring presence of violence in colonial contexts.

The activities of police prior to, and during events, are about establishing choices for those engaging in protests. Police liaisons actively engage people in a “co-production of order” in the performance of liberal democratic citizenship (Marx 1998:258). These preventative policing strategies establish multiple points at which organisers, participants, and communities must make decisions on how to engage with police and how to proceed with an event. Decisions are shaped through police interventions in which “choices” are (sometimes explicitly) presented. The most blatant “choice” begins with whether or not people engage with police liaisons prior to or during protest events. For those who do engage, the planning and negotiating process involves a series of decisions including whether or not to adopt police constraints. The tendency to present constraints as *suggestions* in positive, constructive terms may lessen resistance by engaging with organisers as *active* participants in negotiation. Organisers or spokespersons who engage with police by informing them of planned actions, negotiating and agreeing to parameters, are held personally accountable for breaching agreed-upon terms, whether deliberate or not. This includes the failure to keep police updated on any changes, which creates risk for police because it introduces an unknown or unexpected element into

existing response plans. The interpersonal relationship between a liaison and a protester becomes a mechanism of responsibility:

And if something changes it's usually because somebody surprised us and didn't tell us. But then they learn quickly that the deal's off, and you're going to be held accountable; that's the big thing. You have to tell people, you're going to be held accountable; if you change the rules on purpose, you're held accountable. So if somebody gets hurt, later on it's going to come out that you, as a leader, made that decision and didn't tell the police. (Interview, OPP8)

The protesters' abrogation of the agreement means that the *security* offered by the liaisons through their facilitation activities, and being a protective buffer from angry motorists, counter-protesters, "criminals", "hijackers" and so forth, can be withdrawn because the implicit contract has been nullified through protesters' actions or omissions. One OPP liaison spoke about a past experience in which PLT members withdrew from a protest site: "Now that sense of security, in which, us being there, is not there—wasn't there for them anymore. Because, and I said, 'we've been nothing but open and transparent' in the sense of us being there for everybody's safety; 'now we don't feel safe. And you're not doing nothing to control it'" (Interview, OPP3).

Consistent with their role as police officers, liaisons see themselves as providing *security* for protesters. What we see through the preceding discussion is that security becomes a *commodity* that is offered by state authorities contingent on adherence to "negotiated" parameters within dominant liberal frameworks. The "openness" and transparency in police communicating potential legal consequences to protesters puts "the ball in their court." The responsibility for police escalation in their use of force becomes *shared* with protest participants because of the quasi-contractual relationship established with liaisons, making verbal agreements, or even by passively *receiving* information from police.

As the preceding discussion shows, the overt communication and negotiation strategies set boundaries—defined by law and ideals of the common good of public order/peace. The "educating" or advising role makes clear the potential repercussions of making certain choices. The refusal or rejection of police interventions is not necessarily always explicitly identified as

bad or immoral. Several interviewees expressed understanding for why Indigenous people may choose not to cooperate with police, violate law, or engage in “militant” actions—whether because of their levels of frustration, exhaustion of other options, or even recognising that some Indigenous peoples reject the legitimacy of the settler state’s law. Yet, the deployment of “choices” through legal and police power—even where officers may be sympathetic—is the exercise of constitutive power that (re)produces “good” liberal subjects (Brown 1995; Ford 2002). In the colonial context, as Coulthard (2007) argues, the liberal rights-based discourse constitutes Indigenous peoples as “subjects of empire.” Liberal “rights” are activated by police as a governing strategy that shapes conduct to be consistent with liberal-security logics that (re)produce settler state sovereignty.¹³³ While the discourse of responsabilisation is associated with neoliberal governance (in Foucauldian and governmentality conceptions), police practices suggest that responsabilisation in the context of a (settler) colonial power relationship is more aptly described as a disciplinary-judicial modality of power. In being deployed by police, responsabilisation works through mechanisms of rights and law as *rules*, which constitute the “choices” of *security* offered by police protection or of potential “punishment” for not conforming, *as judged by the settler state’s institutions*.

ENFORCING RESPONSIBILITY: RATIONALISATION AND USES OF FORCE

The use of the liaison and negotiation approach to manage protests is driven by recognition that coercive enforcement responses tend to escalate tensions and lead to violence, a central theme of the Ipperwash Inquiry. At the same time, reflecting managerial objectives of cost-conscious and efficient use of resources, a negotiated event can reduce the personnel and equipment requirements as compared to a reactive enforcement response. Prior knowledge and planning

¹³³ Constitutive powers are not inevitable or total – they are resisted and can be appropriated and subverted towards oppositional aims. On the appropriation and performance of neoliberal “citizenship”, see e.g. Nadine Changefoot. 2007. “Local Activism and Neoliberalism: Performing Neoliberal Citizenship as Resistance.” *Studies in Political Economy* 80:129-149.

allow decision-makers to deploy proportionate resources required to manage the situation. In many cases, liaisons who have been working with groups can manage the situation with some additional support from uniformed officers and patrol cars that can redirect traffic from a demonstration or blockade. The concern with strategic, calculated use of resources reflects the discursive commitment to respecting rights through a peacekeeping role, while also addressing operational considerations that an excessive or disproportionate police presence can lead to escalation.

While liaisons exercise significant discretion in deciding how to handle situations in their interactions with protesters, if further resources are needed, a higher level of decision-making authority comes into play via the critical incident response and decision-making shifts to the incident commander. Even in those cases, the incident commander may decide that the protest can be managed adequately by the liaisons. The difference is that an incident commander has authority to deploy and activate tactical units. As I discussed in chapter 3, the formalisation and augmentation of liaison policing and of tactical capacities have occurred concurrently.

The formal adoption of tactical units in Canada originated with preparations for the 1976 Olympic Games in Montreal amid concerns about potential hostage and terrorism incidents. Since then, the normalisation of tactical units is evident as almost every police force in Canada employing more than one hundred officers now has at least one such unit (OPP 2006d; de Lint and Hall 2009). The mandates of tactical units have expanded to include search and rescue, intelligence gathering, “high-risk” arrests and raids, as well as public order events such as protests. Units are trained in militaristic tactics as well as the use of specialised technologies. Since the 1980s, these units have increasingly engaged in joint-training with military units, and have adopted new lethal and less-than-lethal weapons, protective equipment, armoured vehicles, information technologies, and surveillance technologies (see Manning 1992; Haggerty and Ericson 2001; de Lint and Hall 2009)

Among the most prominent academic critics, Jefferson (1987, 1990, 1993) has argued that the militaristic culture, equipment, and training of public order units foster a perception of protesters as “enemies”, which could fuel anticipation among officers for a potential “battle” and thus increasing the potential for violence. Arguably, this is a greater concern when the “enemies” are also racialized or Indigenous “Others”. Jefferson also suggests that the presence of tactical units can have an escalatory effect on the situation. On the other hand and more closely reflecting dominant police rationales, Waddington (1987, 1993) counters that greater tactical training, and the use of command-and-control (i.e. incident command) with public order units increases restraint in the use of force. Both perspectives—emerging in the 1980s–1990s when tactical units were becoming normalised in policing—have salience in observing post-lpperwash policing practices. The command and control structure—along with greater awareness of the context and complexities of Indigenous issues among tactical teams—seems to have decreased the potential for disorganised escalation. However, this does not mean that the *presence* of tactical personnel and strategies has decreased. What I emphasise in my discussion is how these tactical units (and incident command structure) and liaison strategies work in and through each other. Even where integrated response may not be activated (i.e. where an incident is not deemed a “critical incident”) there is that *potential*—whether explicitly communicated to communities and protesters and/or in the collective historical memory, knowing the potential force that police have the capacity to deploy if, as one interviewee put it, protesters *choose* to “stay and fight” (Interview, OPP2).

Incident Command and the Rationalisation of Police Actions

As discussed in chapter 3, integrated response refers to the deployment of specialty resources under overall command of a critical incidence commander. These resources include crisis negotiators, Emergency Response Team(s), and Tactics and Rescue Unit. The measured response approach relies on an integrated command structure for critical incident management

and coordination of these different resources. This is a triangular model of operational decision-making, with the overall critical incident commander at the top, and liaisons and tactical units represented by team leaders. The incident commander is removed from the front line and makes operational decisions based on information and assessments provided by each of the units represented at the command table, which may not necessarily be fully shared with all units. The partial perspectives from each unit, plus intelligence, are assessed as a whole by the incident commander to form a “bigger picture” of the situations. Liaisons (via their regional coordinator) then become mediators in some sense, relaying information between protesters and the detachment commander or the critical incident commander. The formalisation of this command and control structure reflects a *rationalisation* of decision-making through a linear, hierarchical structure in which responsibility for operational decisions lies squarely with the incident commander.

Rationalisation refers to the translation and representation of subjective, contingent practices of policing into rule-governed processes that are linked to explicit objectives (see Manning 2001). These objectives are both operational (i.e. to maintain order) and organisational (effective use of resources, and maintaining authority). Decisions are therefore self-justificatory because of the assumed reliability and legitimacy of the decision-making structure and process. One discursive effect of rationalisation is to depoliticise decision-making. Through the Ipperwash Inquiry process, strategic communications, and proactive outreach activities, the incident command structure and tactical response protocol are couched in a discourse of transparency, which is associated with accountability. However, as de Lint and Hall (2009) and Brodeur (2010) have argued, the control of information through the deliberate and selective revelation of police activities works to reinforce and increase secrecy (also Chan 1999; Beare 2007). The combined discourses of rationalised decision-making processes and transparency produce a presumption that operational decisions are justified, which curtails scrutiny of the information and police activities underlying those decisions. While the incident commander may

have ultimate responsibility for operational decisions, this would only occur *after* such decisions have been taken and implemented, and usually only where there is a *negative* outcome (including negative optics or public backlash). Even so, such accountability would be *internal* unless there is a court case (such as in Tyendinaga), public inquiry (e.g. Ipperwash) or investigation by an oversight body such as the Office of the Independent Police Review Director. Despite the emphasis on increased transparency and accountability for police decision-making during critical incidents, these processes remain contained within the police institution.¹³⁴

This shrouding effect is arguably intensified in the context of Indigenous protests. While some members of both the OPP and RCMP have emphasized that all protests are managed in the same way regardless of group or issue, the unique context of Indigenous protests—especially direct actions—*in the context of the integrated response approach* is structurally disposed towards an escalated response. The formalised protocol serves to depoliticise and neutralise the policing response—it is not because they are Indigenous, but because of the elevated potential “risk” of the action, based on *historical experience*. While not irrelevant, the *intentionality* or *motive* of police personnel and decision-makers can be rationalised and thus legitimised as following guidelines and the ethos of prevention.

This is most explicitly illustrated by the OPP’s *Framework* as “Aboriginal critical incidents” are defined in a way that normalises the grounds for an elevated precautionary response. OPP Critical Policies pertain to “areas of greatest concern, impact and repercussion” (OPP 2013:3). As a critical policy, the OPP’s *Framework* is supposed to guide police operations to minimise the risk of mismanaging “critical incidents” which have potentially significant political implications for police credibility vis-à-vis Indigenous communities as well as with settler society.

¹³⁴ The PLT and Critical Incident program keep records of all liaison activities (including all blackberry communications) and responses to events as a means of internally assessing consistency of responses and evaluating effectiveness (OPP1; OPP8).

The *Framework* applies to three categories of incident: major incidents, critical incidents, and Aboriginal critical incidents. Major incidents are events that require more resources than a normal police response. Critical incidents are high-risk and require mobilisation of integrated response. “Aboriginal critical incidents” are either major or critical incidents “where the source of conflict may stem from assertions of inherent, Aboriginal or treaty rights; or that is occurring on a First Nations territory; or involving an Aboriginal person(s), where the potential for significant impact or violence *may require activation of an OPP Integrated Response*” (OPP 2013:6, emphasis added).

Note that this definition erases the distinction between “major” and “high-risk” incidents, with the effect of presupposing the “high-risk” nature of “Aboriginal”-related incidents. The “criticality” factor lies in the construct of “aboriginality” (identity and territory). The heightened sensitivity that arises from this categorisation as “critical incidents” presupposes greater *risk* for police members responding to them and for the organisation itself. For members, risk lies in the potential for escalating incidents and being harmed. While this risk underlies the emphasis on preventative strategies and the minimising of perceived conflict between police and Indigenous peoples, it also activates coercive elements of police power. One RCMP liaison candidly shared that in his experience with Indigenous protests, “a theme that gets [...] played over and over again, [is] the excess of police presence at these issues, and all it does, in my opinion, is escalate the situation... and escalates the threat” (Interview, RCMP10).

Preparing for the Worst Case Scenario: Prevention, Intimidation, or Escalation?

The OPP *Framework* therefore rationalises the deployment of tactical resources in cases of “Aboriginal critical incidents.” The RCMP critical incident “protocol” is similar to that of the OPP, although not explicitly for Aboriginal critical incidents. Yet, in any case where RCMP public order units may be used, tactical teams will also be deployed. The Public Order Unit (POU) of the OPP is the equivalent of the RCMP’s Tactical Troop (which is also referred to as the Public

Order Unit, Crowd Management Unit, or colloquially as “tac troop” or “riot squad”). While both are trained in public order and crowd management, there are significant differences in their use of force capacities. The OPP’s POU members have a full range of use of force options, including lethal force. The RCMP Tactical Troop has access to batons, OC spray, conducted energy weapons, and restraints, but does not have the lethal force option (Interview, OPP2).¹³⁵ Where Tactical Troop is deployed, they must have lethal oversight—a unit able to provide the option of lethal force. This could be provided by another service during a joint operation, such as by the OPP’s POU, but otherwise, the RCMP’s Emergency Response Team (ERT) must be deployed to provide cover for its POU members (Interview, RCMP7). What this boils down to, according to one interviewee, is that “every blockade has a sniper” (Interview, RCMP4). For OPP-led operations, this is through the deployment of TRU team, and for the RCMP, their ERT team.

These tactical resources can be deployed in a range of capacities based on the critical incident commander’s assessment of the minimal amount of force necessary to maintain order. For example, ERT members may be used in “soft tac” dress without full body armour or visible weapons. The incremental deployment of visible force is used strategically and is preventative in two ways. First, the presence of tactical units (including POU, ERT, TRU) in a standby capacity, deployed as part of the integrated response protocol, can be activated immediately in the case of an imminent escalation of conflict. Tactical teams provide relief, oversight (including lethal oversight), and recovery (such as rescuing officers) support for liaison and uniform officers engaged on the front line. This is *prevention for police officer safety*, which is also generalised as a safety precaution for all concerned.

The second preventative aspect of the tactical presence is to *provide use of force options* where liaison negotiations are unable to contain the situation. As the tactical standby

¹³⁵ See also: RCMP. “Tactical Troop Use of Force Guidelines” [deck]. RCMP request (informal) A-2013-05807.

presence has potential to convey an escalation of police response and to inflame the situation, tactical units are usually intentionally kept out of sight. Yet, the controlled and incremental display of tactical presence is used as a deliberate strategy of *intimidation*. There is therefore the potential for escalation as well as deterrence at the same time.

The deployment of an integrated response is consistent with the police logics of preparing for the worst case scenario. One OPP member describes the prevention-provocation effect of tactical requirements as a “no win situation”:

Certainly, yeah, I'd be lying if I didn't say our presence doesn't inflame situations sometimes. But you're kind of damned if you do, and damned if you don't. People say 'get away, get away, get away'; and we're away and something happens, people get hurt, people say, where were you, how come you weren't there, right? So we're kind of again in a no-win situation sometimes. We have to be there and be prepared in case... something, something does happen. And sometimes ... we're, you're not there, you're not in plain sight all the time. It's not like you're kind of looking over my shoulder and seeing eighty guys with shields and helmets, but, they're out there and ready to be deployed if necessary. (Interview, OPP1)

Similar sentiments are expressed by an RCMP member, who also notes the potential for people to find out about the presence of tactical units even if they are hidden:

Yeah, so people in the community react, absolutely. You know, and I can understand that, you know. Again, from a tactical policing perspective, is that ... we could never, as a policing organisation, afford... to not be ready. I mean, you know, Canadians would not stand for that, right? And... you know, it's unfortunate, because the other thing is, we, to be honest, we really usually try to do it covertly, right? Because you don't want the media finding out, right? Because, but even if the media don't find out and the community still finds out because they're pretty intuitive or something, or they just have people all over, right? (Interview, RCMP3)

This RCMP member alludes to how the discovery of “hidden” units can actually exacerbate protester and community concerns more than if they were in full view.¹³⁶ One OPP member describes the relationship between tactical priorities and liaison objectives as a “chicken and the egg” situation in terms of the inability to privilege one set of requirements over the other

¹³⁶ Although the OPP have primary jurisdiction in Ontario, the RCMP often provides resource support for large and/or drawn out events. For the RCMP to be present at a protest, “[f]rom a policing perspective it's not [an escalation], we're just officers like the OPP, we're just there to assist them. But from a community's perspective it certainly looks like an escalation” (Interview, RCMP10).

(Interview, OPP1). As much as the emphasis is on negotiating “peaceful” resolutions, it does not lessen the police inclination to “over-ramp” to be prepared for the worst-case scenario (Interview, RCMP7).

While the visible presence of tactical units could undercut liaisons’ efforts at facilitating and negotiating a favourable outcome, I argue that it may also enable those negotiations. The deliberate and strategic *visibility* of tactical resources entwines with *transparency* in communicating police intentions to protesters:

And sometimes, like, people will say... you know, ‘you have all this overwhelming police presence, and you have officers dressed up with helmets and shields and sticks—that’s intimidation.’ Yes, it is. I freely admit that seeing, from a protester point of view, if you’re looking down a street—and you see... a group of forty police officers coming at you with helmets on and shields up and batons in their hand, that is intimidating. What [we] hope to achieve, prior to that, is a number of steps to get the protesters to leave that position. If they haven’t, and there’s an overwhelming need for public safety for [us] to move them—if [we] can move them through intimidation? [We]’ll do it. Because the alternative is, if they don’t leave, then we have to take the next level of force, which may be hands-on arresting people, and if they resist... things continue to escalate. (Interview, OPP2)

From an operational perspective, “If intimidation causes them to leave their position safely without anybody getting hurt” then it is a preferable strategy to arresting people on the spot.

The intimidation strategy must be weighed against the potential to inflame the situation, which “can be a real tough balancing act” because incident commanders “don’t want to over-react”. This balancing is based on the specificity of circumstances such as the proportion of police to protesters, and the input provided within the incident command centre (Interview, OPP2).

Despite all of the emphasis on proactive liaison outreach and negotiation, and the fact that the vast majority of Indigenous protests are non-violent and relatively non-disruptive, the enduring police requirement to prepare for “contingencies” is based on a perceived inherent unpredictability of protests:

Sometimes you, as much as you try and, you know, we may say, oh yeah, the last six times? They’ve all left; and we’ve made arrests later. You still have to put enough... contingencies to protect people just in case it changes like it did in June of ‘09. When they decided to change and fight, the fight was very short—‘cause we had overwhelming

numbers, which meant people got arrested quickly... Before a lot of injuries happened, you know. (Interview, OPP2)

Although it was the actual enforcement action that led to escalation and the potential for injuries in the process of making arrests and forcibly removing protesters from the site, the “over-ramped” police response is presented as *preventing* injury to both police and protesters.

The preventative capacity of integrated response through tactical unit deployment begins even before any actual major or critical incident occurs. Liaisons are not the only members of the organisation to engage in “outreach”. Personnel from the critical incident program (which houses incident command and the tactical units) approach communities and groups to conduct presentations about what they do. The official objective of these presentations is to be *transparent* about the police tactical response to protests (and other critical incidents such as hostage or barricaded persons situations) if an incident arises and the units are deployed. In its submission to the Ipperwash Inquiry, the OPP noted that ERT and TRU teams participate in “integrated response presentations/simulations in Aboriginal communities” (OPP 2006e:45, 46). With First Nations communities, outreach and presentations are undertaken during the “downtime” of Aboriginal Critical incident Commanders and the ERT and TRU teams. According to an OPP member, the primary aim of these presentations is to decrease the potential for negative reactions to the intimidating presence of militaristic tactical units, which may be shaped by history and the legacy of Oka:

[O]ur tactical team, in a majority of circumstances, particularly in the rural areas we police, they look very military. They dress in green, they camouflage, they have a variety of weapons. So ... being able to sit down with First Nations leadership in a community and say, ‘you know what, if something happens next Saturday and we have to come in because somebody’s barricaded in a house with a weapon, on your community, we’re going to show up and a certain component of our officers are going to look like this’. And it’s not about looking like the military, it’s not about coming in ... to attack. It’s about invisible deployment. It’s about being ... able to get as close to that house as we can safely without being seen so that particular suspect isn’t agitated by our presence. Because depending on the scenario, police presence agitates people, whether it’s a crowd at a protest or whether it’s a single individual barricaded person. So having the ability to go in and sit down with First Nations leadership, on a proactive basis, and say,

'you know what, here's what we use, here's why we use it, here's some of the methodology behind it'—was also very much a part of our job. (Interview, OPP2)

The presumption is that those who are being “educated” on the critical incident response can also help to defuse anxieties of other community members if an event arises. This can also decrease the potential for solidarity actions when there is tactical presence in other places. As with the work of liaisons (in communicating the police role in managing protests and how they can “facilitate” protest activities), there is a responsabilising function. But, whether intentional or not, this is also prevention through the display of the *potential power* of police forces—in other words, these presentations can also have intimidation effects. These presentations are voluntary, so community representatives can pass on the “opportunity”. Transparency is explicitly deployed in carrying out these activities, and serves as a legitimating discourse for state power (de Lint and Hall 2009; Brodeur 2010), while shifting responsibility for potential escalation and police use of force to communities.

Enforcement

The emphasis on police facilitation of the right to protest does not diminish the priority of the law enforcement role—responsibility to *law*—as the foundation of police institutional legitimacy. In recognising the potential for resistance to arrests, escalation, and negative optics, incident commanders will tend to use discretion to lay charges after the fact except where they perceive imminent threat. A significant factor affecting enforcement decisions is whether there is an *injunction* requiring protesters to leave a site. Most of the officers who I asked about injunctions felt that they “tend to agitate” circumstances rather than to “hasten [protesters'] departure” from a site (Interview, OPP2). According to a PLT member, “injunctions don't work to resolve the conflict. Injunction is to, yes, remove people off the roadway or highway—nothing is going to prevent them to come back” (Interview, OPP9). While police may exercise discretion as to the

timing and method of enforcement, their autonomy is circumscribed by injunctions, which are legally binding and are time-limited:

If there's a court injunction, a civil injunction, then yes we're obligated to enforce the injunction, it is legal, but when and how to enforce that is the critical incident commander's decision. And that's all articulated, why do we wait until a certain point in time, what factors we take into account. We have to, we have to be accountable for that. Because certainly, as you know, the public gets pretty upset when there's, you know, a railway or highway blocked for 2, or 3, or 5 days. But I mean, our goal, our goal at the end of it is to resolve the problem with minimum use of force. And if that means that people are going to have to detour around for a day or two, and they're going to be upset, you know ... be upset. But if it's reasonable to wait that day or two to solve an issue by people peacefully walking away from a blockade? I'm good with that. Doesn't mean they won't be held accountable. (Interview, OPP2)

While there are legal repercussions for not enforcing injunction orders, perhaps most concerning for police is the potential damage to organisational legitimacy.¹³⁷ Delays in enforcement can lead to conflict with the judiciary, which can become highly publicised conflicts fueling public and media discourses that police are not enforcing the law, which challenges the negotiation-based approach as well as police credibility. As one OPP member stated, "it's unfair for the judges to do that, especially in the media, because now you've got all of Ontarians looking at us saying, wow, even the judges are saying 'do this' and they're not doing that, so how come, right? And it's unfair to people, I think, to put us in that position; people lose that respect, or it's credibility issues, whatever the case may be" (Interview, OPP1).

A different source of tension with the judiciary as well as prosecutors emerges with the laying of charges. Several officers identified this as another dimension of being the "meat in the sandwich", which further distances the police from other parts of government: "when charges are laid, most of them get thrown out, or suspended, or probation, whatever the case may be, so... it's tough. We are, we are stuck in the middle...of this...like the meat in the sandwich"

¹³⁷ Between 2006 and 2010, a series of high profile injunction cases in Ontario have shaped how government and corporations use injunctions as a strategy of ending protests: *Henco Industries Ltd. V. Haudenosaunee Six Nations* (2006); *Platinex v. KI First Nation* (2008); *Frontenac Ventures Corporation v. Ardoch Algonquin First Nation* (2008); *City of Brantford Injunction, Superior Court of Justice - Ontario, CV-08-334* (2010).

(Interview, OPP1). For the OPP, this contributes to public perceptions that they are not doing their job of enforcing law. These frustrations have led the PLT program to formally and explicitly articulate to the Crown Attorney's Office their criteria for designating a protest "illegal" as a basis for laying criminal charges (Interview, OPP9). One OPP member assessed the multiple internal and external tensions associated with the current policing approach as proof of their neutral "meat in a sandwich" position: "I say we know we're doing a good job when everyone hates us!" (Interview, OPP1).

With or without an injunction, police actively monitor protest participants and document those engaging in chargeable offences. The formal laying of those charges may occur after the conclusion of the event, reducing visibility. This process is supposed to be explicitly communicated to protesters as well as to stakeholders and the public via the media. If the incident commander decides to shut down a protest having deemed it "illegal" and/or enforcing an injunction, liaisons will usually inform protesters of the impending police enforcement action.¹³⁸ Liaisons will generally not carry out arrests themselves unless "something's going on in front of them, where an assault's taking place" (Interview, OPP9). The main purpose is to maintain the "neutrality" of liaisons and so that "it doesn't necessarily damage those relationships? But absolutely, if something like that, they will, they will arrest if they have to; but we try to keep that role separate" (Interview, OPP9). Again, this "mediator" role played by liaisons during protests distinguishes them from their colleagues who *will* carry out enforcement actions. This can strengthen the effectiveness of negotiating "voluntary" disengagement by protesters.

The decision of people not to leave or stand down is constructed not as a *failure* to leave, but an *active* decision to "fight" with full awareness of the consequences. This is an

¹³⁸ In some cases, liaisons may not be fully briefed on the reasons for such decisions. While this can create frustration, liaisons must "have faith that it's the right direction" based on information they may not be aware of (Interview, OPP2).

important piece of the rationalisation for escalating police use of force. One OPP member spoke about a particular occasion where the gradual deployment of a fully equipped POU became necessary:

[O]ur hope was that when they see us coming with that, those use of force options, they would leave voluntarily. They didn't leave voluntarily; they fought. They chose that option. We left them an out. It's our general rule, our general principles, to always leave them an out, in a protest situation; leave them an avenue of escape. *We left them an avenue of escape, they chose not to take it, they chose to stand and fight. That's their choice.* (Interview, OPP2; emphasis added)

One of the principles of measured response is to “always leave [protesters] an out”. This is evident in how liaisons produce “choices” for protesters before and during events. When it comes to enforcement of injunctions and/or removal of protesters, incident commanders will attempt to ensure there are clear opportunities for protesters to disengage.

But we're actually telling people ahead of time. The injunction's coming, tomorrow at 10. There's a hundred people here, right? You guys know that at 10 o'clock tomorrow we're bringing in the public order teams—nobody's going to get hurt, but we're just going to peacefully have to remove you, you're going to be processed; once you're done you'll have a court date, you know, and you're going to be on conditions. 95 percent of those people are gone the next day. There might be five left—which, if they choose to stay and go to court, you gotta respect that. We still would tell those five people. You know the process, there's going to be no fighting. Then we'd go back and say to the commander, we talked to them, they're all fine, they're not going to fight; they know they're getting arrested, so let's just make sure that nobody ... puts a strong arm on anybody. We communicate all that; they do their thing and they get processed, and they go. 'Cause they're going to go to court and fight for whatever they believe in, you have to respect that, right? And some people don't want to get arrested, other people don't mind doing it for their cause and that's fine too as long as it's done peacefully. (Interview, OPP8)

This strategy of “leaving an out” is also informed in large part by resource considerations as an exponentially greater number of police resources (officers) would be required to carry out mass arrests, as well as the need for adequate detention facilities. Incident commanders must account for their use of personnel and the overtime costs incurred (Interview, OPP2). Another major consideration in operational decisions is the potential to spark sympathy/ solidarity and counter-protests elsewhere, which is one of the unique “characteristics” of Indigenous protests as identified through the Ipperwash Inquiry. Protracted and multiple events can strain the

resource capacity of police organisations, as was the case for the RCMP during the 2007 National Day of Action,¹³⁹ and for the OPP at Douglas Creek Estates in 2006, and during the peak of Idle No More in December 2012 and January 2013 (Interview, OPP8).

Liaisons will therefore be involved proactively to prevent solidarity actions:

if we are going to take an overt police action, on a protest in one community, one of the things that we like to have in place is [...] the PLT links to other communities that may be connected so that we can immediately ... through PLT, reach out to those communities and say 'yes, we did move at this time, this morning, and we did remove the blockades on highway 49', you know, the bridge. And ... you know, 'we have, we have that done; do you have any questions? Is your community upset about it, are you planning anything.' And that's outside of it. So yeah, that communication piece is huge. (Interview, OPP2)

As an RCMP member noted about the 2007 National Day of Action, "I know that the chiefs in British Columbia were calling the chiefs in the east, the day of, to find out how the police were responding; how the police were managing, right? Because that time difference was going to make the difference in how the west coast was going to respond, right? And, you know, we were mindful of that" (Interview, RCMP3). The use of social media by protesters and supporters has increased the impetus for police to be proactive with communications strategies to shape or counter the framing of events. The escalation of police actions at one site will usually be accompanied by a public media communication strategy as well as communication with colleagues in other jurisdictions (or with other police forces). Communication strategies are part of incident command operational planning and decisions, and therefore have an *operational* function, to prevent solidarity actions or supporters from attending the site, and a *public relations* function vis-à-vis outside observers.

Despite all of the proactive (prevention) work of liaisons, there is no zero-sum decrease in potential coercive power. Conversely, through the rationalisation of decision-making and the presumption of the elevated *risk* of "Aboriginal critical incidents", the police logic of preparing for the "worst case scenario" is self-justifying. Through official policy, guidelines, and "outreach"

¹³⁹ RCMP. 2007 (September). The National Day of Action – Debrief. RCMP ATI request A-2012-00178.

activities, the tactical response to “Aboriginal critical incidents” is *normalised*. Like the educating of protesters about rights and the parameters of “legitimate” protest, the strategic deployment of tactical response contributes to responsabilising those who “choose” to “fight”. Operational decisions are shaped by the specificity of circumstances along with organisational concerns with resource usage as well as maintaining the optics of neutrality and accountability to rule of law.

CONCLUSION

The most prominent of post-Ipperwash reforms has been the emphasis on managing protests through negotiation. Reflecting shifts in policing more broadly, the approach is prevention-oriented rather than reactive. In response to one of the most significant critiques emerging from the Ipperwash Inquiry, police organisations have emphasized a position of “neutrality” as “the meat in a sandwich”, disassociating from government which is often the target of protests. Liaisons play a central role in this process, which begins with the development of relationships to encourage communication between police and protesters. In the context of Indigenous protests, this relationship building extends beyond the specificity of protest events to fostering relationships and trust with Indigenous communities. The targeting of Indigenous communities for liaison outreach and presentations about tactical response, as well as the presumption that Indigenous protests are higher “risk”, have occurred because of conditions constituted by settler colonialism; but at the same time, these are settler colonial pacification strategies through ‘rights’ and responsabilisation within broader discourse of reconciliation. As an institution, police are tasked with deploying disciplinary-judicial power grounded in settler state law.

In this chapter, I examined how police organisations and liaisons articulate and act on prevention as an objective. The liberal rights discourse is a central mechanism of protest management. I argue that rather than a neoliberal form of governance “at a distance”, police practices reveal how rights are used strategically to establish limits for protest activities.

Through “educating” (potential) protesters and “facilitating” protests, police impose parameters

and constraints that enable them to maintain control and avoid significant disruption to critical infrastructure. One of the key purposes of the outreach and relationship-building activities of liaisons is to obtain information that allows police to plan for events. While discourses of responsibility and self-policing are evident, these are enforced by the pervasive—if not always explicit—threat of force through the use of tactical units. The enduring potential and actual use of force / coercion by police *enables* negotiation strategies. The discourse of responsibility (and good “citizenship”) is used by police as a justificatory rationale for conducting arrests and escalating the tactical response as protesters are made responsible for failing to obey the limits of rights and legitimate protest. Because Indigenous protests involve competing rights discourses in the form of Aboriginal and treaty rights, and police have encouraged “understanding” among personnel of the complexities of underlying issues, we also see disjunctures and tensions within police organisations as well as critiques from outside—most explicitly from some members of the judiciary. Through the rationalisation of decision-making, accountability is contained within the police organisation, which arguably enhances autonomy and the claim to expertise. A major source of this “expertise” that is least *transparent* is the production of intelligence. As I discuss in the next chapter, the adoption of intelligence-led policing in the context of post-September 11, 2001 security logics further legitimates the secrecy of police operations and decisions.

CHAPTER FIVE

Front Door, Back Door, Upstairs: Intelligence and the National Security Interface

In chapter 4, I examined how the OPP and RCMP have implemented liaison-based policing as part of a measured response approach to managing Indigenous protests. I argued that the advising, facilitation, transparency, and responsabilisation practices that are central to this approach work to reinforce liberal democratic institutions—especially the rights regime—while establishing grounds for the use of force. I emphasized that these practices are not independent of the omnipresent potential for the deployment of state violence but are rather enabled by, and enabling of, this potential violence. In the context of Indigenous struggles, this reflects the settler colonial state’s assertion of sovereign-judicial power. This chapter situates the work of liaison officers in relation to the intelligence-led policing framework through which front-line policing entwines with the national security apparatus. Building on my discussion in chapters 3 and 4, the successive articulation and implementation of problem-oriented community-policing and intelligence-led policing are variations on preventative risk management through improving the information gathering and knowledge capacities of police. There is a common objective in identifying “problem” communities as important sites of knowledge and engaging in pre-emptive intervention based on that knowledge.

Several interviewees described the role of liaison officers as a “front door” approach, distinguished from “back door” covert operations, which obtain information that is not voluntarily provided or that is “sensitive” (i.e. provided by informants). In the intelligence process, “front door” and “back door” information is corroborated and this is supposed to guide the operational decisions of the incident commander in the deployment of integrated response. This “front door”/“back door” analogy is a significant one from an analytical perspective, because it captures (perhaps unintentionally) the encompassing nature of policing and the totality of knowledge sought in an intelligence-led policing framework.

I begin with an overview of the ILP model and its implementation in Canada. I then (un)map the intelligence process and networks involved in producing the knowledge used in managing Indigenous protests in Ontario. Synthesising open source texts, records obtained through access to information (ATI) requests, and interviews, this map makes visible the extent of the intelligence apparatus and how front-line policing is entwined with national security interests. Starting at ground-level, I examine the operational co-existence of police liaisons and intelligence operations. For liaisons, their “front door” work depends on maintaining a tenuous distinction between “information” and “intelligence” gathering. While important for “transparency” and building “trust”, the role distinction is also a source of intra-organisational tensions when “intelligence” is privileged over liaisons’ knowledge in operational decisions, and is not fully shared with liaisons. The “need to know” basis for intelligence dissemination is grounded in the politics of secrecy, which characterise the national security apparatus.

One of the distinctions of intelligence-led policing (ILP) is the emphasis on collaborative information-intelligence sharing among law enforcement agencies and a wide range of institutional “partners” beyond the police. Drawing primarily on ATI records because of the classified nature of intelligence work, I examine how intelligence collaboration occurs at multiple levels, which shows how localised incidents of Indigenous resistance are (made) objects of the Canadian state’s national security apparatus. This includes a level of intelligence analysis and political decision-making that occurs “upstairs”, removed from the front-line. I conclude the chapter with counter-narratives expressed by some interviewees that point to the potential of intelligence processes and products to exaggerate the threat posed by Indigenous protesters. This (un)mapping of information and intelligence practices disrupts the legitimating discourses of rationality and objectivity that underlie both the ILP model and the assertion that the police management of protests is autonomous from state interests. Like the omnipresence of tactical units, the intelligence operations undertaken by police and other agencies can both *enable* and undermine liaisons’ negotiation strategies.

(UN)MAPPING INTELLIGENCE-LED POLICING

Intelligence has an interesting and telling origin story with the RCMP that reflects the colonial foundations of the police organisation. The story begins with Indigenous communities and the role of Métis guides and interpreters who facilitated knowledge production for NWMP.¹⁴⁰ In an *RCMP Gazette* article, Smith (2004) writes that “[t]hey were invaluable both for their ability to collect information and, through a combination of knowledge and experience, to process that information into intelligence.” That intelligence “allowed constables on patrol to know what to expect from the people they encountered and the settlements they visited” (A. Smith 2004). As an officer-in-charge within the RCMP’s Criminal Intelligence Directorate at the time, the author draws on a narrative of *cooperative* police-Indigenous relations in promoting organisational buy-in for the RCMP’s “new” intelligence-led policing model. This version of history shows the continuities of policing strategies dependent on having (direct) knowledge of communities of interest and the symbiotic dynamic of “liaison” and intelligence work.

The Intelligence-Led Policing Model

Smith’s (2004) account of the historical antecedents of intelligence-led policing in the RCMP reflects three continuities in policing objectives: engagement of local communities and groups “at risk” (or *of risk*), the development of knowledge (i.e. intelligence) about them, and the precautionary use of that knowledge in encounters. A constant has been the concern with racialised and Indigenous communities. The specific trajectory of intelligence-led policing as a reified framework in Canada emerges from the community-based policing models of the 1980s and 1990s. The adoption of the “community policing” philosophy sought to address tenuous

¹⁴⁰ On the centrality of the “savage Indians” construct in the national mythology of the North West Mounted Police, see Daniel Francis. 1992. *The Imaginary Indian: The Image of the Indian in Canadian Culture*. Vancouver: Arsenal Pulp Press, chapter 4. In NWMP mythology, Francis (1992) notes that the image of the “half-breed” guide was juxtaposed to the “savage Indians”. Interestingly, Francis refers to Métis guide Jerry Potts as the archetype for the image of the NWMP’s “faithful retainer” (p. 62)—the same person Smith (2004) identifies as “an iconic figure” of the RCMP in his *Gazette* article.

relations between police and racialised communities, which made “information uptake” and communications difficult. In the context of official multiculturalism, this was problematic for the authority and organisational legitimacy of police forces; this was also an operational problem because of the lack of access to information and knowledge *from and about these communities* (Deukmedjian and de Lint 2007). The communities themselves were to be *proactively* engaged as “partners” in addressing “crime problems” (see Fielding 1995; Brogden and Nijhar 2005). The emphasis on proactivity and prevention in policing intensified towards the end of the 1990s, with the articulation of intelligence-led policing (ILP). ILP extended upon the “knowledge work” of community-based policing with greater emphasis on assessing and managing *risk* (Maguire 2000; Brodeur and Dupont 2006). The communities themselves are problematised as risks (Murphy 2007) while the police institution (re)asserts a claim to (exclusive) expertise through partnerships with other law enforcement agencies.

As a comprehensive model or program, ILP first emerged in the UK and then in other Anglo-American and western European police forces (IALEIA 2004). Driven in part by resource management concerns and the need to demonstrate “value for money”, the production of intelligence is understood as essential to enable the strategic deployment of limited resources to maximise impact. Prevention activities and enforcement operations would be directed at geographical “hotspots” and the “usual suspects” of criminal activities (see Gill 2000). While information and intelligence have long been central features of modern policing, ILP extends the use of intelligence beyond major case operations (particularly organised crime investigations) to everyday policing (Stewart 1996; Deukmedjian and de Lint 2007),¹⁴¹ reflecting the normalisation of proactive information gathering with the objective of *prevention*.

¹⁴¹ The foundations of ILP initially lay the context of concerns about transnational organized crime as the emphasis on strategic intelligence rather than tactical intelligence was associated with longer-term investigations and operations aimed at disrupting large-scale criminal/terrorist operations and dismantling organizations and networks. The problem of transnational networks of organized criminal activity was mirrored by the emergence of collaborative networks of law enforcement intelligence and operations.

As a policing framework, ILP has three core defining features. First, the implementation of an ILP approach involves a rethinking or restructuring of policing that makes the *intelligence process* much more central, reflected by the adoption of a formal standardised intelligence cycle. The intelligence cycle generally consists of five or six stages: planning (priority-setting), collection, gathering/collation, analysis, dissemination, and increasingly, evaluation. In the idealised model, what distinguishes ILP from the conventional use of information/knowledge in policing is the emphasis on *analysis* (see Innes, Fielding and Cope 2005). Analytical work can range from the basic corroboration of raw information received from open sources, confidential informants, undercover work and/or surveillance activities, to active, directed intelligence operations to obtain information to confirm or dismiss information. Organisationally, this involves the centralisation of intelligence production and decision-making, as well as the professionalisation of intelligence analysts reflecting the “scientization” of intelligence work (Ericson and Shearing 1986). Through the intelligence process, police experiential knowledge, or “common-sense”, becomes a “consumable commodit[y]” in the form of intelligence products (Innes, Fielding and Cope 2005:40).

A second key feature of an ILP model is a greater emphasis on the development of *strategic intelligence* in addition to tactical, or *actionable*, intelligence. The objective of future-oriented strategic intelligence is to identify emerging trends and potential “issues” that can be addressed proactively through intervention. Targeting is determined through “objective” assessments of the risk and threat posed by individuals and groups based on the development of analytical tools and methodologies (see Innes, Fielding and Cope 2005). Strategic intelligence thus also has a corporate application for cost-effective resource management and organisational priority-setting (see Maguire 2000).

The third feature of ILP is a requirement for collaborative, integrated policing through “partnerships” with public and private agencies as a means of expanding the realm of information-intelligence gathering. This depends on dismantling both intra-and inter-

organisational barriers fueled by factors such as occupational culture, information “hoarding” and “silos”, incompatible data systems, and “friction” with outside agencies (Sheptycki 2004). The imperative for greater inter-agency collaboration intensified significantly after September 11, 2001, and ILP’s pre-emptive prevention orientation and emphasis on strategic intelligence has reverberated with security logics to formalise these partnerships.

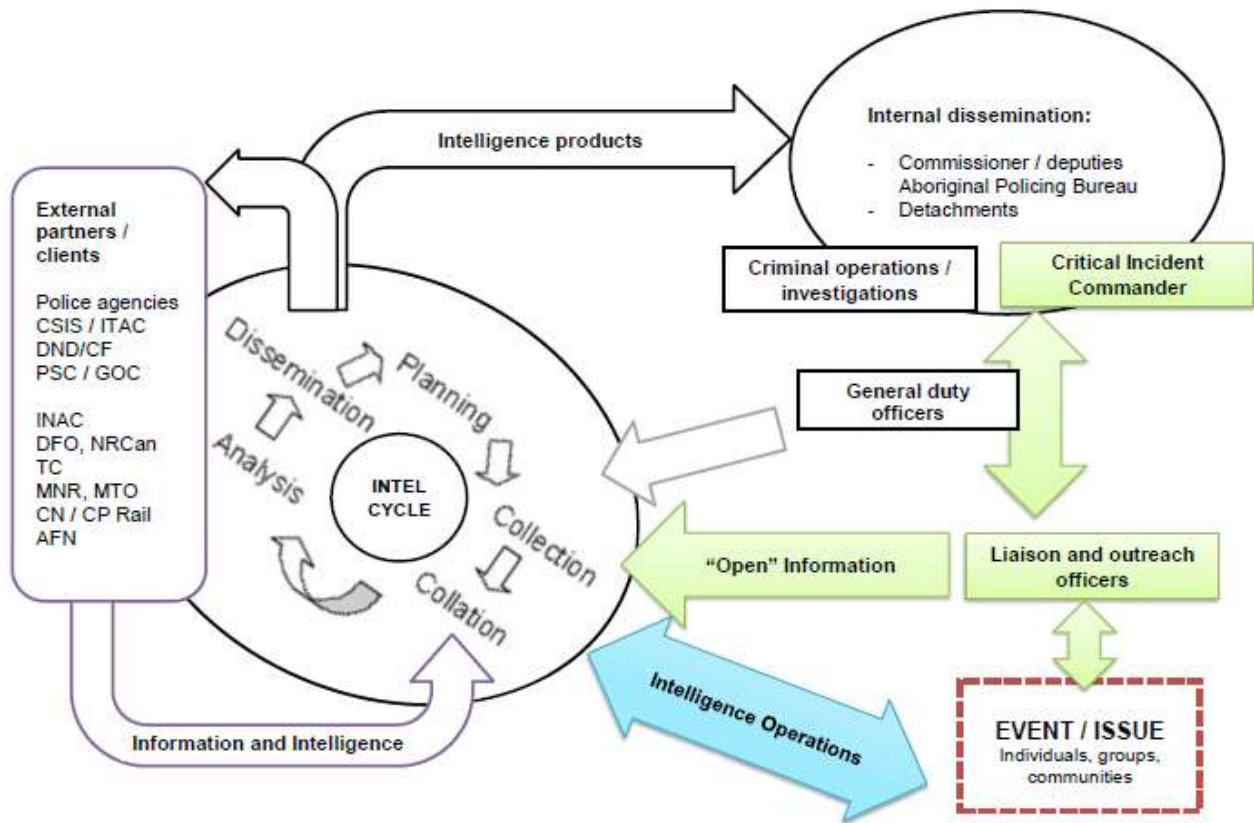
Critics have pointed to the self-fulfilling potential of ILP in targeting “usual suspects” based on perceptions of risk informed by systemic racism and class-bias (see e.g. Ericson and Haggerty 1997; Gill 2000; Sheptycki and Ratcliffe 2004; Dafnos 2007). As Cope (2004) argues, the process is driven by the raw information supplied by front-line officers who retain significant discretion in their everyday work. This “knowledge” of threat is imbued with scientific “validity” and thus, objectivity (Innes, Fielding and Cope 2005). ILP further secures the *secrecy* and “sacredness” of the police institution and methods of threat assessment as a matter of *security* (see de Lint 2008). The shifting security landscape after 2001 enhanced and intensified an existing intelligence paradigm, imbuing practices with the legitimating discourse of national security prevention.

Locating Liaisons in the National Security Apparatus: Mapping Intelligence Process

At the root of the intelligence-led apparatus are the “[f]ront-line police officers plugged in at the community level through contacts and relationships [who] represent a well-trained human radar system such that, if properly trained and resourced, can detect and report suspicious persons and activities that might constitute potential terrorist threats” (Julian Fantino, (former) OPP Commissioner, in Parliament of Canada 2007). Community-based liaisons are a crucial piece of this “radar system” on the ground because of their interactions and relationships with individuals, groups, organisations, and community leadership. Building outreach capacity and relationships with communities has a dual purpose in first, facilitating or expanding information gathering (through community-initiated contact, cultivating informants, and covert operations)

and second, to facilitate police interventions targeting “causes” or “origins” of criminal and “extremist” activities. These objectives mesh easily with the problem-oriented version of community policing in place already (Deukmedjian and de Lint 2007). As de Lint (2006:3) observes, “once the community reference is marginalized, problem-oriented policing and intelligence-led policing are much the same.”

Figure 1 Mapping Intelligence Processes



The symbiosis of liaisons’ relationship-building mandate with the intelligence-led policing approach is illustrated in Figure 1, which maps the *formal* flows of information and intelligence from the front-line to external entities (policing and intelligence “partners” or “stakeholders”). This map is based on the OPP as an anchoring point, but reflects a synthesis of OPP and RCMP practices and structures articulated in texts and by interviewees. It is important to emphasize that processes are fluid and actual practices do not always follow official flows. The

purpose of this map is to show (1) how the structural processes of ILP and liaison policing are entwined, and (2) how front-line police operations are situated within the national security apparatus and political and corporate realms. The intelligence cycle, which is the defining characteristic of the operational aspect of ILP, is at the centre of this map. This is the process through which raw *information* is confirmed, corroborated, verified and produced as some form of *intelligence* product and disseminated within and beyond the organisation.

In the context of Indigenous “unrest” or protests, information enters the intelligence process at “collection” stage through three primary channels. The first key source of information would be liaisons and general duty officers who report on their observations and interactions during the course of their everyday work. For both the OPP and RCMP, there is a general emphasis on incorporating general duty officers into the “cycle” of reporting:

And then, you know, at the end of the day, if people want to demonstrate impromptu, they will do it. That’s why that we have the general duty police officer within our own police community to be the eyes, to open, and they have a task to do, to protect those but also to be cognisant of their environment. If they see two, three buses ... okay, it’s the middle of June... July... there’s no, there’s school’s out. What are those people? So we ask the general duty police officer to be proactive with the community. So it’s community-based policing. Go and ask the driver, hey, what are you here for? So on and so forth. And that’s being reported as well. (Interview, RCMP8)

This is consistent with the way that ILP has been articulated in relation to the problem-oriented model of community-based policing. The general duty officers on the ground are woven into the ILP process as the eyes and ears in their interactions with communities (Deukmedjian and de Lint 2007).

The second source of information originates from the intelligence unit through directed information-intelligence gathering activities related to a specific target or issue. This can include both open source research and covert operations. Organisational intelligence programs are centralised in headquarters (the OPP’s Provincial Operations Intelligence Bureau in Orillia and the RCMP’s Criminal Intelligence Program in Ottawa), with regional offices and field-level personnel.

The third key channel of information flow would be through relationships with “external” partners. These exchange relationships vary in degrees of formality, structure, levels of security clearance, and formats. External partners include other law enforcement agencies, CSIS, the Integrated Terrorism Assessment Centre (ITAC), government departments, and corporate entities such as CN or CP Rail. Depending on the nature of the relationship, police intelligence products with appropriate security classifications will be disseminated to these external partners.

Intelligence units produce different kinds of intelligence products because they service a wide range of “clients” that have different “needs” and security clearances. Even internally, products are distributed and parsed on a “need to know” basis. Types of intelligence products commonly produced in relation to protests are situational awareness (which could be as basic as a mass-distributed email about an upcoming event), geomatics (geographical imaging/maps) and threat or risk assessments, which are most directly related to informing operational planning and enforcement decisions. Generally, local intelligence units are concerned more with operational/tactical intelligence whereas HQ-units will also produce strategic products. At the command and corporate levels of police organisations, intelligence products can be used for longer-term corporate planning and prioritisation in the administration of resources. At the more operational level, prioritisation is also supposed to be informed by analyses of recent events and can lead to targeted pre-emptive activities to mitigate potential risks of disruption.

The intelligence process is continuous, which increases the possibility of having advanced warning of potential unrest or the risk of protest activities. Both tactical and strategic intelligence are oriented to providing a foundation for police actions such as the initiation of contact by liaisons or incorporation into the development of an operations plan. RCMP tactical training identifies pre-event intelligence as a key crowd management tactic *preceding* negotiations with organisers. Such intelligence would include “reconnaissance” of the event

location and route—to inform planning and resource deployment—as well as assessments of the crowd in terms of “type”, size, mood, weapons/hazards, agitators or source of agitation.¹⁴²

In addition to the OPP’s standalone intelligence bureau, the OPP has an analyst within the Aboriginal Policing Bureau who provides analysis of trends and issues for the PLT program. Similarly, the RCMP’s Protective Operations branch in A Division (National Capital Region) also has an internal investigative and intelligence unit that includes an analyst. These internal analysts provide a more direct and quicker turnaround for supplying intelligence to OPP PLT liaisons and the A Division’s protective outreach and demonstration team members. Both the OPP and RCMP interviewees tend to identify these activities as information or research rather than “intelligence”. However, the sharpness of that distinction becomes less clear when compared to strategic intelligence, which is concerned with identifying larger social-political trends that may increase potential risk of protest activity. Similar information may come from designated intelligence units. Since 2007, the OPP’s Provincial Operations Intelligence Bureau (POIB) has a dedicated Aboriginal Issues Unit (AIU), and the RCMP’s Criminal Intelligence Program (CIP) has resources dedicated to the “Aboriginal portfolio”. As will be discussed below, from 2007 to 2009, the RCMP’s CIP had an Aboriginal Joint Intelligence Group (JIG). After the JIG was disbanded, the “portfolio” is now managed within the CIP by designated analysts.¹⁴³

The relationship-building underlying the liaison work discussed in the previous chapter—in both “social service” and event-specific forms—would conventionally be understood as “low” consent-based policing. Like community policing, these liaison initiatives are characterised by their openness and couched in terms of trust. However, these policing activities cannot be disconnected from the broader institutional processes in which they are embedded. While

¹⁴² RCMP. 2007. “Decision Making Process: Police Crowd Management Mandates” [deck]. RCMP crowd classifications: “crowds by circumstance, casual crowd, and intentional crowds. The latter are further categorized as: cohesive, expressive, demonstrative, aggressive, disorderly/civil disobedience/rioting. RCMP. 2006-7. “Tactical Troop Crowd Psychology” [course training presentation]. RCMP ATI request (informal) A-2013-05807.

¹⁴³ RCMP. 2009 (November 13). “Subject: Aboriginal JIG” [email]. RCMP ATI request (informal) GA-3951-3-00094/12.

liaisons and other front-line officers working in a community-policing orientation may not engage in covert (i.e. non-consensual) information gathering, they are very much embedded in the intelligence process through their reporting of information and in receiving intelligence. Further, the intelligence that is produced based in part on information supplied from the front-line may be circulated beyond the organisation to its “partners” in law enforcement, intelligence, government, and private sector—and vice-versa—which troubles the “operational” autonomy asserted by front-line policing.

FRONT DOOR / BACK DOOR: INFORMATION AND INTELLIGENCE

In chapter 4, I examined the role of front-line liaison officers in the prevention and mitigation of “disruption” in relation to Indigenous “unrest”. This role depends on the cultivation of “trust” to facilitate the information sharing that enables police to maintain control over the course of a protest or direct action. Event-specific and contextual knowledge underlie the measured response approach in resource deployment decisions. Within the intelligence-led approach, liaisons approach their outreach to communities and groups with some background knowledge— whether from self-initiated research, internal research unit analysis, or intelligence reports. One of the major concerns about liaisons, which many of them describe as a misconception, is that they are gathering *intelligence*. Liaisons emphasize that they are not engaged in “spying” because they operate in an open and transparent capacity.

Articulations of “intelligence” versus “information” reflect two conceptions in relation to intelligence-led policing (ILP). Liaisons often describe the difference as a matter of investigative *methods* or in terms of the sensitivity of information. Information-gathering is done *overtly*, and includes information that is “freely” or proactively shared with or in the presence of authorities, in mainstream or open social media platforms, as well as based on the observations of officers whose presence is openly visible. “Intelligence”, on the other hand, is considered sensitive information provided by people on condition of anonymity (i.e. informants) or which is gathered

through *covert* surveillance and undercover work, associated with “[...] the smoky mirror, what’s going on behind the curtain in the Wizard of Oz kind of thing” (Interview, OPP9). These activities are carried out by dedicated intelligence units that have a high degree of secrecy around their operations.

The other conception of the information-intelligence distinction is more specific to the formal ILP model and process. Information is understood as the “raw” material that is collated with other pieces of information obtained from a range of sources to be corroborated through analysis to produce *intelligence* as an end-product. The *source* of raw information may be open source, surveillance or “sensitive” information—it is collated and corroborated through the analytic process. The core distinction among pieces of information is degree of verifiability based on the *reliability* of the source(s) and whether or not the information is *confirmed*. Several interviewees noted that the events at Ipperwash were characterised by “acting on information” rather than “real intelligence” that had been corroborated (Interview, OPP1). The OPP’s adoption of the ILP approach was linked directly to addressing the intelligence failure identified as a major factor contributing to the police escalation of force at Ipperwash.

The distinction between *information* and *intelligence* is more than semantics. It relies on a dichotomisation that works in a way that legitimates “open” information gathering by contrasting it to covert intelligence operations, which are conventionally associated with political policing that is “unpalatable” in the context of the liberal democratic right to protest. Liaisons’ information gathering work is therefore positioned as *desirable* and, further, as emblematic of the ideals of liberal democratic society in which dissent can be expressed freely and openly. This dichotomy between information and intelligence enables liaisons and outreach officers to carry out their activities with/in communities and groups. Yet, any information they receive is supposed to be reported and therefore contributes to the intelligence cycle.

My argument is not that liaisons are lying or being misleading in separating themselves from intelligence work—indeed, their role is not to engage in covert information-gathering—

however, they are an important piece in the intelligence process especially where they have developed closer relationships with communities or groups of interest, which facilitates information gathering. At the other end, intelligence feeds into how liaison activities are prioritised. For example, intelligence identifying an upcoming event as having an elevated risk because of the involvement or presence of “militant” activists will filter back to the liaisons, informing their outreach activities.

Operational Co-Existence in Gathering Information-Intelligence

One PLT member succinctly described the difference between PLT and intelligence approaches to information gathering as “[t]he PLT is meeting you at the front door, but the intel people are the guys knocking on the back door” (Interview, OPP3). This “front door” / “back door” metaphor was used by several of the PLT members I interviewed and is useful analytically. The open information and knowledge work of liaisons and outreach officers (as well as general duty officers) is assumed to be based on a consensual “sharing” of information from community members. As discussed in chapter 4, the effectiveness of this approach depends on the cultivation of relationships with a range of people in communities on an interpersonal level, as well as an organisation or program level. The interpersonal trust and rapport that individual liaisons have with people are most effective in facilitating the flow of information. In contrast, covert operations reflect an antagonist approach that depends on being concealed from targets and could involve active deception. This includes investigative techniques such as surveillance, undercover officers, and recruitment of informants.¹⁴⁴

¹⁴⁴ On the emergence of proactive covert police operations, see Gary T. Marx, 1988. *Undercover: Police Surveillance in America*. Berkeley: University of California Press; also Gary T. Marx. 1974. “Thoughts on a Neglected Category of Social Movement Participant: The Agent Provocateur and the Informant.” *American Journal of Sociology* 80(2):402-442. Marx (1988) traces the historical emergence of undercover policing in modern US and UK policing institutions as response to concerns over political dissidents (e.g. Irish independence, organized labour, ethnic and political activism, communism, fascism, civil rights movements). He describes the increased use of undercover agents and covert operations as part of the “new surveillance society” in which surveillance is normalized. In the Canadian context, see de Lint and Hall (2009) and Whitaker, Kealey, and Parnaby (2012).

The further implication of the “front door”/ “back door” analogy is that people and groups of interest to the police are surrounded on all sides—while they are being openly engaged at the front door, intelligence operations have the back covered. “Back door” operations are not necessarily inversely tied to the “success” or failure of liaisons to obtain information from the “front door.” Significantly, one PLT member described the Aboriginal Issues Unit (AIU) of the OPP’s Intelligence Bureau as “probably our best friends in the realm of the policing” (Interview, OPP4). Other members expressed similar sentiments about the closeness of the working relationship between the AIU and PLT, which is a relatively recent development. Although AIU is housed in a separate bureau the two units work very closely in practice (Interview, OPP4). The symbiotic information-intelligence work between liaisons and intelligence units challenges the binary of consent/coercion in terms of eliciting information from communities or “targets”, as each strategy works to facilitate the other. Where liaisons are unable to gain access from the “front door”—for the various reasons discussed in chapter 4 such as historically grounded community suspicion—then “that’s the whole purpose of intelligence” (Interview, OPP9), to fill that knowledge gap. It provides a justificatory rationale for intelligence operations to establish the degree of risk or threat where there is suspicion of “unrest” or impending disruptive action.

Although the two sides work closely together, one of the main points of separation between “front door” and “back door” functions is the handling of information provided by people who request confidentiality, whether out of concerns of reprisal or otherwise. Because liaisons are mandated to engage in open and transparent communications, they are expected to report any and all information and observations from their encounters. People may be more inclined to speak with liaisons that have developed a visible presence with/in communities on the basis of an interpersonal or trust-based relationship; however, liaisons are restricted from receiving sensitive information. As described by an OPP PLT member, they must connect would-be protected sources with intelligence officers.

So what we're very clear on, is, we're open information, so anything you tell me I am reporting it forward. So you need to know that. But it has happened—lots—where, if they want to tell us something and they don't want to be identified and it's information they don't want to come back to them, and they, or they want to kinda go the informant side? [...] I am going to introduce you to my intelligence friend. I'm going to vouch for him; I might go to the first couple of meetings for them to get set up—from now on, open stuff comes to me; secret [squirrel] stuff, if you want to call it, goes to that person. Because I don't wanna, I don't wanna know it. And ... that's how we do it. But in fairness to them, they need to know that; because I am going to report it, because I have to. 'Cause if we hide stuff, then your reputation is over, right, and yeah. So that's what we do, we set them up with [them], we don't recruit at all. (Interview, OPP8)

There is an added degree of trust that must exist between liaisons and people in the community when they are handed off to an intelligence officer. Yet, liaison officers may continue to have a relationship with the “source” in their capacities as liaisons without being privy to the information provided to the intelligence side. While liaisons are not supposed to be actively seeking to recruit informants, their presence in communities would seem to facilitate the opportunity. The relationship building done by liaisons produces the opportunities to gain informants as liaisons become a first point of contact—someone that can be trusted and then connects potential informants with intelligence personnel who have been vouched for.¹⁴⁵ One OPP PLT member describes managing the role distinction as “a hard line to walk sometimes” (Interview, OPP4). Another PLT member shared that s/he initially had some difficulty with this “line” and was “almost recruiting” people to be informants, akin to the work of intelligence officers.

The relationship-building and national security intelligence objectives converge within outreach activities that are predominantly couched in terms of trust and openness. As Deukmedjian and de Lint (2007:250) write, the “mechanisms and means under the auspices of intelligence become more *transparently duplicitous* and exploitative of trust relations with and within serviced populations” (emphasis added). Community groups, political organisations, and

¹⁴⁵ Arguably, the ‘transparency’ or openness of liaison being proclaimed so overtly may actually encourage people to go the sensitive route being conscious that they will be identified in liaisons’ reporting; or conversely, (more strongly could be argued) that liaisons cultivate “good subjects”/citizens, in which informing is “an element of good citizenship” (Marx 1988:206).

influential individuals are targeted as potential “community intelligence feeds” that are also conduits for the dissemination of police communications (Innes 2006).¹⁴⁶ Reflecting how community-based policing and national security intelligence objectives are mutually-reinforcing, the RCMP’s Criminal Intelligence Branch articulates effective intelligence-led policing as “encourag[ing] understanding of the origins of criminal and extremist activity, and the links between those origins and current activity. This allows the police to reach out to communities, *leveraging intelligence to build support*, to make contact with at risk groups and to break cycles of crime and violence” (A. Smith 2004; emphasis added). Intelligence is *leveraged* for relationship-building, which seeks to improve intelligence capacities.

In January of 2013, then-OPP Commissioner Chris Lewis responded to judicial and public critiques of the OPP hesitance to enforce injunctions or make arrests during events associated with Idle No More. The video message was created for internal circulation within the OPP, and quickly ended up in the public domain. Lewis’ statement is highly significant because it makes clear that intelligence operations are ongoing while liaisons engage in negotiations and manage protests on the surface:

[...] There has been much criticism recently in the media directed towards the Ontario Provincial Police and our supposed lack of enforcement response to these events. I have been quick to respond publicly that the OPP will continue to manage these protests in a safe and peaceful manner using the best practices established in the OPP Framework for Police Preparedness for Aboriginal Critical Incidents and the proper use of police discretion. [...] these types of protests are difficult for police services to manage. The overall objective of the OPP is to work with all parties to ensure public and officer safety and to maintain orderly conduct and peace. That isn't us "not doing our job" as some would have it, but in fact that is our job. *Members of our Provincial Liaison Team and other officers have done excellent work negotiating with event organisers to minimize disruption and danger. Our Provincial Operations Intelligence Bureau is keeping us well-informed so we can plan and deploy resources accordingly.* (Lewis 2013, emphasis added)¹⁴⁷

¹⁴⁶ The relationship between the AFN and RCMP (formalised through protocols) is a great example of what Innes (2006) a “community intelligence feed”—a relationship with leadership in a “community of risk” that provides police with information while also providing a conduit for police to disseminate messaging (e.g. to circumvent /pre-emptively counter potentially damaging framings of their actions).

¹⁴⁷ In his message, Lewis also invokes the “meat in the sandwich” discourse: “Whether we like it or not, the First Nations people of Ontario have long-time disputes with government and we cannot solve those issues as a police service. As well, First Nations have the ability to paralyze this country by shutting down travel and trade routes. It is a

The public circulation of the Commissioner’s statement about the OPP’s management of the Idle No More protests—reiterated by police spokespersons—is also significant because it explicitly reveals, rather than denies, the ongoing role of intelligence. On one hand, this revelation addresses criticisms and concerns that the police are not engaging in law enforcement and thereby attempts to maintain credibility vis-à-vis those critics. On the other hand, Brodeur (2010) argues that revealing a glimpse of intelligence activities, which are defined by their invisibility and secrecy, can be an intimidation strategy that produces a “chilling effect”. In chapter 4, I discussed how the deployment of “transparency” can work as a strategy of governance through responsabilisation. In addition to producing a “chilling effect” the revealing of covert intelligence activities may also work to strengthen the role of liaisons by encouraging cooperation *with them* as preferable to the potential of being targeted by intrusive, covert intelligence investigations. Here, responsabilisation is reinforced as a “choice” between cooperation (openly or confidentially) or being a potential target of intelligence activities.

A Tenuous Distinction between “Information” and “Intelligence” Gathering: Managing Role Boundaries

The legitimacy and credibility of liaisons rests significantly on the differentiation of their role from that of intelligence gathering. This has been one of the biggest challenges both externally vis-à-vis the communities they interact with, and internally within the organisation and in the world of law enforcement. This is a major part of establishing the “neutral” position of liaisons in their interactions with communities and groups. Being transparent about their intentions is an important device, which emphasizes openness in approaching and interacting with communities and protesters.¹⁴⁸ In dispelling the association of dressing in plain clothes with undercover work,

difficult situation no matter how we view or address it. When policing these events, we will be criticized -- sometimes from all sides. Our response at all times needs to be measured, professional and sensitive. [...] When the critical incident is over, it is the OPP, not our critics, that is responsible for the results” (Lewis 2013).

¹⁴⁸ However, it bears mention that CSIS agents also openly identify themselves as agents to targets and, as civilians, are dressed in “regular” clothes (usually business attire) rather than uniforms. People are also not required to engage

one PLT member describes how liaisons might actively remove themselves from situations where their presence could be construed as intelligence-gathering:

So, you know, if we take more of a low-key approach it works very well. And we're more approach-able. We're not covert though. A lot of people will say, oh, you know, are you undercover? No, we don't hide the fact of who we are and we'll have, sometimes, traffic vests on if we're marching along a highway, or we'll have some kind of thing on our jacket saying Police Liaison, OPP, that it's not that we're hiding that we're police officers by any means and when we talk to people we tell them. Sometimes when they want to discuss certain strategies we'll walk away because, you know, we'll say... This is a conversation perhaps that you don't want me to be privy to; just to remember I'm a police officer, so if we ever do go to court I would have testify, so, you know, I'm just going to... be over there." (Interview, OPP4)

While this boundary management reflects the liaison priority of maintaining ongoing communications and relationships, it has also contributed to perceptions of liaisons' questionable loyalties and suspicions of "Stockholm syndrome" as discussed in chapter 4. Intelligence work is associated with the building of criminal cases; by not engaging in this work liaisons can maintain a position *between* protesters and the enforcement arm of their own organisation. In some cases, the weightiness of this discursive differentiation renders it precarious, and it must be constantly reinforced in their interactions, as well as amongst liaisons themselves and vis-à-vis the broader organisation. In part this is driven by a consciousness that their activities will be perceived as "intelligence" gathering rather than the stated purpose of relationship building and communication. As one PLT member put it,

I want to make it very clear, the PLT do not...do intelligence work, gathering, covert operations; they're not there spying on communities at all [...] They're there in an open, transparent way. If they're on the communities and... like, they're, so yeah, they're not there writing down licence plates and doing all these things. That's an intelligence function. And ... I think it's gotten a lot better now, people understanding their roles. So if there is a need to gather intelligence on participants at a protest, then intelligence will...will do that. (Interview, OPP9)

with agents when approached. In identifying themselves as agents of CSIS, however, they draw upon the symbolic power of CSIS as a coercive power that might compel cooperation. Arguably, when liaisons identify themselves as members of their respective police forces, there is a similar effect. This form of 'transparency' can have an intimidation potential.

Yet, in practice, the integration of liaisons with/in the intelligence process disrupts the simplicity of this distinction. For example, a PLT member describes a hypothetical scenario that might emerge from attending and observing an open community meeting and hearing someone speaking in a way that was “being overly radical” and about setting up a roadblock. After speaking to the individual, ‘Tim’, to convey that police were there to “work with you” in the community’s interests, and to advise ‘Tim’ of potential charges after-the-fact if he went ahead with the roadblock,

[...] I would pass on to our intel side of the house, like there’s this guy named ‘Tim’ who was pretty vocal about what he’s planning on doing. And that’s where I would... [...] be able to get his name, like who is that ‘Tim’ guy or whatever; and then I just pass that on. And then what they do with it at that point (Interview, OPP3)

In this hypothetical scenario, the information about ‘Tim’ is considered open source because his statements were made in an “open” venue and not in confidence. The open presence of the liaison at this venue, however, derives from the relation-building work that has already been done; the liaison’s access to the meeting is secured through a degree of consent by *some* members of the community. There is potential that these “open” statements lead to future monitoring of ‘Tim’ (and, conceivably, any “associates”); this is a clear example of how the chilling effect can occur when there is a police officer present—even in an “open and transparent” way, and even when “invited” by organisers and/or community members.

The Use of Intelligence at the Front-Line

While liaisons do not get direct tasking requirements for information gathering from the intelligence side, PLT supervisors will filter relevant intelligence to liaisons, who would be tasked “to see; just keep your ears on the ground for this” (Interview, OPP9). In practice, there can be an indirect, filtered tasking or direction in the information gathering by liaisons. Liaisons will also utilise intelligence in planning their own activities. According to PLT Standard Operating Procedures (SOPs), officers are supposed to “contact the AIU [Aboriginal Issues Unit]

Supervisor to ascertain any officer safety issues” before engaging in any outreach activities.¹⁴⁹

Giving the example of hearing rumours or information about large groups of supporters on their way to attend an action, a PLT member describes reaching out to other liaisons as well as the intelligence unit:

First thing we do is call down; and say, [NAME], can you just check with your folks and see if anybody’s coming; can you confirm this? If I have information, we’ll give it. We’ll check with intelligence as well. The Aboriginal Issues Unit, right? [...] and usually within... no time at all, they’ll call back and say there’s two buses going, it’s elders and kids; it’s all good, there’s nobody coming to hurt anybody. (Interview, OPP8)

The importance of having prior intelligence or knowledge about the groups and individuals that liaisons are approaching is framed in terms of the risk to officer safety, and by extension, to “public safety”:

And the one with adverse... meaning or wants to, they don’t care about the law. They’ll break it. So... yeah, it’s scary to see that you’re about 30, you walk with them and then a few blocks away and then you [go], ‘whoa, where did all those people come in at the same time’, and then we’re overwhelmed and it’s a scary situation where you’re in the middle and then you’re being surrounded by a crowd that is not... friendly. So... then the safety; and that’s where you have to use that communication, try to get out. So yeah, intel... is a big challenge for us. (Interview, RCMP8)

As discussed in the previous chapter, during a critical incident liaisons are subject to—and are expected to implement—the decisions made by the overall incident commander, sometimes without being provided with a supporting rationale at the time. Reflecting the hierarchical command, they are expected to “trust” the incident commander and the integrity of the incident command process while attempting to maintain their relationships with protesters. Intelligence requirements and the “need-to-know” principle of dissemination are often at the root of this incident command secrecy. There is a filtering of intelligence through the incident commander and between the liaison supervisor at the command table and the liaisons on the ground. There is therefore an uneven flow of information and intelligence between the front-lines and

¹⁴⁹ OPP. 2010. PLT Standard Operating Procedures. P. 8. MCSCS FIPPA request CSCS-A-2012-03063.

intelligence units. As Cope (2004) observes, this one-way flow can be a source of tension when the demands put on the front-line for information input is not felt to be reciprocated. Several interviewees attribute these tensions to a lack of understanding on the part of rank and file officers about the intelligence process and the reasons why intelligence *cannot* be freely shared with them. Significantly, these sentiments came from personnel who previously have worked in the intelligence realm.

I think that's kind of the challenge that way is even within law enforcement. Unless you've been a part of an intelligence unit and understand the ... process, I suppose, it's, it can be, and not everybody needs to know the information. The incident commander, who's in charge of the incident, needs to know the information. (Interview, OPP9)

The lack of reciprocation was also framed by other interviewees in a functional way in that intelligence is not shared with the front-line because it is superfluous or irrelevant to their job.

However, the main reason lies in the sensitivity and confidentiality of intelligence obtained through covert gathering:

But even within your own organisation, right, you have to – 'cause if you're an intelligence officer and you have... confidential information, you have to protect that information. But if it's something that's going to affect, impact the province of Ontario or there's going to be a criminal offence or there's going to be a major event, you have to act upon the information but you also have to protect, [in a sense,] you have to protect your source. So it could be single source information, like only one person knows the information and you can't burn, you have to, you can't burn that source, right? So you have to do other things to try to confirm the information; so intelligence may have information that a protest is going to go on. But it's, maybe it's common knowledge, so PLT would go out, now they'd say 'listen, we have this information, we don't know if it's reliable; when you guys are out in the community can you see if you can firm something up.' And then, that's how we would do, and that's how we corroborate each other's information. (Interview, OPP9)

Yet, the collaborative nature of PLT's work in "firming up" intelligence would be difficult in the case that information came from a confidential "single source." For liaisons that base their "trust" relationships on openness and transparency, there is a risk of jeopardising the security of intelligence and informants, and thus the viability of ongoing or planned investigations:

'cause we don't want to, you know, you don't want to find out that we're giving secret information from, 'cause we're an open group, right? And also, information that's

sensitive from their end, too, right? That, that, [their] stuff – and people always say that intel is one way and doesn't come back? – they do send us stuff back but there's a process for that. It's gotta go in, be analysed. [...] Um, and there's certain things they can't give it back; he just says, I can't give it to you. That's fine, I don't even ask. (Interview, OPP8)

There is another aspect that is coloured by past experience that raises the question of internal trust and the spectre of liaison partiality. For the OPP PLT, this was a significant source of organisational tension during the 2006 police operation in response to the Six Nations reclamation at Douglas Creek Estates. Current OPP members acknowledged that the relationship between the Aboriginal Relations Team and intelligence at the time was strained: “now [we] work together really well. I think when it first started, back in Caledonia days and Ipperwash days... not, not, not at all” (Interview, OPP9). This was attributed to a lack of understanding by both sides about the role of the other. Because of the collaborative nature of intelligence operations, involving the sharing of information among different organisations, the implications of institutional tension was not limited to one organisation. At Six Nations, there was suspicion that ART members lacked boundaries in their “transparency” with the people they were liaising with, and there was concern that they might share sensitive information as a means of gaining their trust. This led to withholding information and intelligence from liaisons, and isolating them to some extent, out of concern that ART would jeopardise an existing joint criminal investigation between the Six Nations Police and the OPP (Interview, SNPS).

While the mistrust of liaisons by other parts of the policing organisation may not be as overt as they were in the early days of the ART, liaisons are still not privy to all intelligence related to a specific event. This is justified on the “need to know” principle of intelligence sharing. While they are integral to the intelligence process as sources of “open” “front door” information as well as conduits for potential informants, liaison must actively maintain a role distinction from intelligence work. The rhetorical distinction from “spying” is integral to maintain their “neutrality” as a basis for developing relationships and “trust”, which enable their

information gathering. Yet, as I show in the next section, liaisons are integrated into the broader national security intelligence apparatus that transcends their organisation the immediacy of operational requirements.

INFORMATION-INTELLIGENCE COLLABORATION AND DISSEMINATION

The ILP philosophy depends on integrated information-intelligence sharing both *within* and *beyond* the organisation. So far, I have examined the dynamics of information sharing within the OPP and RCMP. In this section I examine platforms, or what Gill (2006) describes as “brokerage” mechanisms, that have emerged to facilitate inter-agency collaboration: incident command, Joint Intelligence Groups, Integrated National Security Enforcement Teams (INSETs), the Critical Infrastructure Investigations Team (CIIT), the Integrated Terrorism Assessment Centre (ITAC), and the Security Intelligence Liaison Program (SILP). Each of these mechanisms is interconnected as information and intelligence circulates between and across them to varying degrees. Paralleling the intra-agency intelligence flow, the tendency is for information to flow “upwards”, while the “trickle-down” of security/strategic intelligence is filtered through security clearance levels and the “need to know” principle. The collaboration and integration of information-intelligence systems has been facilitated by the priorities of the National Security Policy, including the “all-hazards” emergency management framework which is taken up in chapter 6 where I focus on the interfacing of Indian Affairs into this expanded police-security apparatus.

At the Incident Command Table: Tactical / Operational Intelligence

The purpose of the incident command and integrated response structure is to *maximise* the information and intelligence available to the incident commander in order to make the “best possible” decisions in managing critical incidents. The command post set-up facilitates the circulation of real-time information being produced by the various entities involved in responding

to the “critical incident”. The emphasis is on tactical and operational intelligence, although this might be supported by *strategic considerations* of the potential broader impact that police actions could have in the immediate political environment (such as sparking sympathy protests). As discussed in the previous chapter, incident command decisions are based on information and intelligence provided by the range of participants at the table. This includes information provided by liaisons, the various tactical unit commanders (POU, ERT, TRU) if present, intelligence, criminal investigations, First Nations Police service representatives, and in some cases representatives of emergency services and government departments that may have direct enforcement mandates, such as Natural Resources (Interview, OPP2). Information and intelligence are not freely shared with all parties at the table however. As noted previously, the incident commander becomes a buffer of sensitive intelligence, which may be shared with other components, such as the liaisons, on a need to know basis.

The incident command approach cannot be applied in the same way in all “critical incidents”. The political nature of protests requires greater restrictions on who can be in the command post, whereas “to have everybody involved at an incident command system” when dealing with floods or forest fires “works very well. But... it’s much different when you’ve got a, a protest. Particularly an illegal protest; because when we look back at Ipperwash and the allegations of political interference? We have to have a very clear separation between police operations and the political element. [...] there’s no political representation at the Command Post. At all” (Interview, OPP2). The separation between police operations and political interests becomes blurred however, when ministries with enforcement mandates—such as Canada Border Services Agency, Natural Resources Canada, Department of Fisheries and Oceans, Transportation Canada, and the provincial Ministries of Natural Resources, and Transport—share jurisdictional responsibility with police.

These agencies have their own intelligence operations and products such as situational awareness and threat assessments which are disseminated to partners, and supplement the

incident command pool of information whether directly through participation at the command post, or indirectly via the police force's intelligence unit. Similarly, where there is a rail blockade, CN or CP Rail police will be involved and may have pressure from their employers to open up the rails (Interview, OPP2). While each entity may bring an important perspective to assist in decision-making their contributions may be shaped by different interests in the resolution of the issue. Historically, inter-agency conflict has contributed to disorganisation and escalation. At Ipperwash there was lack of communication and cooperation between the Ministry of Natural Resources and the OPP (Linden 2007c). Similarly at Burnt Church in 2001, the Department of Fisheries and Oceans and the RCMP had conflicting interests (Interview, RCMP4).¹⁵⁰ The incident command structure is supposed to address communication issues by having parties represented at the command table. In each of these agencies there is a formal separation between enforcement and political spaces, and it is the enforcement arm that contributes to the incident command decision-making process. However, in the next chapter I critique these dynamics by examining the role played by Indian and Northern Affairs Canada and the Ministry of Aboriginal Affairs which *do not have law enforcement mandates*.

Joint Intelligence Groups and Multi-Agency Forums

Joint Intelligence Groups (JIGs) are event-specific collaborations where there are multiple police agencies involved in responding to a large-scale event. The aim of a JIG is to facilitate information/intelligence gathering and sharing among multiple "partners" by providing a venue for coordination. The use of a common referent to describe this type of forum reflects the formalisation and normalisation of inter-agency intelligence collaborations.¹⁵¹ Symbolically, it

¹⁵⁰ The Burnt Church "crisis" involved Mi'kmaq from Esgenoopetitj First Nation (then known as Burnt Church First Nation) in conflict with settler fisheries. At issue was the assertion of Aboriginal fishing rights to fish out of season. Settlers destroyed Mi'kmaq traps, and conflict escalated as Mi'kmaq and settler sides armed themselves and destroyed property. There were also injuries. The Department of Fisheries and Oceans were also implicated in escalating the conflict by raiding Mi'kmaq traps and running at their boats.

¹⁵¹ The standardisation of terminology reflects professionalisation and establishing an area of expertise.

signals a shift from the hoarding of intelligence by individual agencies, attributed to factors such as mistrust of other agencies, inter-agency competitiveness, and poor or non-existent channels of communication (see Sheptycki 2004). However, these “pathologies” (Sheptycki 2004) have not been eliminated by JIGs, which can be massive—for example, the G8/G20 JIG included over 500 personnel. The number of entities involved in a JIG can complicate rather than facilitate information/ intelligence-sharing because of issues such as security clearance requirements and incompatible databases.¹⁵²

The 2006 Six Nations reclamation and the 2007 National Day of Action (NDA) were both managed through the involvement of a wide range of law enforcement and security agencies. Although the Six Nations reclamation was arguably a “local” matter and the NDA involved actions across Canada, there were similarities in the police responses. The level of collaboration is reflective of the unique context of Indigenous activism and the greater potential for sympathy or solidarity actions in other jurisdictions. For the Six Nations reclamation and NDA, agencies were coordinated through a centralised command structure led by OPP and RCMP commanders, respectively. For the Six Nations reclamation, the OPP established a Joint Intelligence Group (JIG), paralleling the operational command group, which was run from a Special Operations Centre located in Toronto, approximately 90 minutes away from the site.¹⁵³ Beyond the OPP’s own intelligence bureau, participants in the JIG included intelligence personnel from RCMP, CSIS, and the Canadian Forces National Counter-Intelligence Unit (CFNCIU), all of whom had resources engaged in surveillance activities as well as source handling (i.e. use of informants).¹⁵⁴ These entities will be discussed in further detail below.

The NDA and the RCMP’s Aboriginal Joint Intelligence Group

¹⁵² RCMP. 2011. “G8/G20 Summits Integrated Security Unit (ISU). Royal Canadian Mounted Police (RCMP). After Action Report (AAR).” RCMP ATI request (informal) GA-3951-03510/11.

¹⁵³ RCMP. 2006. Compensation, expense and travel claims for ‘Project O Caledonia’. RCMP ATI request GA-3951-3-05023/8.

¹⁵⁴ DND. 2006 (April 24). CFNCIU Counter-Intelligence Report. DND ATI request (informal) AI 2009-004433.

In January 2007, the RCMP created an Aboriginal Joint Intelligence Group (JIG) for the National Day of Action, composed of members from RCMP Criminal Intelligence and National Security Criminal Investigations (NSCI) and based in the Criminal Intelligence Program at Headquarters. The JIG was explicitly described as being “part of the RCMP’s ongoing commitment to support Aboriginal communities.”¹⁵⁵ The RCMP’s strategic priority of “Aboriginal communities” extends beyond commitments to cultural awareness, community engagement and recruitment as the JIG rhetoric reflects the fusing of “community-building” with the imperatives of (national) security.

Although JIGs are generally intended to be event-specific, such as the one convened for the Six Nations reclamation, the RCMP’s Aboriginal JIG existed until November 2009. There appeared to be two main reasons for its disbandment: (1) a lack of resources and support from other areas of the RCMP, and (2) concerns about duplication and confusion with the Vancouver 2010 JIG. In particular, the JIG was unable to secure participation from NSCI as well as from the Contract and Aboriginal Policing program.¹⁵⁶ Although the JIG relied on information/intelligence contributions from a range of sources, its core was strictly RCMP and might better be described as a dedicated *section* or portfolio within Criminal Intelligence.

The impetus for the JIG stemmed from the strain on Criminal Intelligence Program resources (i.e. one analyst responsible for Aboriginal issues) in meeting intelligence needs during 2006 in the midst of the Six Nations reclamation.¹⁵⁷ The expansion of intelligence resources leading up to the NDA was seen as a priority to support operational preparations. It is significant to note the *proactive* approach here, in which intelligence is seen as a fundamental component of planning. The JIG had a mandate “to collect and analyze information, and produce and disseminate intelligence concerning conflict and issues associated with Aboriginal

¹⁵⁵ RCMP. 2009 (June). “RCMP Criminal Intelligence. Aboriginal Joint Intelligence Group. Aboriginal Communities, Issues, Events and Concerns 2009/10.” P. 5. RCMP ATI request A-2011-06291.

¹⁵⁶ RCMP. 2007 (November 13). “Subject: Aboriginal JIG” [email]. RCMP ATI request (informal) GA-3951-3-00094/12.

¹⁵⁷ RCMP. 2007 (January 23). Project Plan RCMP Criminal Intelligence. RCMP ATI request 2007-02463.

communities.”¹⁵⁸ More specifically, the focus was on conflicts that could escalate into “civil disobedience and unrest” such as “grievances pertaining to land claims, treaty disputes, environmental issues, economic and sovereignty disputes, internal conflict and social issues.”¹⁵⁹ Towards this, the JIG monitored “individuals of interest...because of their influence on activities in Aboriginal communities.”¹⁶⁰ There was particular interest in “[t]ension against critical infrastructure” stemming from blockades (i.e. affecting physical infrastructure) as well as actions “concerning energy sector development.”¹⁶¹ The JIG would also provide *historical knowledge* about communities and issues to inform decision-making,¹⁶² thus serving as subject matter experts within the RCMP.¹⁶³ At the regional level, the OPP, as police of jurisdiction in Ontario, established a JIG for the NDA in which the RCMP was a key participant.

The Aboriginal JIG produced weekly “Aboriginal and Community Public Safety Situation Reports”,¹⁶⁴ as well as three annual threat assessments on “Aboriginal Communities of Concern” in 2007, 2008 and 2009-10, which are forward-looking strategic intelligence products.¹⁶⁵ Both the weekly and annual reports draw on contributions from the RCMP’s divisional level Intelligence and Aboriginal Policing Services, the Vancouver 2010 JIG, RCMP National Security Criminal Investigations and the Critical Infrastructure Criminal Intelligence Team, Sûreté du Québec (SQ), OPP, ITAC, and a protected third party.¹⁶⁶ In the days preceding

¹⁵⁸ RCMP. 2009 (June). “RCMP Criminal Intelligence. Aboriginal Joint Intelligence Group. Aboriginal Communities, Issues, Events and Concerns 2009/10.” P. 5. RCMP ATI request A-2011-06291.

¹⁵⁹ RCMP. 2009 (March 3). “NAPS 2009 POWPM” [deck] p. 2. RCMP ATI request (informal) GA-3951-3-03434/11.

¹⁶⁰ RCMP. 2007 (May 16). Briefing Note to the Commissioner (BN CCAPS-07-067). RCMP ATI request GA-3951-3-00060.

¹⁶¹ RCMP. 2009 (March 3). “NAPS 2009 POWPM” [deck] p. 2. RCMP ATI request (informal) GA-3951-3-03434/11.

¹⁶² RCMP. 2007 (January 23). Project Plan RCMP Criminal Intelligence. RCMP ATI request 2007-02463.

¹⁶³ The provision of historical knowledge about communities would seem to compete or overlap with the intended role of National Aboriginal Policing Services, and could account for their lack of participation. RCMP. 2009 (March 3). “NAPS 2009 POWPM” [deck]. RCMP ATI request (informal) GA-3951-3-03434/11.

¹⁶⁴ RCMP. 2007. Aboriginal and Community Public Safety Situation Reports [April 11-June 30]. RCMP ATI request GA-3951-3-04344; “Aboriginal and Community Public Safety Situation Reports [July 1 – December 31]. RCMP ATI request A-2012-00176.

¹⁶⁵ These reports were released in June 2007, May 2008 and June 2009 before the disbandment of the JIG in November 2009. The 2009-10 version was renamed “Aboriginal Communities, Issues, Events and Concerns”, dropping “threat assessment” from its cover page.

¹⁶⁶ RCMP. 2009 (June). “RCMP Criminal Intelligence. Aboriginal Joint Intelligence Group. Aboriginal Communities, Issues, Events and Concerns 2009/10.” P. 5. RCMP ATI request A-2011-06291.

the NDA, situation reports were more frequent, with multiple reports on June 29 providing updates as events progressed.¹⁶⁷

Internally, the key “clients” for the JIG’s products were the Commissioner, Assistant Commissioner of Criminal Intelligence, the Director General for Major and Organized Crime Intelligence, Criminal Operations officers, Contract and Aboriginal Policing Services (thus, disseminated to the divisions), and National Security Criminal Investigations. External clients were INAC, the OPP and SQ as well as any other agencies contributing to the JIG or affected by events.¹⁶⁸ The intent of the RCMP’s JIG was also to build an information-sharing network amongst partners such as INAC, CSIS, OPP, SQ, Canada Border Services Agency, Department of National Defence, Natural Resources Canada, Transport Canada, Health Canada and the Department of Fisheries and Oceans. In 2007, situation reports were disseminated to 380 recipients¹⁶⁹ and by 2009 this increased to approximately 450 law enforcement, government, and private energy sector “partners.” The JIG also produced ad hoc special bulletins and developing situation reports when required.¹⁷⁰

The formation of the JIG and its work on strategic intelligence reflects the prevention orientation of ILP, aimed at identifying issues, communities, and trends that could pose problems for police in the future.¹⁷¹ The annual threat assessments were intended to provide “a national outlook and short-term predictions intended to inform law enforcement” activities for the coming year.¹⁷² According to the 2009-10 annual report “[t]he scope of this report does not assess acts of lawful protest or legitimate dissent and it does not assess conflicts in Aboriginal

¹⁶⁷ RCMP. 2007. Aboriginal and Community Public Safety Situation Reports [April 11-June 30]. RCMP ATI request GA-3951-3-04344.

¹⁶⁸ RCMP. 2007 (January 23). Project Plan RCMP Criminal Intelligence. RCMP ATI request 2007-02463.

¹⁶⁹ RCMP. 2007 (June 4). Briefing Note to Deputy Commissioner (BN CCAPS-07-069). ATI Request GA-3951-3-00060.

¹⁷⁰ RCMP. 2009 (March 3). “NAPS 2009 POWPM” [deck]. RCMP ATI request (informal) GA-3951-3-03434/11.

¹⁷¹ The disbanding of the JIG amidst issues of resourcing reflected internal tensions and competition over resources within the RCMP, and perceived duplication/redundancy in the JIG’s specialization.

¹⁷² RCMP. 2007 (June). “Threat Assessment of Aboriginal Communities of Concern.” RCMP ATI request (informal) A-2012-06995.

communities related to organised crime, gangs or profit motivated criminal acts.”¹⁷³ In addition to issues that may be sources of “unrest” in communities—such as court decision, land claims, environmental issues, or legislative changes—each of the reports identifies specific “Aboriginal communities of concern” with “existing issues and conflicts which could escalate to various forms of direct action.”¹⁷⁴ Each of the communities is profiled with overviews of historical conflicts/issues, “current status”, future “outlook”, “key individuals” and other redacted information. In 2007, 11 of the 24 communities were in Ontario; in 2008, it was 12 of 23. In 2009-10, seven of 18 communities in the report were in Ontario: Akwesasne, Grassy Narrows First Nation, Kitchenuhmaykoosib Inninuwug (KI) First Nation, Munsee-Delaware Nation, Shabot Obaadjiwan and Ardoch Algonquin First Nations, Six Nations and Tyendinaga. Of these, Akwesasne, Munsee-Delaware, KI, and Shabot Obaadjiwan and Ardoch Algonquin also appeared in 2008.¹⁷⁵ Grassy Narrows, Six Nations and Tyendinaga have appeared in all three reports, and were identified in 2007 as having a presence of “extremist activity”.¹⁷⁶

In large part, the communities identified in these reports have histories of engaging in either “militant” or “violent” direct action, conflict with the RCMP and other forces, and/or are dealing with multiple unresolved issues that could lead to future conflict. The reports also highlight the proximity of “communities of concern” to critical infrastructure. With each community profile, there is a map of the community/reserve’s location and surrounding area with clearly marked critical infrastructure points—railways, airports, gas and oil pipelines, and the electricity grid.

¹⁷³ This disclaimer did not appear in the 2007 or 2008 reports. RCMP. 2009 (June). RCMP Criminal Intelligence. Aboriginal Joint Intelligence Group. Aboriginal Communities, Issues, Events and Concerns 2009/10. P. 5. RCMP ATI request A-2011-06291.

¹⁷⁴ RCMP. 2009 (June). “RCMP Criminal Intelligence. Aboriginal Joint Intelligence Group. Aboriginal Communities, Issues, Events and Concerns 2009/10.” P.1. RCMP ATI request A-2011-06291.

¹⁷⁵ RCMP. 2008 (May). “Threat Assessment of Aboriginal Communities of Concern.” RCMP ATI request A-2012-0660.

¹⁷⁶ RCMP. 2007 (June). “Threat Assessment of Aboriginal Communities of Concern.” P. 58. RCMP ATI request (informal) A-2012-06995.

The reports describe activists according to four categories, “based on the types of direct action typically encouraged, organised or participated in.”¹⁷⁷ Resembling the distinctions between “legitimate protest” and “criminal activity” articulated by officers in chapter 4, each of these categories is defined by differing forms of threat posed to liberal, colonial institutions. “Traditionalists ...believe in traditional forms of governance” and usually oppose band councils. There is no mention of “tactics”, which implies that this category refers largely to internal conflict within the community at a band level that threatens to subvert the governance structures imposed by the state. “Moderates” engage in “legal” forms of protest and “typically avoid road blockades, use of weapons, etc.” In contrast, “militants” engage in and encourage “confrontational tactics to further their cause,” which includes “illegal activities such as road blocks, trains [sic] stoppages and violence but typically stop short of using weapons or destroying property”. The 2007 and 2008 reports emphasize that moderates often express frustration with “slow and often ineffective process[es],” which may lead to militant actions.¹⁷⁸ “Extremists” are those who advocate and engage in violence, which “typically involves the use of firearms, and the destruction of property including critical infrastructure”.¹⁷⁹ As I will discuss, “extremists” are considered national security threats.

ILP’s strategic orientation and focus on critical infrastructure brings police intelligence into the realm of national security intelligence, which is characterised by a greater scope of information gathering compared to “criminal” intelligence, which is limited to specific criminal investigations and building cases. Because of the long-term prevention/pre-emption orientation of security intelligence, the scope for intelligence production is far broader, and more speculative. Although the RCMP’s Aboriginal JIG was disbanded, it reflected the expanding

¹⁷⁷ RCMP. 2009 (June). “RCMP Criminal Intelligence. Aboriginal Joint Intelligence Group. Aboriginal Communities, Issues, Events and Concerns 2009/10.” P. 3. RCMP ATI request A-2011-06291.

¹⁷⁸ RCMP. 2007 (June). “Threat Assessment of Aboriginal Communities of Concern.” P. 4. RCMP ATI request (informal) A-2012-06995.

¹⁷⁹ RCMP. 2009 (June). “RCMP Criminal Intelligence. Aboriginal Joint Intelligence Group. Aboriginal Communities, Issues, Events and Concerns 2009/10.” P. 3. RCMP ATI request A-2011-06291.

national security mandate of the RCMP, and the central role that concerns around Indigenous protests played in this expansion. Prior to the 2007 NDA information and intelligence sharing amongst the various agencies identified above was non-existent in any formalised capacity, thus spurring the perceived “necessity” for the JIG and its extension beyond the 2007 NDA.¹⁸⁰

The National Security Web

The discourse, funding, and infrastructure established through the *Anti-Terrorism Act* and National Security Policy contributed to significant “security creep” in the official mandates of police organisations. Murphy (2007:459) defines “security creep” as the process through which a “policing object is securitised, or transformed from a criminal to a security risk” to which enhanced powers and resources of national security are applied. As critics argue, the breadth of the *Anti-Terrorism Act* has potential to capture Indigenous direct actions within its purview (e.g. Roach 2001; Schneiderman and Cossman 2001; Orkin 2003). For Indigenous self-determination struggles, the framing of resistance as a “national security risk” is not new; what is significant about “securitisation” in the 2000s is *how* Indigenous “unrest” is incorporated as a “normal” object of police within the security apparatus. While these initiatives are centralised at the federal level, the local realm of policing is also implicated as intelligence-led policing frameworks are the conduit that formalises the front-line policing role within the national security apparatus. The discursive problematisation focuses on *activities* as the primary object of concern, which is supplemented by knowledge about Indigenous communities cultivated in part by improved “awareness” training.

The RCMP and National Security

The RCMP’s Aboriginal JIG is a great example of how security intelligence elides the distinction between police and national security matters as an initiative legitimated on the grounds of

¹⁸⁰ During the 2006 Six Nations reclamation, for example, RCMP HQ had initially been calling Six Nations Police directly rather than accessing its own detachment and divisional intelligence resources (Interview, SNPS).

better “supporting Aboriginal communities”¹⁸¹ (i.e. by educating RCMP members and improving public safety for communities) and as consistent with best practices under an intelligence-led approach (i.e. through collaboration and increased information). As Murphy (2007:461) writes, communities become construed as “security problems” and thus as “legitimate space[s] for security policing operations.” The national security problematisation, Murphy (2007) argues, bolsters community-based policing with “a powerful new rationale” as communities are targets for information and intelligence gathering, as well as for instilling self-policing through active cooperation.

Like the Aboriginal JIG, the inclusion of a National Security Community Outreach unit as part of the RCMP’s National Security Criminal Investigations (NSCI) program also reflects the harmonised mandates of “community-building” and information gathering. As noted in chapter 4, the A Division (National Capital Region) Aboriginal liaison officer is housed within this outreach unit. On the other end of the spectrum of information gathering within the NSCI program are Integrated National Security Enforcement Teams (INSETs) and the Critical Infrastructure Intelligence Team. INSETs are *counter-terrorism* investigation and operations units composed of RCMP members and partners from federal and provincial agencies.¹⁸² In 2002 and 2005, members of the West Coast Warrior Society were targeted by INSET operations, which contributed to the demise of the Society (Young 2005; West Coast Warrior Society 2005). In June 2012, an INSET was established in K Division (Alberta) to address specific concerns with “extremist” threats to the growing energy industry from a convergence of environmental and Indigenous groups (see Preston 2013).

Reflecting its concern with securing *sovereignty* the NSCI Orientation Guide states that the branch is “alone in attempting to prevent and/or investigate incidents *where the state itself*

¹⁸¹ RCMP. 2009 (June). “RCMP Criminal Intelligence. Aboriginal Joint Intelligence Group. Aboriginal Communities, Issues, Events and Concerns 2009/10.” P. 5. RCMP ATI request A-2011-06291.

¹⁸² INSETs are located in Vancouver, Toronto, Ottawa, Montreal and now, Edmonton.

(and not necessarily any citizen in particular) is the direct target" (emphasis added).¹⁸³ The official position of the NSCI program is that First Nations communities are not targeted for information gathering as they, and Indigenous protests, are not considered "national security threats" *per se*. The object of the Critical Infrastructure Intelligence Team's (CIIT) work, however, is threats to critical infrastructure that have potential to cause "serious harm".

According to a member of the NSCI:

[W]e are not involved in... anything to do with aboriginal protests, peaceful, violent, or otherwise. That's not considered to be a national security issue. But, because [the CIIT] is responsible for critical infrastructure protection, as you're aware, critical infrastructure is sometimes the target of these ... of the protests. So, in that sense it is something that we follow, along with our critical infrastructure partners. So for example, you may be aware that... I believe it was a month or so ago, in Northern Quebec, there was a... there was an incident where a track was being blocked; and so, we were interested in that, only from the point of view of that the trains were not running (Interview, RCMP5)

Public Safety Canada defines critical infrastructure as "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" (Public Safety Canada 2009b:2). Critical infrastructure is classified as one of ten sectors falling under the primary responsibility of a specific federal government department (Table 6). As of August 2012, the RCMP's CIIT focuses on three sectors: energy and utilities, transportation, and finance. It is significant that both the energy and utilities sector and transportation are those most likely disrupted by protests and direct actions such as blockades—whether of transportation routes (roads, highways, bridges, railways) or of access to sites of energy production. The CIIT section relies significantly on information provided by the federal departments in each sector, but also on the cultivation of information-intelligence sharing partnerships with the corporate owner-operators of critical infrastructure.

¹⁸³ RCMP. 2008. National Security Criminal Investigations Orientation Guide. Obtained via Media Co-op. (<http://s3.documentcloud.org/documents/515233/rcmp-nsci-orientatioguide-2008.pdf>)

Table 6 Critical Infrastructure Sectors and Departments (Public Safety Canada 2009c)

Critical Infrastructure Sector	Federal Department
Energy & Utilities	Natural Resources Canada (NRCan)
Information & Communications Technology	Industry Canada
Finance	Finance Canada
Health	Public Health Agency of Canada
Food	Agriculture & Agri-Food Canada
Water	Environment Canada
Transportation	Transport Canada
Safety / Emergency Preparedness	Public Safety Canada
Government	Public Safety Canada
Manufacturing	Industry Canada; Department of National Defence

In preparation for the 2007 NDA, the CIIT contributed to the production of Aboriginal JIG intelligence reports as a member of the JIG:

[A]t that time, [...] we tapped into our critical infrastructure partners to discuss with them and to include in that report if there was anything that they were concerned about... in the areas where they had critical infrastructure locations; cause as you know, in a lot of Canada, ... trains, particularly, and some energy facilities ... the only people that are within hundreds of miles often, are aboriginal groups. And in some cases there has been some issues in the past, and primarily peaceful ones with just blockades and things like that, but for a railway obviously, that's very, very expensive and it's one of the reasons they're chosen as a target. [...] So... so that's the type of thing that we're concerned about is; so we look specifically at... criminal threats to critical infrastructure... because criminal threats to critical infrastructure are considered to be, are by definition, national security threats. (Interview, RCMP5)

The ability of the Aboriginal JIG to be “plugged into ...the aboriginal communities across the country” made the JIG’s NDA reports of interest to National Security Criminal Investigations. However, none of the activities associated with the NDA ever reached the threshold of concern for national security, and since then, “when we discuss the aboriginal issues... very little of that would reach a threshold that we, would be of concern to us” (Interview, RCMP5). The threshold—i.e. definition of national security threat—has also changed over time since Oka:

[...] it is the case in the past... that national security has looked at aboriginal issues, but it would have been... I guess it's probably fifteen years ago now for example, certainly... Oka, where we had ... where there was a lot of firearms involved, where there was, you know, long stand offs and that sort of thing, so it was, so that, at that point was considered national security, but there's kind of been a reassessment of that... one of

the assessments that I know around Oka, was that a lot of that was... was organised criminals using aboriginal sovereignty issues as kind of a shield. So that wasn't really what they were interested in, but they just kind of hid behind that; as opposed to, for example, Caledonia, which appears to be a legitimate... sovereignty concerns. So... but... I don't, I can't recall in the last ten years... us doing any aboriginal files in national security; I can't recall that we did, I mean there may have been individuals which were subjects of investigations ... because of associations, or something like that. But that would be, other than that I can't recall. (Interview, RCMP5)

While “aboriginal protests” may not have been subjects of investigation for the RCMP’s national security branch, they are *monitored*. In the case of Ontario, this is less direct than in other jurisdictions where the RCMP provides provincial, territorial and municipal policing services:

So... but for example, if we look at Caledonia...that's an issue, so that's an issue that's handled by the province, it doesn't involve the RCMP at all...so we monitor that, see what's going on there, to see if there's anything gonna happen there, but that's a, that's a provincial, OPP issue [...]So... and our partners are not indicating any concern about that, again because it's a fairly static, fairly static position. So that's ... the extent of what our intelligence involvement would be. So we're keeping an eye on any of those issues, same as we would any other issues, but it's certainly not an area from our point of view that we're, we have, like I don't have anyone who looks at that at all, extensively. (Interview, RCMP5)

There is a distinction between the “monitoring” of issues and active intelligence work—a distinction that plays upon binary thinking in positioning “monitoring” as benign, but also consistent with the prevention orientation, as distinct from *intelligence work*. The normalised monitoring of Indigenous political activities becomes part of the National Security Criminal Investigations program through its mandated responsibility to investigate “terrorist activities” defined in the *CSIS Act* as *ideologically motivated* criminal activities. The coupling of “aboriginal sovereignty” as a form of ideological motivation, with the potential risk to critical infrastructure due to the nature of issues and geographical proximity of communities, arguably make Indigenous self-determination a constant object of national security even on a relatively limited scale, despite the fact that “aboriginal sovereignty issues” have not met a formal “national security threshold”.

The implications are significant, as “unlike other crime, *we can't take a chance* with national security, so everything has to be investigated; we can have a source that's, that's really not credible, but we do have to find out if what they're saying is the case. So... it's, it can't be mismanaged, *we have to look at anything*” (Interview, RCMP5; emphasis added). This broader threshold for national security investigation amplifies the concerns identified by Six Nations Police regarding the tendency for everything to go into the intelligence “chute”, especially when Indigenous issues are involved.

The impetus to investigate “everything” and “anything” where there is a potential implication for national security underlies the activities of CSIS and was also the rationale for the creation of the Integrated Terrorism Assessment Centre.

CSIS and the Integrated Threat/Terrorism Assessment Centre

Since 1984, CSIS has been responsible for national security intelligence and investigations. CSIS gathers and disseminates intelligence to government policy-makers based on a security intelligence cycle, which parallels the intelligence cycle model adopted by police organisations. Where police intelligence cycles are supposed to be directly informed by “priorities” based on assessments emerging from the intelligence process itself, CSIS also receives direction for its activities from the Government of Canada via the Minister of Public Safety. Government knowledge requirements are integrated into CSIS's intelligence cycle based on consultations with other government departments via its Government Liaison Unit.

CSIS's mandate includes “domestic terrorism”, which entails monitoring “individuals and organisations that might be involved in [...] state-sponsored terrorism, domestic terrorism (which includes the threat or use of violence by groups advocating for issues such as the environment, anti-abortion, animal rights, anti- globalisation, and white supremacy, and the dissemination of militia messages by groups in the United States), and secessionist violence” (CSIS 2005). However, the Service is prohibited by the *CSIS Act* “from investigating acts of advocacy, protest or dissent that are conducted lawfully” unless “they are carried out in conjunction with one of the

four previously identified types of activity. CSIS is especially sensitive in distinguishing lawful protest and advocacy from potentially subversive actions. Even when an investigation is warranted, it is carried out with careful regard for the civil rights of those whose actions are being investigated” (CSIS 2005). While there is an explicit exclusion of “lawful protest” from CSIS’s investigative mandate, this is tempered significantly by the caveat that any “potential” link to “terrorist” methods will be investigated. Indigenous protests, groups and individuals have been captured within CSIS’s monitoring—all four of the post-Ipperwash “testing grounds” discussed in this dissertation have been subjects of multiple CSIS and Integrated Threat Assessment Centre reports—and Indigenous activists have been approached by CSIS agents seeking information (Friesen 2008). The low threshold in the realm of national security investigations means that the *potential* for a “terrorism” or “extremism” connection provides sufficient justification to engage in monitoring or more invasive investigations. The threshold for CSIS would be lower than in the case of the National Security Criminal Investigations program of the RCMP.

The establishment of the Integrated Threat Assessment Centre (ITAC) in 2004 as part of the National Security Policy parallels the proliferation of “fusion centres” in the US; however, a key difference is the centralisation of ITAC within CSIS and thus the direct link to federal government interests. Fusion centres in the US have been described as decentralised entities, which are more like hubs for intelligence exchange that respond to requests for intelligence from partner agencies (Monahan 2009). One of the purposes of fusion centres and of ITAC is to produce intelligence products with varying levels of security classification that can be widely disseminated to law enforcement, government departments, political officials, non-governmental organisations, and private sector “partners” for their own situational awareness. In 2011, ITAC changed its name to Integrated *Terrorism* Assessment Centre.

The ITAC was tasked by the National Security Advisor to be the main intelligence source for the 2007 NDA.¹⁸⁴ The first ITAC threat assessment related to “Aboriginal Protests – Summer 2007” was released on May 11, 2007.¹⁸⁵ At least four additional assessments were produced bi-weekly until May 29 and then weekly up to the week of June 25 at which point ITAC released daily reports.¹⁸⁶ These assessments were supplemented with reports on specific issues or actions. Besides law enforcement, versions of these assessments were distributed to government departments and other “stakeholders.” The ITAC threat assessments were identified in a Department of National Defence e-mail as being “where the best info is housed” relating to the NDA.¹⁸⁷ According to the preamble of the ITAC reports, “[t]he right of Canadians to engage in peaceful protest is a cornerstone of Canada’s democratic society. ITAC is concerned only where there is a threat of politically-motivated violence, or where protests threaten the functioning of critical infrastructure.”¹⁸⁸ When political action is tied to a perceived potential for violence or disruption of “critical infrastructure,” it becomes classified as a terrorist threat.

The construction of potential risk associated with the NDA reflects the conversion of unique features of Indigenous protests into indicators of risk and threat. Reports identify the history of Indigenous resistance as an indicator of continuing and future militancy: “past protests have demonstrated that acts of violence or disruptions of critical infrastructure are possible”, with specific identification of rail blockades. One assessment identifies two risk factors: “First, in most cases, local groups will not plan their participation until relatively close to the event.

Second, any negative or high-publicity incident just prior to or on the NDA might cause

¹⁸⁴ CSIS, 2007 (May 3). “Subject: Message from ITAC Director, Daniel Giasson” [email]. RCMP ATI request GA-3951-3-00060.

¹⁸⁵ ITAC, 2007 (May 25). “ITAC Threat Assessment: Aboriginal Protests – Summer 2007” (07/34). PSC ATI request A-2009-00052.

¹⁸⁶ ITAC, 2007 (June 21). “ITAC Threat Assessment: Aboriginal Protests Summer 2007” (07/46). CSIS ATI request 117-2008-123.

¹⁸⁷ DND, 2007 (June 26). “Subject: RE: ADM EMC Sub-Committee on Aboriginal affairs” (email). DND ATI request A-2007-00590.

¹⁸⁸ ITAC, 2007 (June 21). “ITAC Threat Assessment: Aboriginal Protests Summer 2007” (07/46). CSIS ATI request 117-2008-123.

significantly more people to participate than would otherwise... Consequently, the full scope of the NDA will be difficult to assess until just prior to the event”.¹⁸⁹ These are evident concerns about the potential for prolonged, multiple and escalated protests.¹⁹⁰

Similar ITAC assessments were produced for summer of 2008.¹⁹¹ Both the Six Nations reclamation and the planned Tyendinaga blockades were regularly highlighted items of concern in 2007 and 2008. Caledonia was also the subject of several event-specific CSIS threat assessments called “lasers”.¹⁹² More recently, Idle No More was identified by CSIS as an “emerging issue – topic of interest”, but in the ITAC lasers that I obtained the focus was on the potential for reactive *counter-protests* and white supremacists.¹⁹³

Monahan and Regan (2012) observe how US fusion centres quickly expanded their mandates beyond counter-terrorism to encompass “all crimes”. They suggest that this has been driven by two central factors: the need to be relevant to the police agencies that access them for information, and to assert their relevance to maintain (or increase) funding. Monahan and Regan’s (2012) research found that the mandate “creep” of fusion centres has been rationalised by conceptualising “crimes” or “suspicious activities” as potential “precursors” to terrorism. This is consistent with the take-no-chances, “everything must be investigated” orientation of security intelligence. In the US context, Monahan (2009) found that this mandate creep is fuelled by the “all-hazards” paradigm, which ensures the continued “relevance” and existence of these entities.

This same direction is evident with ITAC’s inclusion of critical infrastructure security within its purview and in how protest has been problematised as an issue of national security.

Within the relatively short span of ITAC’s existence, a new threat category of “multi-issue

¹⁸⁹ ITAC. 2007 (May 11). “Threat Assessment: Aboriginal Protests – Summer 2007” (07/30). P. 3 CSIS ATI request 117-2008-123.

¹⁹⁰ ITAC. 2007 (June 21). “Threat Assessment: Update 4” (07/46). CSIS ATI request 117-2008-123.

¹⁹¹ ITAC. 2008 (April 16). “ITAC Situation Report: Aboriginal Protests - Summer 2008” (08/32); (June 20) “ITAC Special Assessment – Aboriginal Protests - Summer 2008” (08/87). CSIS ATI request 2012-210

¹⁹² E.g. CSIS. 2006 (March 30). “Native protesters in Caledonia Ontario refuse to end demonstration despite court order” (06/71); 2006 (April 21) “Native demonstrations in Caledonia, Ontario” (06/91) [CSIS Threat Assessment Lasers]. CSIS ATI request 117-2008-123.

¹⁹³ ITAC. 2013 (January 24). “Activist group plans to deliver a message to Ottawa” [Threat Laser]. CSIS ATI request A-2012-384 (informal).

extremism” has emerged as a catchall that captures the alliances amongst a wide range of political actors that have historically engaged in “transgressive” tactics of protest, including Indigenous activists and settler solidarity groups. Monaghan and Walby (2012) identify the use of this category beginning in 2007, and concretised in 2008, which they argue is linked to the beginning of anti-2010 Olympics organising. As Monaghan and Walby (2012) argue, threat categories such as “multi-issue extremism” take on a “real” quality as problems for continued monitoring and investigation. Aboriginal communities and warrior societies have been included as an “ongoing security concern” in the area of “domestic issue-based extremism” within ITAC’s “Bi-annual Threat from Terrorists and Extremists”: “Aboriginal communities across Canada remain focused on key issues such as sovereignty and outstanding land claims, and at times more radical members of Aboriginal warrior societies advocate violence as a means to resolve these issues.”¹⁹⁴ Following Monahan and Regan’s (2012) argument about fusion centres, the persistence of Indigenous activism and the construction of new threat categories provide a basis for these intelligence agencies to assert their continued relevance and their need for expansion.

National Defence and the CF National Counter Intelligence Unit

The “militarisation” of policing has been identified as a major “trend” reflecting a convergence between police and military organisations in practices and jurisdictions. As I argued in chapter 1, this is a problematic analytical framework because it is founded on one of the central ideological binaries of liberal-security logics. As part of his militarisation thesis, Kraska (2007) argues that armed forces have become increasingly involved in domestic matters. De Lint and Hall (2009) extend on this, suggesting that military forces have become increasingly involved in the policing of public order events, particularly where “the existential right of the nation-state itself is said to be threatened” (p.271). The long history of Canadian Forces involvement in Indigenous

¹⁹⁴ ITAC. 2010 (December 30). “Canada: Biannual update on the threat from terrorists and extremists” (10/151-E). CSIS ATI request 117-2012-95. Also, ITAC. 2012 (April 19). “Canada: Biannual update on the threat from terrorists and extremists” (12/35-E). CSIS ATI request 117-2012-476.

struggles supports this assertion by de Lint and Hall, but counters the underlying militarisation thesis that this is something new.¹⁹⁵

The role of the Canadian Forces at Oka in 1990 was “exceptional” because of their highly visible lead operational role. Subsequent involvements in policing Indigenous communities have been in a standby support capacity and in providing planning assistance and/or equipment, as was the case at Gustafsen Lake and Ipperwash. Indigenous resistance continues to be a matter of interest to the Department of National Defence / Canadian Forces (DND/CF) but their involvement in policing Indigenous struggles has become much less visible through collaborations with police forces (such as joint trainings) and counter-intelligence contributions. A 2005 draft version of the DND’s Counter-Insurgency Manual indicated that “the rise of radical Native American organisations, such as the Mohawk Warrior Society, can be viewed as insurgencies with specific and limited aims” (in Curry 2007). While this was removed from the final version after complaints by Indigenous organisations, the framing of radical Indigenous movements as a problem of domestic national security is evident in ongoing DND/CF intelligence activities.¹⁹⁶

In 2007, Canada Command offered assistance to the RCMP and attended government coordination meetings prior to the NDA.¹⁹⁷ In the case of the 2006 Six Nations reclamation, Canada Command issued a directive on May 3, 2006, stating that Canadian Forces members would “neither visit nor conduct reconnaissance of the sites.” Further, any assistance that the Canadian Forces would provide to law enforcement would require approval from the Minister of

¹⁹⁵ The Canadian Forces have been deployed in several domestic operations involving Indigenous communities: Operation UNIQUE (1989, Innu protests at Goose Bay military base); Operation FEATHER/AKWESASNE (1990, intervention in internal conflict at Akwesasne); Operation SALON (1990, Kanesatake and Kahnawake – “Oka crisis”); Operation CAMPUS/SCORPION-SAXON (1994, a planned invasion of the Mohawk territories of Akwesasne, Kahnawake and Kanesatake); Operation WALLABY (1995 Gustafsen Lake); Operations MAPLE and PANDA (1995, Ipperwash/Stoney Point).

¹⁹⁶ As of July 2014, the DND has not delivered on its promise to issue a formal apology. This may be indicative of the continued conception of Indigenous militancy and organized warrior societies as potential domestic insurgencies as an official apology would be an admission that this conception was wrong.

¹⁹⁷ DND. 2007 (June 7). “6 Jun ADM EMC on Aboriginal Issues” [email]; DND. 2007 (May 10). “ADM EMC Sub-Committee Meeting on Aboriginal Issues” [email]. DND ATI request (informal) A-2007-00590.

National Defence (under the *Aid to Civil Powers Act*). The directive also indicated public messaging that the Canadian Forces “has no role in this situation [at Douglas Creek Estates], and does not anticipate one.”¹⁹⁸ The timing of the directive is significant because there is documentation of intelligence activities a few days earlier.

DND/CF domestic intelligence activities are carried out by the Canadian Forces National Counter-Intelligence Unit (CFNCIU) and through its Security Intelligence Liaison Program (SILP). The SILP is a standing venue for the collection and sharing of security information and intelligence from civilian police and security agencies for the purpose of “early warning of threats” and to support the Canadian Forces where it might be called on to assist civilian authorities under the *Emergencies Act*.¹⁹⁹ The CFNCIU produced several reports in relation to the events at Douglas Creek Estates in 2006. These reports indicated that information was shared with SILP participants, which included CSIS and the OPP. One report from April 24, 2006 by the Toronto detachment of the CFNCIU refers to information provided by five sources with “established reporting record[s]” and whose information had been “deemed to be superior and has been confirmed by other sources.” These reports indicate that the SILP was a conduit for information-intelligence sharing to the OPP’s JIG at Caledonia.²⁰⁰ SILP meetings related to “Native protests” were held on December 6, 2006 at the OPP’s Kingston intelligence

¹⁹⁸ Canada Command. 2006 (May 3). “Commander’s Planning Guidance – CF Policy in Support of Law Enforcement Agencies in Caledonia and Other Linked Sympathetic Demonstrations” [memorandum]. DND ATI request (informal) A-2006-00447. In 2006, Canada Command was established as a centralised operational command centre for domestic security operations. In 2012, Canada Command was integrated with two other commands to form Canadian Joint Operations Command. There were concerns at Six Nations about the potential involvement of the Canadian Forces. According to Six Nations Police (SNPS), these concerns stemmed from awareness of the presence of an RCMP encampment housing Tactical Troop and ERT team members at the Hamilton airport, which had not been communicated to SNPS or to community members. According to the SNPS interviewee, the RCMP and OPP liaisons did not seem to be initially informed of the RCMP encampment, and all were confident that Canadian Forces were not involved.

¹⁹⁹ DND. Defence Administrative Orders and Directive [DAOD] 8002-1, National Counter-Intelligence Program; DAOD 8002-2, Canadian Forces National Counter-Intelligence Unit. Retrieved June 28, 2014 (<http://www.forces.gc.ca/en/about-policies-standards-defence-admin-orders-directives-8000/toc-8002.page>).

²⁰⁰ One report indicates that the reported information had been shared with CSIS “via internal reporting staff members at the JIG.” CFNCIU. 2006 (April 24). “Threats to Security – Demonstrations – Native Protests – Further to CIC INTREP 012-06” (CIC 013-06). DND ATI request (informal) AI-2009-00443.

detachment and on April 4, 2007, hosted by the OPP's "ART Intel".²⁰¹ According to DND/CF, the CFNCIU "routinely exchanges information with local police departments and other agencies to stay abreast of developing issues."²⁰²

CFNCIU reports have also been produced on other communities and actions including Tyendinaga,²⁰³ anti-HST protests in 2010, Red Power United protests during the G8/G20,²⁰⁴ and Idle No More.²⁰⁵ According to the DND/CF, CFNCIU reports are concerned with activities that "may have an impact on Canadian defence operations or personnel," which includes conditions such as road closures that can affect the movements of equipment and personnel. The "peaceful" protests of Idle No More were specifically identified as not being "consider[ed] [...] a threat to Canada or Canadians."²⁰⁶

Disrupting the ideological binary of police and military power, these collaborative intelligence sharing arrangements between the CFNCIU and police forces "close the circle" of the national security *counter-insurgency* realm and front-line policing. The CFNCIU, SILP, ITAC, RCMP National Security Criminal Investigations, and "best practices" of incident command and joint intelligence groups (JIGs), are "brokerage" mechanisms (Gill 2006) through which front-line policing is integrated within the national security apparatus. The specific problematisation(s) of

²⁰¹ While the report identifies the ART as "Aboriginal Response Team", this could be a misidentification of the Aboriginal Issues Unit. CFNCIU. 2007 (April 4). Liaison report (File No. 2106-10). DND ATI request (informal) A-2006-00447.

²⁰² DND. 2013 (May 7). "Issue: CFNCIU reports on road protests" [media response line]. DND ATI request (informal) A-2013-00679.

²⁰³ CFNCIU. 2006 (December 6). Counter Intelligence Information Report (2106-15-8-5). DND ATI request (informal) AI-2009-00442. Tyendinaga was also the subject of a March 9, 2007 entry in the Incident Management System of Canada Command about a "probable blockade". DND ATI request (informal) A-2006-00447.

²⁰⁴ CFNCIU. 2010 (June 16). JTFC Counter-Intelligence Summary; and (June 22) Counter Intelligence Information Report. DND ATI request A-2010-00659.

²⁰⁵ A December 18, 2012 Counter Intelligence Report from one of CFNCIU's western detachments identifies one trusted reliable source and a new source providing information relating to peaceful highway blockades in Alberta that had potential to impact "the security of CF/DND material and personnel" because of the traffic disruption. DND ATI request (informal) A-2012-01839.

²⁰⁶ In May 2013, the Canadian Forces created media response lines, anticipating inquires about a recently released (through ATI request) CFNCIU report that mentioned Idle No More and the previous reports that had been written about in the mainstream media. DND. 2013 (May 7). "Issue: CFNCIU reports on road protests" [media response line]. DND ATI request (informal) A-2013-00679.

Indigenous protests as higher “risk” for police and for national security normalises and rationalises their subjection to surveillance and intelligence activities.

THE UNINTELLIGENCE OF INTELLIGENCE (PRODUCTS)

Throughout the preceding discussion, I have identified sources of tension and disjuncture in the intelligence-led “management” of Indigenous protests. Interviewees have also expressed more explicit counter-narratives about the intelligence process and about the assessment of risk as reflecting colonial anxieties about Indigenous peoples, communities, and self-determination struggles. Together these observations disrupt the depoliticising discourse of scientific objectivity in which ILP is couched.

Reflecting quasi-autonomous institutional factors, there appears to be an organisational difference between RCMP and OPP liaisons in their views of intelligence and their relationship to the intelligence process. I spoke with two current and one former RCMP liaison, and a member who was previously in Aboriginal policing who, unlike current OPP liaisons, identified significant limitations and critiques of intelligence processes and products. They attribute these critiques to the distance and disconnect of intelligence processes from the realities of communities. While OPP members acknowledged past limitations of intelligence capacities, citing Ipperwash and even Caledonia as significant learning experiences, interviewees were relatively positive—sometimes enthusiastic—about the complementarity of intelligence and the synthesis between the liaison and intelligence sides (while still reinforcing the separation of their roles). As noted previously, this is identified as an outcome of improved relations between the Aboriginal Issues Unit (intelligence) and the PLT (and Aboriginal Policing Bureau in general) attributed in large part to the current presence of former intelligence officers within the PLT program. Because of the political pressures and impact on organisational legitimacy stemming from Ipperwash and Caledonia, the OPP as an organisation and its members may be more vested in (promoting) the success of their post-Ipperwash reforms.

Unintelligent Intelligence

A significant tension between liaison and intelligence “knowledge” arises from a critique of “back door” information gathering. One former RCMP liaison remarked that intelligence is “unintelligent”, because in the context of protests or direct actions the only people who will talk to police to provide “sensitive” information—and thus, under anonymity—will be those with conflicting or opposing positions (Interview, RCMP4). The implication of this observation is to challenge the integrity of information obtained via intelligence officers, which is then corroborated against the information obtained through “open” channels, including from liaisons. At the same time, liaisons are not immune to the potential of deliberate misinformation arising from enduring mistrust of police. These critiques highlight the fallibility of the intelligence process and the potential for the construction of elevated assessments of risk and threat. This was identified by the SNPS interviewee with reference to the 2006 reclamation and some of the people that were speaking to—and “bullshitting”—the ART:

I remember, right at the beginning, someone saying to me, well we told the OPP that... [...] basically that a terrorist organisation had reached out and... ‘and we’re going to meet with them.’ I’m like, why would you tell them that. [...] do you have any idea what they’re going to do with that? They’re going to take that and by the time that intelligence, that intelligence officer is going to be like, ‘Whooooaaa’. By the time it gets, yeah, it’s going to be like ‘Al-Qaeda’s got a tent on Douglas Creek’ and you know, and, ‘they have weapons of mass destruction stashed in that house there’. [...] so like I say, we know our people here, right, and we know that it’s like they think, yeah, we’re just going to, you know, screw with them for a bit and we’ll tell them that we’ve got hand grenades and whatever; but there’s no, there doesn’t seem, there’s, like to me there’s almost like no common-sense filter when it comes to intelligence. [They] just take what you hear and it’s like there’s no... I guess to me, at that time anyway, there didn’t seem to be any onus on really looking at it and really kinda following up; and really kinda, it’s like, ‘nope, I hear that, we gotta pass it on’. (Interview, SNPS)

This example is significant in the context of the national security mandate to take “everything” and “anything” seriously for investigation (Interview, RCMP5). Noting that things seem to have improved since 2006 in terms of how information is verified, the SNPS member had significant reservations about the intelligence produced in relation to the reclamation action:

[...] there were so many times during Douglas Creek where there were reports about guns and gunshots, so there was information that there were guns and it was like... really? Not saying that there's not, it could be, but – really? Sometimes I just wonder, like... people are just too quick to want to accept stuff like that because it adds to the – again, it's kind of like, justifies ... an existence of either an individual or a group, right? I don't know, because we weren't buying ... and we were the ones that were going on Douglas Creek. Now, we weren't completely discounting it, thinking there's no, but we weren't buying that ... guns were as prevalent as some of that intelligence that was coming across and even that group that we had to deal with that was armed, it was like two guns – that we know of – right, but... so it wasn't like they were all running around with AK-47s, right. But sometimes you think about that, right? You just think, 'really?' Is that really, like, and that's the other thing with intelligence – it's kind of like nobody has to justify, it's like, you know, your intelligence officer just has to say, 'oh yeah, it's from a good source'. And it's like, okay, good enough, right?

He highlights three significant limitations with intelligence. First, intelligence processes are coloured by the politics of organisational or program interests in asserting their relevance. This latter point was echoed by RCMP interviewees in relation to the Aboriginal Relations Team in 2006. Second, in the immediacy of an occurring event and demands for intelligence, there may be a loosening of verification standards. Third, in the intelligence world the need for secrecy justifies the lack of transparency or accountability for how intelligence assessments are made. The assessed “credibility” of an informant (in part because they are a *confidential* informant) is justification for pursuing that information. The dependence on informant “reliability” becomes a significant determination in ultimately shaping command decisions. As one OPP liaison observed, while both liaison and intelligence sides provide real-time information to the incident commander on which to make decisions,

[...] sometimes the intelligence can't work through that cycle that quickly, but that's where that reliability of the information comes in. So those are the questions that an incident commander would ask. Well, how do you know this information, how fresh is the information, can we update the information, how reliable is the source, can we confirm this information another way. And we do all those things. It takes time, but we would err on the side of caution of taking the time to confirm information before we act on unreliable information. (Interview, OPP9)

Returning full circle then, the danger is where informants may indeed be reliable in providing information to the police—whether liaisons or intelligence officers—but their interaction is

shaped by their own motivations. As alluded to by the SNPS interviewee, the *believability* of potential weapons, violence, and links to “terrorists” is fueled in part by enduring stereotypes. He compared the claims about guns at Douglas Creek Estates to the failure of the OPP to prove the actual presence of guns at Ipperwash. I would add that this “believability” stems from enduring anxieties of settler colonialism as the insecurities of settlers’ claims to land and assertions of “nativeness” fuel racist constructs of the Indigenous Other as “Noble Savages” and “blood-thirsty renegades” (Alfred and Lowe 2005:23). The failure of police to confirm allegations of weapons, violence or “terrorist links” does not dispel those anxieties.

Competing Knowledge Claims: On the Ground versus the “7000 Foot Level”

Across the board, interviewees generally acknowledged that intelligence products have improved over time in terms of the verification of information, but this is a relatively recent development considering that these critiques related to events in 2006 and 2007. Overall, interviewees from the RCMP and OPP indicated that improved threat and risk assessments (among other intelligence products)—in terms of the accuracy of information and utility of analyses—relies on the raw information being provided from the front-lines and thus depends on front-line officers’ integration within communities. There is a distinction however, between the veracity of information and how it is interpreted through threat and risk assessments.

In the case of Indigenous protests, some liaisons’ critiques of intelligence are directed at the definitions and assessments of *threat*, which reflect dominant state interests. They also allude to the enduring issue that racialised stereotypes permeate these assessments.

[T]here is, interestingly enough, sometimes a disconnect between what the provincial and federal governments think is an intelligence issue, and the First Nation [police] service who may not think that’s required intelligence information. So it’s interesting. And I’ll give you an example. There have been issues in the past where I have heard from our headquarters in Ottawa that particular people were identified, or read it in documents, that they pose a potential threat. And when, knowing the community that I know, I know these people are no threats; they feel very passionate about not losing any more land. [...] And so, I’ve had some of these discussions with Ottawa and they say it meets a... level... a defined level, and meets their definition of a particular threat; and

so, my question has always been, well, perhaps that needs to be readdressed in defining these issues. Because that, and I can speak from a community perspective, would say, those people are no threats. There may be others that are, but those particular people you've identified, no way, would they be identified because they are passionate about saving that community's land; it's not recognised as a threat in that community. So defining the threat is sometimes, contradictory, between the government's interest and the First Nation's interest. And the police are very often caught in the middle of that situation. (Interview, RCMP10)

Significantly, one of the main points of contention stems from competing philosophical frameworks of policing and reflects ILP's reclaiming of problem-solving "expertise" from community partnerships back to the domain of law enforcement. Liaisons who are critical of intelligence take a position that threat or harm should be based on community definitions and greater input of First Nations police services. Such definitions reflect understandings of the underlying issues of self-determination, which are fundamentally at odds with the state's interests:

Absolutely. Yeah, it is a disconnect. Now having said that, when you look at the definitions, you would, you could agree that yeah they're all, they're all appropriate. But knowing the situation, these threats are somewhat different in my opinion; and particularly from First Nation services that are ... very interested in moving forward in their own nation-building. So that's a huge part of what they see as – well, like it's been called in Six Nations— in reclaiming their position within the ... within Canada. So it's a contrasting interest in land, is what it comes down to. And so, one interest is saying that if somebody, anybody does this, this is really against, you know, it should be identified at this level as a threat against Canada. And internally at [*community*] or elsewhere in First Nations communities, they would say that's not. And in some instances, they'd say those people should really be praised for putting in the time and putting in the effort, in making an effort, for standing up for our collective rights. (Interview, RCMP10)

One First Nations RCMP member involved during the National Day of Action 2007 made an interesting distinction between police intelligence, national security intelligence, and information from the community level, which seems to be unique to the context of "the aboriginal world." Like the previous interviewee, this RCMP member locates the conflicting perceptions of "threat" as rooted in enduring settler colonialism, which has the implication of criminalising "radical" Indigenous peoples.

[...] in the aboriginal world, I'll say this: there's the intelligence that's documented in a report, briefing note, whatever, and there's CSIS doing their thing, type of thing, that produce, you know; and then there's what the community people are telling ya, right? And sometimes... they're not aligned, okay? In 2007, there were often times they weren't aligned, right, and ... I don't know what the reason is for that, I don't know how to explain that myself [...]. I think when people work in aboriginal communities, they know who the radicals are, right, but I'm not sure they see them as a... threat *per se*, right? [...] But you see, I go back to, and I mean if you're interviewing people in CSIS they'll have a very different view than I—Like they'll probably say, you know, (a) there's some bad Indians out there, you know and we gotta keep an eye on them, right? But really, like... I guess my argument to that is—I don't profess to know everything, and maybe there are some bad Indians out there; but how do we define 'bad'? Because I gotta tell ya, you know, the anger and the radicalisation of young people... that has happened over the years; and the things that could have happened in this country—and has never happened? I'm saying to myself, I go back to the line, our people are pretty patient people, like, you know they're pretty... okay, you know? They don't want... because the capacity is there, the capacity is there... to cripple the economy, you know... I could go on. And you can figure that out, right? I mean, we can look at Caledonia and there was talk, there was fear about that; but it didn't happen, you know? It didn't happen. (Interview, RCMP3)

As I discussed earlier, the problematisation of Indigenous protests as “high risk” and/or national security threats is based in large part on the potential to disrupt critical infrastructure. This RCMP member counters this dominant problematisation in emphasizing the “patience” and historically non-violent approach of Indigenous activism. This speaks to how settler colonial anxieties are incorporated into the “prevention”-orientation of national security logics. While intelligence products may reproduce this dominant problematisation of Indigenous peoples and protests, for this officer, one of the benefits of having intelligence products—rather than no textual record—is that they can be challenged:

So... you know, I understand intelligence is important, it's totally important and sometimes, I guess even 2007, it was important to get those and say, 'hmm I don't think that's true' but, you know it was there on paper—it's important. [...] Because if anything, you can pick out and say yeah, yeah, yeah that's all true, that's not true, and actually this is what's true, let's replace it; so it becomes your check and balance, type of thing. (Interview, RCMP3)

Another RCMP member experienced frustration with the intelligence being contributed by partners as part of the 2007 NDA Aboriginal Joint Intelligence Group, and participated in the “check and balance” that the previous interviewee described:

I was involved with the Aboriginal JIG during the big National Day of Action. I would be called in to give them a briefing, like I sat at their committee, and ... all these other agencies would be supplying these reports. And I'd go 'no, no... this is, no, no.' and I always felt like, Christ, these people are going to stone me. But I'm telling you the truth... like I'm... why do we have all this when I'm sitting right at the committee? (Interview, RCMP9)

For these liaisons—and OPP PLT members—these differing perspectives on the “reality” of threats reinforce the importance of their roles on the ground and working with/in communities in order to challenge problematic assessments, which they see as benefiting communities as well as their organisations even where it may create “difficulties”:

Yeah, within our own organisation that sometimes creates difficulties. But at the same time... without us being there, we would, the organisation would never know that there's this other position that's really a community position, they would really not understand that. So we're very often put in situations where we have to advise on that, and advise our own organisation, which is ... probably the position, or the part of the job I like the most because it provides a real value to the organisation. And without us being there, we can sometimes say or do things or document things that can embarrass us without even knowing, and not doing it on purpose; it's just the fact of not having anybody there and not really knowing; we're looking at a situation from a 7000 foot level where it probably would be better if someone were on the ground and had an understanding. (Interview, RCMP10)

Underlying these narratives is a critique of the centralisation of intelligence at RCMP headquarters—i.e. the “7000 foot level”—and the *national security* logics that infuse risk assessments. While this seems to bolster the rationale for greater liaison presence at the ground level, the caveat is that the “check and balance” they provide can only occur if they have the opportunity to do so, which means being consulted and having access to intelligence reports, and having their perspectives and contributions given sufficient weight. This becomes problematic where intelligence products are treated as the outcomes of a “scientific” ILP process and where liaisons—particularly those who self-identify as Indigenous—may be perceived as being “biased.” Most OPP and RCMP liaisons and officers in Aboriginal policing felt that their perspectives were valued. However, one interviewee was candid about the need for rank and file officers to challenge “unintelligent intelligence” before something “stupid”

happens. At the same time, he noted that many liaisons do not have the job security of being “fire-proof”, which can make it difficult for those in lower ranks to intervene (RCMP4).

The observed differences between the OPP and RCMP interviewees in their views on intelligence assessments may be reflective of the structural and organisational differences in the relationship between liaisons and intelligence counterparts. On one hand, the closeness of the OPP liaisons with intelligence counterparts—“best friends”—could be understood as creating greater opportunities for liaisons to provide “checks and balances” on threat assessments. At the same time however, this closeness conflicts with the rhetoric of separation that is so central to liaisons work with/in communities.

CONCLUSION

As I discussed in chapter 2, and which has been reinforced by the RCMP’s own “origin story” about intelligence-led policing, surveillance and intelligence have been integral strategies of settler colonial pacification. In this chapter, I (un)mapped the contemporary articulations of intelligence-led policing from the front-line to the less visible institutions of the national security apparatus.

The “front door”/ “back door” metaphor used by liaisons captures the encompassing nature of policing and the synthesis of multiple strategies in an intelligence-led policing framework. The relationship-building objectives of police liaisons—consistent with liberal democratic policing ideals—are characterised by their “openness” and couched in terms of trust and consent. However, liaisons are very much embedded in the institutionalised intelligence process through their reporting of “raw” information and in utilising intelligence. The symbiosis of liaisons and intelligence units challenges the binary of consent/coercion in terms of eliciting information from communities or “targets”, as each strategy works to facilitate the other. Disjunctures emerge between (legitimizing) discourses and actual practices, which manifest as an inherent tension that liaisons actively and continuously manage by asserting the distinction of

their role from “intelligence” in order to maintain credibility vis-à-vis the communities and individuals they interact with, but also vis-à-vis members of their own organisations.

The liberal democratic discourses underlying post-Ipperwash police reforms have worked to legitimate intelligence practices that are increasingly entwined with the intensification of the national security apparatus. The democratic policing ideals of neutrality and peacekeeping based on respect for the complexity of Indigenous issues underlying protests is articulated in a way that not only legitimates but *necessitates* the “rational” and “scientized” framework of intelligence-led policing, and the emphasis on relationship-building with/in First Nations communities. Both these approaches are integral to (national) security operations and the central object(ive) of developing greater knowledge of communities and people of current and future *risk* to the settler state.

Liberal democratic ideals of policing *reinforce* and strengthen rationales for enhanced national security operations as prevention measures. At the same time, preventative security logics and the ideals of an intelligence-led policing model require community-based policing as not only a crucial source of raw information input but to provide “checks and balances”. In practice, there are tensions between the ideals of, on one hand, relationship-building by liaisons as a community-based source of knowledge and, on the other hand, the rationalised, objective rhetoric of the intelligence process. One way that this tension manifests is in differences in perceived threat of Indigenous “radicals”. Interestingly, therefore, the post-Ipperwash organisational commitments to increase the numbers and involvement of liaisons, First Nations officers, and First Nations police services creates conditions within police organisations for the potential increase of *challenges* to criminalising discourses that are (re)produced as “intelligence”. These conditions for internal institutional tensions and conflicts have emerged as the outcome of “ruptures” to institutional assertions of legitimacy, reflecting the dialectic of resistance and pacification.

We can draw a parallel between the police priority of managing “public safety” and preventing “militant” disruptive actions discussed in chapter 4, with the “national security” priority of critical infrastructure. At root, these priorities are based on the *same* problem of securing settler-state political-economic sovereignty by managing enduring anxieties through *surveillance* and the production of intelligence. Rather than exceptional, the policing practices examined in chapters 4 and 5 are the “norm” of the contemporary policing of Indigenous protests. These practices demonstrate the *multiplicity of power strategies* at work in which there is a heightened response to Indigenous protest. This is made evident by the interfacing of police intelligence operations with other agencies extending beyond the public police force of jurisdiction, making clear the politicised nature of policing. In chapter 6, I further this argument with a focus on the role of the bureaucratic apparatus of Indian Affairs as a pivotal policing institution in both an information/intelligence capacity but also in preventing and mitigating protests *as an extension of its mandated role of managing the state’s relationship with First Nations*.

CHAPTER SIX

Managing Colonial Emergencies: Indian Affairs and Emergency Management

The previous chapter examined the role of intelligence in the decision-making of front-line officers, and identified some of the tensions that arise between liaison roles and operational and intelligence functions. Through an (un)mapping of the police-security intelligence apparatus, I showed how the work of front-line liaisons is entwined with intelligence production. The symbiotic relationship between liaisons and intelligence (in its various incarnations) is part of the post September 11, 2001 interpretation of the intelligence-led policing approach to augment integrated information-intelligence sharing. I showed how the political interests of state sovereignty problematise Indigenous resistance as a threat to national security.

As discussed in chapters 3 to 5, front line officers articulate their role as being the “neutral” “meat in a sandwich” between protesters and government—particularly the Indian Affairs bureaucracy.²⁰⁷ One of Commissioner Linden’s central recommendations was for police forces and government to establish policies and procedures to prevent political interference in police operations. At the root of this recommendation is the ideal of democratic policing, which is responsible to *law* and not to political rulers. While direct and overt interference in the vein of lpperwash has not been evident since the mid-1990s, Indian Affairs have had a growing role in managing political contention, undertaken within the same framework of prevention and mitigation that drives both the intelligence-led and negotiation-based approaches in policing. Since the early 2000s, Indian and Northern Affairs Canada has been enhancing and systematising its own internal production of “situational awareness” under the emergency

²⁰⁷ As I noted in the introductory chapter, I use “Indian Affairs” to refer to the institutional bureaucracy established by federal government to “manage” Indigenous peoples. This bureaucracy has changed in structure and name over time, most recently to Aboriginal Affairs and Northern Development Canada (AANDC) in 2011. When referring to the administrative apparatus, I use “Indian Affairs” and include both provincial and federal bureaucracies. For the sake of continuity I use Indian and Northern Affairs Canada (INAC) and Ministry of Aboriginal Affairs (MAA) when referring specifically to the federal ministry as this was its name during most of the time period that I cover.

management paradigm. While these contemporary practices adopt new means, formats, and configurations, they are continuous with the historical surveillance practices of Indian Affairs as a key mechanism of settler-colonial pacification.

Historically, the contribution of Indian Affairs to the production of national security intelligence stems from the department's cultivation of knowledge about the social, political and economic dynamics, geographies, and legal situations of the Indigenous communities under its administration. As discussed in chapters 2 and 5, the exchange of intelligence information among Indian Affairs and law enforcement and intelligence agencies is a long-standing practice that can be traced back to the relationship between Indian Affairs and the North West Mounted Police in the nineteenth century (see K. Smith 2009). Surveillance, as Smith (2009) argues, was the main modality of colonial power in this period, backed by the omnipresent threat of coercive police or military intervention. These intelligence practices were indispensable to a key mechanism of British imperial rule—the “colonial emergency”—as a basis for “exceptional” emergency measures exercised through the sovereign prerogative, or, executive power.

In this chapter, I argue that the contemporary paradigm of “emergency management” is an extension of the “colonial emergency”. By showing the symbiosis of the everyday regulatory power of surveillance and the exercise of settler-colonial prerogative power, my analysis disrupts the characterisation of emergency powers as “exceptional”. Instead, these are colonial pacification mechanisms that exist, and change shape, because of the inherent instability of the settler state's assertion of sovereignty. Ongoing anti-colonial resistance brings that instability to the fore, creating a persistent state of “emergency” for the settler state.

I begin with a discussion of emergency power in relation to British colonial rule and suggest how “colonial emergency” continues to underlie the contemporary emergency management apparatus. Relying primarily on texts obtained through access to information requests and supplemented with open source reports and interviews, I then examine how “civil unrest” has become a central object of knowledge production by Indian Affairs within the logics

of “all hazards” emergency management. I trace how this information (knowledge) is produced and then disseminated in and through Indian Affairs’ networks with other government departments, the corporate sector, and with law enforcement and national security agencies. At the root of these flows of information is the rationale of protecting the critical infrastructure of the state. Indian Affairs and other government departments have adopted standardised formats and terminology reflecting an *intelligencification* of practices aimed at improving the synthesis with police-security institutions. With these formal convergences have come tensions between Indian Affairs and police organisations that emerge from institutional interests in securing their own jurisdictional authority and expertise. In the final section of the chapter, I examine how this “intelligence” informs the *lawfare* mechanisms deployed by Indian Affairs in mitigating potentially disruptive protests.

THE PROBLEMATISATION OF INDIGENOUS PROTESTS AS AN OBJECT OF EMERGENCY MANAGEMENT

The Enduring “Colonial Emergency”

“Colonial emergency” is a political mechanism of managing threats to imperial power, based on the “prerogative power” of executive authority and with legal foundations in martial law within British political-legal theory.²⁰⁸ These political-legal mechanisms are based on the power to declare a “state of exception”—the condition of “being-outside, and yet belonging” vis-à-vis the modern nation-state—which is a reflection of sovereignty (Agamben 1998, 2005). For Agamben, this is a bio-political power that contains certain bodies within “zones of exclusion” that are “banned” from political and legal life of the body-politic. This “ban” is enabled and legitimated by law and rather than a *void* or absence of law, the categories and zones of exclusion are governed by legal regimes (Agamben 1998; also Thobani 2007; Rifkin 2009). Conceptually and

²⁰⁸ Agamben (2005) identifies “martial law” and “emergency powers” as specific terms used in Anglo-Saxon political-legal theory, which are equivalents to the concept of “state of exception”, a term found in German theory. Other conceptions include emergency decree and “state of siege”.

discursively, the “exception”—and specific mechanisms such as “emergency measures” or “martial law”— is defined by opposition to the “norm” and, more concretely, to the *rule of law*. The state’s use of coercive interventions—or omissions—aimed at eliminating threats is legitimated by security logics to defend the body-politic and nation-state sovereignty. As Thobani (2007), Rifkin (2009), and Morgensen (2011) among others have emphasized in critiquing Agamben’s Eurocentric focus, the principle of “state of exception” in western legal systems, and as the foundation of state sovereignty, emerged out of colonialisms and the elimination of Indigenous peoples and nations.

The concept of “emergency” has allowed liberal democratic states to maintain an authoritarian “prerogative power” of rule in a legal form consistent with principles of liberalism (Neocleous 2008). This prerogative emergency power has been instrumental to British imperialism throughout the empire to assert control through political and coercive means (see Furendi 1993; Hussain 2003; Neocleous 2008). This imperial prerogative power has been transferred to colonial and post-colonial governments through “emergency law” provisions (Hussain 2003). Importantly, Furendi (1993:90) points out that declaration of “emergencies” were not always *reactive responses* to uprisings or unrest, but were also “pre-planned attempts at the political management of anti-colonial forces”. Hussain (2003) emphasizes that the persistent reality of anti-colonial resistance was the foundation for prerogative power.

In the Canadian context, the prerogative power of the state has its legal foundations in section 91 of the 1867 *British North America Act (The Constitution Act)*, which transferred authority from Britain to the federal government to make laws in the interest of ensuring “Peace, Order and Good Government” of Canada. According to Valverde (2006:78) courts have interpreted this power as pertaining to “extraordinary measures to deal with emergencies” and any regulatory matters that are not specified in section 92 as being of provincial jurisdiction. This included transfer of Britain’s colonial imperative power in governing Indigenous peoples to the federal government, specified in section 91(24) as authority for “Indians and lands reserved for

Indians” (Diabo 1996; Valverde 2006).²⁰⁹ While Valverde (2006) describes the invocation of “extraordinary measures” as “illiberal”, reflecting a framing of “emergency powers” as being outside of rule of law, Neocleous (2008:58) argues that the “constitutionalization of emergency powers is liberalism’s gift to the modern state”—the prerogative, or emergency power, is enabled by and exercised through *law*. As Williamson (2009) writes, section 91(24) is a “constitutionalized state of exception” that makes it “both natural and expected that Indians receive differential treatment” (p.73). The perceived legitimacy of emergency powers—such as the *War Measures Act*—depends upon the invocation of discourses of threat and the need for the state to provide *security* through its asserted monopoly of violence.

In the contemporary context, there is an expansion of the official definition of “emergency” beyond political threats to include natural disasters and economic crises as threats to state security. Hussain (2007:514) describes this as part of the emergence of a broad “structural shift in governance” and the creation of a post September 11, 2001 “permanent” state of exception (also Agamben 2005).²¹⁰ Consistent with trends in the US, UK, and Australia (Palmer and Whelan 2006), the Canadian government’s adoption of an “all-hazards” approach to “emergency” in its revised *Emergency Management Act 2007* reflects the definitional and structural expansion of governance through the mechanism of emergency. Neocleous (2008) argues that this expansion masks the political—and I add, colonial—origins of emergency power and its contemporary effects. In addition to emergency powers instituted through the *War*

²⁰⁹ Section 91: “It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say, [...] subsection 91[(24)] Indians, and Lands reserved for the Indians” (*The Constitution Act, 1867*, 30 & 31 Vict, c 3).

²¹⁰ On the emergence of the National Security Policy and emergency management in broader context, see Bell (2006, 2011). Bell takes up these structures / processes with a focus on “anti-terrorism” and the implications for Muslims.

*Measures Act*²¹¹ during the two World Wars and in 1970 during the October crisis, more recently through the *Public Works Protection Act* for the 2010 G8/G20 summits,²¹² and Bill 78 to contain the 2012 student protests in Montreal,²¹³ emergency power operates through mechanisms that are not explicitly identified as the exercise of executive prerogative. These are most evident in the colonial mechanisms of the intertwined biopolitical and geopolitical elimination of Indigenous peoples (Rifkin 2009; also Thobani 2007).

Embodying the prerogative power of the state, the 1867 *Indian Act* constitutes a population to be governed by a distinct legal regime outside and apart from that which is the “norm” of settler society, creating an enduring state of *exception*. The racialised *political-legal* category of “Indian” erases historical and political identities of Indigenous peoples as nations in producing an object of colonial power that is relegated to reserves as territorial zones of exclusion, governed through the legal regime of the *Indian Act* (see Alfred and Corntassel 2005; Thobani 2007; Coulthard 2007; Rifkin 2009). As discussed in chapter 2, the *Act* empowered Indian agents as the ultimate “petty sovereigns” (Butler 2004) in controlling movement to and from reserves, acting as magistrates, administering welfare provisions, and having the power to veto band council decisions, among other roles.²¹⁴ As Rifkin (2009) argues, at the root of colonial exception is a geopolitics of eliminating Indigenous political collectivities (“bare habitation”) in asserting settler territorial sovereignty (see also Williamson 2009). The existence of the Canadian settler state depends upon the continuous governance of Indigenous peoples through “exceptional” legal regimes based on the biopolitical and geopolitical constitution of

²¹¹ *The War Measures Act*, 1914, 5 George V, Chap. 2. In addition to internment of Ukrainians during the first World War, and Japanese Canadians during the second World War, the War Measures Act was used to expropriate First Nations land for military buildings. Camp Ipperwash was built on land taken from the Stoney Point First Nation in 1942.

²¹² *Public Works Protection Act*, R.S.O. 1990, Chapter P.55. On June 2, 2010, the Regulation 233/10 was passed under the Act, which expanded police stop and search powers. The Act was used on August 14, 2013 to arrest people during a court solidarity action in Hamilton for people arrested during an anti-pipeline protest.

²¹³ *An Act to enable students to receive instruction from the postsecondary institutions they attend*, SQ 2012, c.12. Repealed September 2012.

²¹⁴ Whereas Butler (2004) describes “petty sovereigns” as emerging in the contemporary context, reflecting a “resurgence of sovereignty within the field of governmentality”, my argument—following anticolonial and settler colonial scholars, is that sovereign power is persistent in colonial relations.

Indigenous peoples and nations as *subjects* of the sovereign state. For the state, the fact of enduring Indigenous resistance within and beyond zones of exclusion necessitates the prerogative power—as “exception”—as a continuous feature of settler-colonial society.²¹⁵ This is an important framework in which to ground an analysis of the contemporary *legally mandated* emergency management apparatus and the central role of the Indian Affairs bureaucracy in containing threats to settler colonial rule. The monitoring of Indigenous communities for signs of potential “unrest” allows for pre-emptive, preventative interventions to maintain settler state sovereignty.

The Emergence of the Emergency Management Paradigm in Indian Affairs

The contemporary emergency management paradigm reflects a biopolitical concern with the life (health and security) of the nation-state’s population (Bell 2006, 2011). Indigenous peoples are included within this biopolitical concern but also occupy a state of exception, which is most directly managed by the Indian Affairs bureaucracy. As part of the Canadian government’s implementation of the *Emergency Preparedness Act* in 1988, Indian and Northern Affairs Canada (INAC) established an Emergency Management Assistance Program (EMAP). Initially, the EMAP was limited to coordinating assistance for fire suppression services and search and recovery operations for reserve communities. The scope of “emergencies” was expanded in 2004 to include a wider range of activities relating to health and safety, as well as infrastructure and housing. At this time, the EMAP was managed on an ad hoc basis by INAC employees “from the corner of their desks” meaning that they would deal with emergencies as they

²¹⁵ Zones of exclusion are political-social and spatial. Reserves are the most obvious form of settler colonial exclusion, but prisons have also become spaces of exclusion and containment, reflected in the high incarceration rates of Indigenous men and women.

occurred, as a side component of their regular tasks. Thus, resources would be shifted as necessary, and without formal guidelines, procedures, or responsibilities.²¹⁶

In November 2006, INAC held discussions around “rebuilding” the EMAP. In addition to the impending *Emergency Management Act* (Bill C-12), one of the key drivers of rebuilding was an assessed increase in “environmental and political volatility” at the time, and looking forward to the future. Contributing to this “volatility” were “occupations and protests”, and the Six Nations reclamation in particular.²¹⁷ The environment was also characterised by demand for increased intra-governmental collaboration. For INAC this included greater collaboration with CSIS on the basis of a shared “preventative agenda”, “complementary views of risk”, and common understanding of “the nature of risk”.²¹⁸ As CSIS’ mandate is one of national security intelligence, the common “problem” linking INAC and CSIS is the “political volatility” of Indigenous protests. In January of 2007, the EMAP was transferred from INAC’s Corporate Services to its Socio-Economic Policy and Regional Operations sector. According to a 2007 evaluation of the EMAP, this was driven by financial pressures and the broader “operational and legislative environment of emergency management in Canada”.²¹⁹

This “environment” consisted of a gradual shift towards a prevention orientation to emergency management, which was legislatively mandated when the federal government enacted the *Emergency Management Act* (EMA) on June 22, 2007.²²⁰ The *EMA* sets out four pillars of emergency management reflecting a preventive “all-hazards” approach: mitigation,

²¹⁶ Holman, Brad. 2007 (July 31). *Final Report: Formative Evaluation – Indian and Northern Affairs Emergency Management Assistance Program*. Ottawa: Indian and Northern Affairs Canada. P. 7. INAC ATI request A-2011-01156.

²¹⁷ INAC. 2006 (November 28). “Rebuilding INAC’s Emergency Management Assistance Program (EMAP). ARDG Forum” [deck]. P. 3-4. INAC ATI request A-2013-00499.

²¹⁸ INAC. 2006 (November 28). “Rebuilding INAC’s Emergency Management Assistance Program (EMAP). ARDG Forum” [deck]. P. 10. INAC ATI request A-2013-00499.

²¹⁹ Holman, Brad. 2007 (July 31). *Final Report: Formative Evaluation – Indian and Northern Affairs Emergency Management Assistance Program*. Ottawa: Indian and Northern Affairs Canada. P.4 INAC ATI request A-2011-01156.

²²⁰ There had already been movements towards this approach through federal, provincial and territorial (F/P/T) government working groups. In a July 2004 Council of the Federation meeting and a January 2005 decision by F/P/T Ministers responsible for emergency management, there was agreement to collaborate and harmonize their emergency management systems (Public Safety Canada. n.d.:2).

preparedness, response, and recovery. The *EMA* directs all federal departmental ministers to implement this “all-hazards” approach to emergency management, which would standardise practices and procedures throughout the federal government to facilitate integrated responses when necessary (Government of Canada 2011). Through the *EMA*, each department is given responsibility for managing its own “risk environment” in terms of the department itself (i.e. business continuity/continuity of operations) and for the sector under its specific authority “including those related to critical infrastructure.”²²¹ INAC’s emergency management responsibilities include both its own risk management as a department and, because of its *Indian Act* authority, for risks affecting—and emanating from— First Nations reserve communities. As of January 2011, INAC, Health Canada, and Food and Agriculture were the only three sectors that had developed departmental emergency management plans, which speaks to the significance of these jurisdictions within the national scope of emergency management.²²²

The central recommendation of INAC’s 2007 Emergency Management Assistance Program evaluation was for the department to establish a dedicated section with resources and personnel to administer the program. In 2008, INAC established the Emergency and Issues Management Directorate (EIMD) to manage the program in line with the four pillars set out in the *EMA*, and based on an Incident Command System that has standardised emergency management amongst government departments, police forces, and operational command centres.²²³ Of significance, which I unpack in the rest of this chapter, the new EIMD combines emergency management with “issues management”.

²²¹ *Emergency Management Act* (S.C. 2007, c. 15) s.6(1)

²²² The first draft of the department’s National Emergency Management Plan (NEMP) was produced in February 2009, and a final version issued in 2011. Closely resembling the federal Emergency Management Framework, the NEMP sets out the emergency management functions of INAC, including clear lines of communication, reporting and decision-making internally and in relation to other EM entities (discussed further below).

²²³ Police command and control (incident command) structures are consistent with the ICS standards.

There are two main contexts for emergency management operations: everyday situational monitoring and instances in which a situation and/or operations may escalate due to actual or potential “emergency”. Reflecting an increasing formalisation and standardisation of emergency management, the EIMD created an Emergency Operations Centre in July 2011 to serve as the central point of coordination and monitoring. This will be discussed in the next section. As sketched out in chapter 3, the new emergency management paradigm is linked with the National Security Policy initiatives introduced after 2001. The specific identification of “critical infrastructure” as a core object of risk management is significant because it is key to the problematisation of Indigenous peoples’ protests as “issues” falling under the purview of the new emergency management agenda of INAC and other government departments. How Indigenous activism is constructed as a problem, or object, of emergency management shapes the manner in which protests and direct actions are managed by the EIMD, the Indian Affairs bureaucracy, the political realm (provincial and federal governments), and the broader web of policing entities.²²⁴

Defining Indigenous “Civil Unrest” within the Scope of Emergency Management

Drawing on Carl Schmitt, Hussain (2003:17–19) emphasizes that “emergency” is an inherently “elastic category” as the conditions of an emergency situation cannot be “exhaustively anticipated or codified in advance”. This elasticity enables sovereign power in the capacity to *decide* and declare when conditions reach a threshold necessitating exceptional response. This power is captured in the constitutional enshrining of prerogative powers such as the “Peace, Order and Good Government” provision. Yet, what we see in the emergency management paradigm is the explicit inscription of this elasticity in law and policy, affording “emergency” a normative character. Adopting the terminology of federal policy, INAC’s National Emergency

²²⁴ Here I use the term policing in the context of a form of governance/power.

Management Plan 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” (AANDC 2011:3). The emergency management paradigm formalised by the *Emergency Management Act* is based on an “all-hazards” definition of emergencies that would fall within the scope of the *Act*. A “hazard” is “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” (Public Safety Canada 2011:15). The all-hazards approach assumes that emergencies can be managed through a common set of practices (Public Safety Canada 2011). According to INAC’s National Emergency Management Plan, the “all-hazards” standard

could include a wide range of situations including, but not limited to: tornados; earthquakes; landslides; avalanches; floods; forest fires; industrial accidents; hurricanes; air crashes; storm surges; severe storms; ice storms; pandemics; cyber; chemical, biological, radiological and nuclear issues; shipping accidents (oil tanker spills); train derailments; blackouts; pine beetle infestation; tsunamis; *and dependant on the situation, issues of civil unrest* (Aboriginal Affairs and Northern Development Canada 2011:3, emphasis added).

While this appears to provide a detailed and exhaustive list of types of emergencies covered by emergency management operations, this is not so much a definition as an open-ended list of examples without defined parameters other than protection of “health, safety or welfare of people”, property, and the environment. Within this open-endedness, “civil unrest” is a problem of *security* and becomes an object of management. Civil unrest is described as an “issue” that may or may not always be an “emergency”. According to emergency management policy, an “issue” is “a situation that somehow challenges the public’s sense of appropriateness, tradition, values, safety, security or the integrity of the government.” Importantly, the policy explicitly notes that “issues” and “emergencies” “are closely linked as the escalation of an issue (e.g. civil

unrest) could become an emergency by definition” (AANDC 2011:3).²²⁵ The breadth of an “all-hazards” standard brings overtly *political* “issues” of potential or actual contention under the official purview of the emergency management apparatus and its resources. The legal inscribing of “civil unrest” as a possible condition of emergency, equated with natural disasters, diffuses sovereign power through(out) the bureaucratic apparatus of the state, with Indian Affairs having a central role.

“Civil unrest” appears more prominently in INAC’s National Emergency Management Plan than in the federal government’s policy frameworks. This was an evident concern in the 2007 Emergency Management Assistance Program (EMAP) evaluation, which had recommended the inclusion of “civil disobedience” within the formal mandate of the program.²²⁶ The extended scope was rationalised as “reasonable” because “*if the underlying causes of Aboriginal civil disobedience are a departmental responsibility then the EMA encumbers the department as the drivers of the conflict are related to the Minister’s area of responsibility*”.²²⁷ In making this argument, the report identifies the 2007 National Day of Action (and presumably, the Six Nations reclamation):

Climate change, emerging issues of civil disobedience, public policy and legislative changes will further tax the department’s emergency management requirements. The June 29th 2007 National Day of Action, major flooding and forest fires combined with various overlapping civil disobedience situations in the spring and early summer of 2007 are prime examples of how the evolving surge of emergency management will increasingly impact the department’s ability to react.²²⁸

Following the logic of all-hazards risk management, the evaluator further argues that structures and procedures must be in place to prevent future instances (or issues) of civil disobedience—

²²⁵ The federal emergency management plan uses the term “crisis” instead of “issue”, defining it as “A situation that threatens public safety and security, the public’s sense of tradition and values or the integrity of the government” and also includes the caveat that “The terms “crisis” and “emergency” are not interchangeable. However, a crisis may become an emergency. For example, civil unrest over an unpopular government policy may spark widespread riots” (Public Works and Government Services Canada. “Emergency Management Vocabulary – English-French.” PWGSC Translation Bureau. Retrieved March 22, 2013 (<http://www.btb.gc.ca/btb.php?lang=eng&cont=1149>).

²²⁶ Holman, Brad. 2007 (July 31). *Final Report: Formative Evaluation – Indian and Northern Affairs Emergency Management Assistance Program*. Ottawa: Indian and Northern Affairs Canada. INAC ATI request A-2011-01156.

²²⁷ Holman (2007), pp. 18, 29.

²²⁸ Holman (2007), p. 9.

seen as increasing in frequency and intensity—from “escalat[ing] into full-blown emergenc[ies]” like Oka or Gustafsen Lake.²²⁹

As implied by the above, INAC had long been involved in some form with “civil disobedience” or “civil unrest” involving Indigenous communities; however, the formal incorporation of these issues within the new emergency management program area of responsibility required active discursive work. In a 2009 draft of the department’s National Emergency Management Plan, there is no mention of either “civil disobedience” or “civil unrest”. In a follow up evaluation of the EMAP in 2010, there was a recommendation to clarify the role of the department in relation to civil unrest, being a matter that falls under the primary jurisdiction of other agencies (i.e. police) (INAC 2010:iv). The evaluation noted that the monitoring of protests at the regional level remained “beyond the current EMAP program authority” and thus had to be reconciled within the EMAP’s formal parameters and program delivery structures (INAC 2010:18, 29). The rationale for monitoring civil unrest relating to Indigenous communities stems from the fact that “the outcomes of these events have a direct impact on First Nations and, by extension, on the Department.” This includes civil unrest that occurs *off reserves*, which is outside INAC’s authority, but comprises the majority of protests (INAC 2010:18, 32). All *potential* and occurring “unrest” and events “are closely monitored and, in cases of escalation, INAC’s regional offices are in a position to provide assistance to first responders in order to better understand issues that may have triggered these protests and to mitigate risks to individuals and property” (INAC 2010:39). Of course, in the case of protests, “first responders” would be the police forces of jurisdiction. Being outside of INAC’s jurisdictional authority, its role would be to “focus on monitoring and documenting these events” (INAC 2010:32).

In 2011, INAC officials were still trying to clarify and rationalise the inclusion of civil unrest within the all-hazards emergency management framework in terms of the “whole of

²²⁹ Holman (2007), p. 28.

government risk picture.” In an email sent to the Director of Emergency Management Planning at Public Safety Canada, a senior policy analyst with the EIMD suggested that “Although to [sic] vast majority of First Nation protests are peaceful in nature, we believe it should still be captured due to the threat of protests evolving into incidents such as road blockades, rail blockades and bridge closures. Accordingly, perhaps Civil Unrest could fit within the Adaptive/Malicious Threats section?”²³⁰ This language appears in the All Hazards Risk Assessment (AHRA) methodology, a Public Safety Canada guide developed to assist emergency management planners in their risk assessment practices. The guide includes “risk taxonomy”—a classification system—that distinguishes between “malicious” and “non-malicious” threats. Civil unrest is listed as a non-malicious, unintentional *social* threat, but “extremist acts” are identified as an adaptive/malicious criminal threat. The AHRA classifies malicious threats as matters of national security (Public Safety Canada 2012). This is significant because, as discussed in the previous chapter, national security intelligence discourse has adopted the category of “extremism” as a catch-all for a wide range of political groups and forms of direct action.

Consistent with this AHRA framework, the final version of INAC’s National Emergency Management Plan (2011) incorporates “civil unrest” into the formal purview of the EIMD as a form of “human induced emergency”—a category that also includes “terrorist acts”. As I showed in chapter 5, the definition of “terrorism” has expanded to encompass a continuum of threats to national security in which more militant forms of political protest are increasingly characterised as “extremism”, bringing it within the purview of national security intelligence.

Constructing the Risk of “Civil Unrest”: A Sovereignty Problem for INAC and the Government of Canada

In the problematisation of protest within the framework of the all-hazards emergency management work of INAC, there is no explicit identification of *how* civil unrest/protest might

²³⁰ INAC. 2011 (February 10). “Subject: Civil Unrest” [email]. INAC ATI request A-2012-00032.

turn from an “issue” into an “emergency”. Whereas the risk to life and critical infrastructure is evident and measurable in the case of flooding or forest fires, the danger posed by “civil unrest” emerges from an underlying political-economic threat linked to disruption of critical infrastructure. This ambiguity reflects first, that the classification of “unrest” as “emergency” must be based on a *decision* and second, that this decision is based in geopolitics of settler state sovereignty. There are two primary contexts in which Indigenous communities may therefore be directly implicated as “threats to national security”: where physical critical infrastructure is located on or near First Nations communities, or where direct actions (such as blockades) may directly target critical infrastructure (such as pipelines, highways or railways).²³¹ The AHRA methodology is a set of guidelines intended to *guide decisions at the bureaucratic level* based upon standardised criteria that reflect foundational pillars of state sovereignty in a global context. The formalisation of this decision-making process through policy works to mask its political character and effects. The AHRA uses six impact categories through which the degree or level of risk of an event or issue is to be assessed: people, economy, environment, Canada’s reputation and influence, territorial security, and social and psycho-social impact. The impact on the “health and safety of Canadians” is measured in terms of fatalities, injuries, displacement, and access to necessities of life after a risk event (Public Safety Canada 2012:26). Environmental impact is assessed in terms of the “size and severity” of environmental damage (p.30). It is through the other four categories and their ambiguities that Indigenous protests can be defined as “malicious threat”.

“Economic impact” is assessed in terms of the monetary value of “damage(s) or loss to economically productive assets and disruptions to the normal functioning of the Canadian

²³¹ Interestingly, the nexus is evident in the 2007 EMAP evaluation which notes that the EMA delegated responsibility for CI protection to federal ministers, and as such, CI could be seen as falling within view of INAC because “the continuation of a First Nations government is the only way to properly and effectively deal with an emergency” (Holman, Brad. 2007 (July 31). *Final Report: Formative Evaluation – Indian and Northern Affairs Emergency Management Assistance Program*. Ottawa: Indian and Northern Affairs Canada. INAC ATI request A-2011-01156. P. 19).

economic system, which may result in the loss of service as a result of a risk event occurring” (Public Safety Canada 2012:27). This includes “direct” losses caused by damage or destruction to buildings, infrastructure, machinery/equipment or raw materials, as well as “indirect” losses caused by the interruption or reduction in “flows of goods and services” due to disruption of production/infrastructure (p.28). In the case of a direct action such as the railway blockades in Tyendinaga in 2007 and 2008, there are both monetary losses as well as disruption in the flow of goods and services. In 2012, the blockade of CN lines near Sarnia had a critical impact on the flow of supplies to Sarnia’s “chemical valley”, which threatened manufacturing operations and had potential ripple effects on other industrial sectors.²³²

Impacts on “Canada’s reputation and influence” are assessed based on the potential for an emergency to have “repercussions for the way foreign governments, populations and organisations view Canada, and the influence Canada maintains on a global stage” (Public Safety Canada 2012:37). Evidence of such impact could include “protests against Canada” and “deterioration of bilateral political relations”.²³³ High profile situations that draw attention to the relationship between the Canadian government and Indigenous peoples are often couched in terms of human rights and/or Indigenous rights violations, which disrupts the liberal democratic narrative of the nation-state and its dominant discourses of equality, multiculturalism and diversity. Canada’s treatment of Indigenous peoples has been criticised by United Nations committees and international human rights organisations like Amnesty International.²³⁴ As Goodale (2005) argues, the uncertainty of a state’s human rights practices presents investment

²³² There is a geographical concentration of petrochemical refineries and plants in Sarnia, in an area referred to as “chemical valley”. This potential economic disruption was identified in a December 28, 2012 Notification issued by the Government Operations Centre (GOC). GOC. 2012 (December 28). “Notification – Incident NT122-12” [email]. PSC ATI request A-2012-00438.

²³³ Other examples given in the AHRA methodology: “damage or loss of control over Canada’s embassies, suspension of international agreements, protests against Canada, imposition of travel restrictions to Canada, deterioration of bilateral political relations, etc.” (Public Safety Canada 2012:37).

²³⁴ Amnesty International conducted an investigation in the events at Tyendinaga in 2008 and concluded that the police response was excessive and inconsistent with human rights. In its briefing to the UN Committee Against Torture in May 2012, the organization highlighted the OPP’s Framework and the lack of independent evaluation as a form of accountability.

risks to other states and to corporations in the global economic context. The federal and provincial governments have been criticised by corporations for failing to concretely address land claims and treaty rights issues that lead to confrontations with First Nations and economic losses for the corporations.²³⁵

The impact category of “territorial security” assesses risk to “the free movement of Canadians, other people and legitimate goods within the country and across borders” and is to be assessed in terms of “losses in the ability of Canada to control its territory, either through annexation or invasion” and on the geographical size of the area “disrupted”, its population density, and the duration (Public Safety Canada 2012:34-35). Indigenous self-determination is inherently tied to land, and thus on a fundamental level, are territorial struggles. Direct actions such as rail, bridge and highway blockades cause disruptions to movement of people and goods.²³⁶ During Idle No More, there were several blockades at international bridges such as the Seaway Bridge at Cornwall (Akwesasne), the Blue Water Bridge between Sarnia and Michigan, and the Rainbow Bridge in Niagara Falls.²³⁷

“Social and psycho-social” impacts can manifest in “social actions such as protests, civil disturbances and vandalism” that would be indicators of “public outrage” and “public anxiety”. Concerns about secondary manifestations of civil unrest reflect the politicised dimension of risk management within the logics of the AHRA framework. The uniqueness of Indigenous activism and the potential for territorially dispersed solidarity actions as well as the potential for *counter-protests* and “unrest” by settler groups or communities, is an added dimension of risk shared by police and government.

²³⁵ For example, in November 2013, Cliffs Natural Resources, a US mining company, suspended its project in the Ring of Fire in Northern Ontario.

²³⁶ Of course, one of the persistent “national security” concerns for the Canadian state (and the US) is Akwesasne, which the US-Canada border cuts through.

²³⁷ During the NDA 2007, the US Department of Homeland Security (DHS) was a “partner” for the dissemination of both situational awareness and intelligence. See e.g. GOC. 2012 (January 3). “Addendum to ST122-12G First Nations Protests” [report]. PSC ATI request A-2012-00438.

Through the AHRA methodology, Indigenous peoples' protests are problematised as direct threats to the sovereignty of the Canadian nation state. The most direct impact would be the potential economic impact that might be caused by blockades or the halting of building projects which disrupt critical infrastructure and economy.²³⁸ Politically, visible acts of resistance and the state's responses to them shape the political image of Canada and the Government of Canada's reputation in the international realm. This could have potential economic reverberations in trade relationships. What becomes evident in the formalisation of EIMD processes within this new emergency management program is a clear political concern with "civil unrest" and the management of optics around the underlying issues giving rise to protests. The "state of exception" for Indigenous peoples is normalised through these emergency management structures.

INTELLIGENCIFICATION: MANAGING POLITICAL CONTENTION THROUGH KNOWLEDGE PRODUCTION

The emerging process of emergency management within the INAC bureaucracy reflects an *intelligencification* of knowledge production and risk management across government institutions as bureaucracies adopt the language of national security intelligence.²³⁹ De Lint (2008:280) describes intelligencification as "a colonization or fertilization of security politics via the tools of intelligence and its deferred reference to state auspices and exclusions". He argues

²³⁸ This is explicit in ITAC discourse, which clearly reflects the entwining of "International dimension/ economic impact": "First Nations initiatives to assert authority over claimed traditional lands have met with some success. For example, Idaho Boise Inc., an American company, recently wrote a letter informing Montreal-based Abitibi Bowater it will no longer buy wood fibre logged from the Whiskey Jack Forest, the site of a five-year blockade by Grassy Narrows First Nation, without the explicit consent of Grassy Narrows Leaders. [redactions] It has been calculated that the twenty-four hour blocking of rail lines in Ontario during the 2007 NDA cost in excess of \$104 million dollars in lost commerce". (ITAC. 2008 (April 16). "ITAC Situation Report: Aboriginal Protests – Summer 2008" (8/32). P. 4. CSIS ATI request 2012-210).

²³⁹ De Lint (2008:291) describes intelligent governmentality as "recycl[ing] methods of exemption and exceptionalism". In drawing on this concept, my emphasis is on the diffusion of intelligence formats beyond police and national security institutions as a means of facilitating integration. I would argue against the assertion that "exemption and exceptionalism" are redeployed in ways that have disconnected from the sovereign power of the state formation. De Lint adapts his theorizing here in his work with Alan Hall (2009) in conceptualizing contemporary public order policing as "intelligent control".

that intelligencification is a unique form of governmentality that works through information control, and intensifying secrecy around knowledge production and executive decision. The language of intelligence imbues this process and content of knowledge production with a scientific and technical “truth” quality (see Ericson and Shearing 1986). This intelligencification process is driven by the demand for integrated, collaborative information sharing and the need for interchangeable terminology and decision-making structures. One factor in this process is organisational interests in establishing expert credibility as well as authority among internal and external “stakeholders”. The structure of knowledge production through INAC’s monitoring closely parallels intelligence operations in the law enforcement-security realm. These structures are characterised by centralisation at institutional headquarters (HQ), which are the policy and political centres for government bureaucracies.

Mapping EIMD Monitoring and Knowledge Production

The Emergency Operations Centre (EOC) was formally established within the EIMD in July 2011 as the operational “hub” of the directorate (as distinguished from policy sections). One of the main functions of the EOC is the continuous monitoring of issues and emergencies to produce “situational awareness” for senior officials and partners. This is consistent with the preparedness and mitigation pillars of the all-hazards framework.

The HQ EOC centralises the monitoring carried out by each of INAC’s ten Regional Emergency Management Operations Centres,²⁴⁰ which report events and activities occurring within the region to the national EOC. The regional offices are responsible for developing and maintaining direct relationships with reserve communities, and a range of other “partners” including provincial and territorial emergency management offices, non-governmental

²⁴⁰ Each province and territory has its own regional office except for the Atlantic Provinces, which are served by one Atlantic regional office. While the idea of an “operations centre” might evoke images of a dedicated, secure, high-tech physical space, this is not the case. At most, these are meeting rooms that may or may not have computers or televisions to monitor news broadcasts.

organisations, private sector representatives, Indigenous peoples' organisations, and municipal governments (AANDC 2011). INAC's monitoring also draws on information provided by federal (claims) negotiation teams, the Department of Fisheries and Oceans, Northern Resources Canada, media, and police intelligence.²⁴¹ Both the regional and national EOCs produce a variety of "situational awareness products" that are shared with INAC senior management, intelligence agencies, law enforcement and other first responders (such as fire services), and other agencies on a continuous basis.

Ontario and BC have been identified as the regions in which the majority of Indigenous protests occur. These two provinces developed monitoring practices relating to protests/ civil unrest prior to the formalisation of practices at the national level (INAC 2010).²⁴² The Ontario Region office developed its own set of incident management guidelines that reflect overt political concerns with the risk of protests, not only defining "incidents" as potentially threatening to physical environment, safety, and well-being of people, but "also any event, allegation or set of circumstances which threatens the integrity or reputation of the department or Minister."²⁴³ The expansionist inclination of emergency management as a preventative security project is evident as "emerging issues" are of major concern. According to Ontario Region's incident management guidelines, "without mitigation, [emerging issues] have the potential of becoming incidents. They should also be given close attention; in-depth monitoring, continuous evaluation and proactive and preventative action."²⁴⁴ This problematisation rationalises broad and continuous monitoring to maintain situational awareness, even where "issues" may not exist, as a *preventative* activity

²⁴¹ INAC. 2007 (March 30). "Aboriginal Hot Spots and Public Safety" [deck]. RCMP ATI request GA-3951-3-00060.

²⁴² The Ontario Region office of INAC had been producing "hot spots" reports on protests before the EIMD was established at HQ. While the 2009 National Emergency Management Plan draft did not mention "civil unrest", Ontario Region's 2009 Emergency Management Plan identified "civil disobedience" as an example of an "issue" that could become an emergency. Overall, the Region's Emergency Management Plan is nearly identical to INAC's national plan reflecting the desired standardisation of governance and operations (INAC. 2009 (December). Ontario Region Emergency Management Plan. P. 5. INAC ATI request A-2012-00033).

²⁴³ INAC. 2009 (March). "Ontario Region – Incident Management Guidelines Crisis and Emergency Management Unit, Intergovernmental Affairs, Ontario Region, March 2009 – DRAFT." P 1. INAC ATI request A-2012-00033.

²⁴⁴ INAC. 2009 (March). "Ontario Region – Incident Management Guidelines Crisis and Emergency Management Unit, Intergovernmental Affairs, Ontario Region, March 2009 – DRAFT." P 3. INAC ATI request A-2012-00033.

that can identify issues before they enter the public sphere. The objectives of the region's incident management program are to provide early warning about "impending problems", which would allow for timely intervention, coordination of responses, peaceful resolutions and sharing lessons learned.²⁴⁵

There have also been event/community-specific monitoring systems established since 2007. Prior to the 2007 National Day of Action (NDA), INAC HQ established an NDA Management System. In Ontario Region, a similar Incident Management System was established prior to the 2008 AFN Day of Action.²⁴⁶ In 2009, the Region developed a Brantford Incident Management System to specifically monitor incidents involving Six Nations/Haudenosaunee activists and various property developments in the City of Brantford, identified as "areas of highest risk", *politically*. The objective of this system was to "improve service and communications to senior management and the Ministers Office."²⁴⁷ The dedication of resources to a specific reporting system for issues involving Six Nations reflects concerns about the long-running Douglas Creek Estates reclamation being a "beacon" for wider Indigenous mobilisation.²⁴⁸ The ongoing tensions relating to other property developments in Brantford would therefore have been seen as a priority for INAC to proactively manage at a political level through public relations and media communications.

Monitoring and the Production of Situational Awareness

The "situational awareness" produced by the Emergency Operations Centre (EOC) is disseminated through different "situational awareness products". Situation reports and notifications about specific events are produced and distributed as events or "issues" emerge. It

²⁴⁵ INAC. 2009 (March). "Ontario Region – Incident Management Guidelines Crisis and Emergency Management Unit, Intergovernmental Affairs, Ontario Region, March 2009 – DRAFT." P 3. INAC ATI request A-2012-00033.

²⁴⁶ INAC. 2008 (September 25) "Subject: Fwd: National Day of Political Action on September 29, 2008" [email]. INAC request A-2012-02003.

²⁴⁷ INAC. 2009. "Brantford Incident Management System, Ontario Region." INAC ATI request A-2012-00033.

²⁴⁸ E.g. INAC. 2007 (September 28). "Strategic Communications Plan: Negotiations with Six Nations and Community Relations." INAC ATI request (informal) AI-2012-00081.

is common for two or three notifications to be issued for a single event, at its start, conclusion and sometimes as it is in-progress. Weekly summary reports—also referred to as “hotspots” reports—are produced to provide a roundup of issues coming onto the EIMD’s radar for that week, and thus, as items to watch. Weekend summary reports are notices of events to monitor during weekends or holidays. During these periods, duty officers are on stand-by as reporting contacts and to maintain the continuous “flow of information.”²⁴⁹

Based on an analysis of weekly and weekend summaries produced between 2007 and 2013 by HQ and Ontario Region, the most common types of events appearing in these reports are forest fires, flooding and “civil unrest”.²⁵⁰ Despite “civil unrest” being outside of the formal program scope, these *issues* have comprised a substantial portion of the situation awareness products produced by the EIMD. According to EIMD officials, *approximately half* of the data collected and of the information produced in the program is related to “civil unrest”. The amount of *information work* is significantly disproportionate to the “actual work” or resources put towards civil unrest-related matters, which they estimate as approximately ten percent of the overall EIMD workload (Interviews, INAC1; INAC2). According to the EIMD’s 2009-2010 incident report, 109 of the 217 total “incidents” reported by the EIMD were protests (50 percent); in 2010-2011, it was 91 of 251 incidents (36 percent).²⁵¹ Responding to forest fires and flooding affecting First Nations reserves makes up most of the remaining proportion of reported incidents and the bulk of operational response.

Two observations can be made. Firstly, as evident from the preceding discussion, “civil unrest” has been identified as “one of the department’s key risks” and yet relatively few resources are actually used in managing this “risk” area. Secondly, much of what is being

²⁴⁹ INAC. 2009 (February). “National Emergency Management Plan – Draft”. P. 17. INAC ATI request A-2012-0033.

²⁵⁰ These reports were obtained through ATI requests A-2010-00831, A-2010-02632, A-2011-02004, A-2011-2003, A-2011-01157, A-2012-0033, and A-2012-0032.

²⁵¹ INAC. 2010 (August). “Incident Report 2009-2010: Emergency and Issue Management at INAC.” INAC ATI request A-2012-00257; INAC. 2012 (June). “Emergency and Issue Management at AANDC. Incident Report 2010-2011 (draft).” Provided by interview participant.

monitored is outside of INAC's jurisdictional authority. A 2011 briefing note to INAC's Deputy Minister indicates that "only 30%" of these monitored protests "were related to areas within INAC's jurisdiction".²⁵² This suggests that organisationally the extent of the EIMD's monitoring practices not only significantly exceeds the department's formal mandate and jurisdictional authority, but also exceeds the actual "threat" posed to the department by "civil unrest", even in a political sense. According to the incident reports, no emergency management funds were used in the management of protests.

The on-going evolution of the EIMD itself seems increasingly driven by the impetus of managing political contention relating to Indigenous peoples and issues. The 2007 National Day of Action was the catalyst for the formalisation of the EIMD (Interview, INAC1). An earlier iteration of the reporting system was referred to as the "hot spots reporting system", particularly in reference to protest "hot spots". Since 2009, the EIMD appears to be devoting more resources to not only monitoring but *analysis* of "civil unrest" incidents with an interest in identifying trends. An EIMD official noted that they were able to produce substantial situational awareness but were lacking capacity to engage in analysis (Interview, INAC1). This is reflected in the production of incident reports, referenced above, beginning in 2009–10. These reports observe patterns in provincial locations and the underlying reasons for protests, with the 2010–2011 report engaging in a preliminary trend analysis over the three-year period covered by the two reports. According to another EIMD official, the production of analysis would be "helpful" for their law enforcement partners (Interview, INAC2).

This conceptualisation of INAC's "hot spots" reports shows the move towards intelligencification as what are originally internal *issue* management tools become repackaged for distribution to external clients in the law enforcement-security apparatus. EIMD reports and notifications are disseminated to a wide range of recipients within the Indian Affairs bureaucracy

²⁵² INAC 2011 (March 10). "Capacity & Preparedness for Civil Unrest – Engaging Law Enforcement and Intelligence Partners (Information for Deputy Minister)" [briefing note]. INAC ATI request A-2012-00032.

as well as to external partners including representatives at the Assembly of First Nations (including an INAC-funded Emergency and Issues Management advisor), the Red Cross, Treasury Board Secretariat, First Nations and Inuit Health (Health Canada), Transport Canada, Justice Canada, the Privy Council Office, Public Safety Canada, Emergency Management Ontario, and the Government Operations Centre. These products are also distributed to the RCMP, Sûreté du Québec, OPP, CSIS and ITAC.²⁵³

INAC's Knowledge about Indigenous Civil Unrest

The development of annual incident reports as an analytic product provides insight into the problematisation of civil unrest for the department. The reports are based on the accumulation of data from all of the situational awareness products produced by the EIMD which is compiled in a database.²⁵⁴ Thus, the incident reports capture *all* of the incidents that would have been reported to the EIMD, which would have been assessed as being within its purview. The incident report is intended to “be a key analytical tool which will improve INAC’s ability to anticipate and plan necessary emergency mitigation and preparedness activities in First Nations, Inuit and Northern communities”.²⁵⁵ The incident reports have separate analyses for each of the three categories of emergencies, protests, and “other incidents”. Of note, the “other” category includes “planned protests that did not occur”. In each report, this made up a substantial number of the “other” category (33 percent in 2009-10 and 47 percent in 2010-11).²⁵⁶

Decisions as to what information would be considered relevant or significant for inclusion in reporting reflect the interests and concerns of the Department. These interests shape (and

²⁵³ AANDC. 2013. EIMD email distribution lists [screen shots of address groups]. INAC ATI request A-2013-00501.

²⁵⁴ The database provided to me has a start date of April 1, 2009.

²⁵⁵ INAC. 2010 (August). “Incident Report 2009-2010: Emergency and Issue Management at INAC.” P. 7. INAC ATI request A-2012-00257.

²⁵⁶ In the 2010-2011 report, the comparative analysis highlights a reduction in the number of protests between years (109 to 91), the significantly higher number of protests occurring in Ontario compared to other regions, the number of bands engaging in protest in the two years (109) and the observation that 29 of these bands protested more than once. INAC. 2012 (July). “Incident Report 2010-2011: Emergency and Issue Management at AANDC.” Provided by interview participant.

are shaped by) the standardised data fields of the various situational awareness products and the input categories of the master database. The defining of analytic categories influences the EIMD's analysis of trends or patterns, and thus, any potential planning or mitigation activities undertaken by the department based on those analyses. The reports contain statistical breakdowns of the reasons for protests, the regional location of events, the month in which the events occurred, the specific locations (targets), and the types of protest activity.

Perhaps the most important—and contentious—category, evident from an email exchange between EIMD personnel working on the protest database, was the classification of “reasons for protest”.²⁵⁷ In both reporting years, the most common reason for protests was “disputes with government”, followed by “band governance issues”. The “disputes with government” category is broken down further by jurisdictional areas—i.e. INAC, a province, or law enforcement—but without specification as to *types* of disputes. “Land claims” is listed in the 2009-10 report as included within the “disputes with government” category but without any further data. The category of “land claims” does not appear at all in the 2010-11 report. After “disputes with government” and “band governance issues”, other primary reasons identified in 2009-10 were the “National Day of Reconciliation”, “environmental concerns”, the torch run, “human rights” (including actions relating to missing and murdered women), “economic development opportunities”, and “other”. In 2010-11, additional reasons were classified as “economic development disputes”, “other”,²⁵⁸ “environmental concern”, and “native rights”.²⁵⁹ Aside from concrete events, most of these categories correspond to policy areas.

²⁵⁷ INAC. 2011 (August 23). “Subject: Fwd: Incident Report status update” [email]. INAC ATI request A-2012-00032. One version of the database provides direction in classification of reason for protest: “Main reason for protest as it concerns INAC especially”.

²⁵⁸ “Other” reasons: G8/G20, anniversary of Oka, Caledonia-related, illegal smoke shops on reserve.

²⁵⁹ Of note are the category changes of “human rights”, “native rights” and “economic development opportunities” versus “economic development disputes.” In a 2011 email, one EIMD employee noted that a particular incident that had been classified as a “human rights” issue would better be categorized as “dispute with government”. This suggests that the more general “human rights” had been substituted with the more specific “native rights” category with other rights issues being subsumed by other categories.

Protests were broken down in terms of types of activities in the two reports: demonstrations, marches/rallies, road, bridge or airstrip blockades, occupations, traffic slowdowns, hunger strike, threat to contact media, and destruction of US-Canada border marker. The inclusion of “threat to contact media” as a type of protest in 2009-10 is indicative of the issue management orientation of EIMD monitoring in relation to “civil unrest”.²⁶⁰ The reports include regional comparisons of where protests occurred, with Ontario having the majority of incidents. Although the band(s) involved (and its reserve location) are identified in the master databases, this is not reported. One suggestion for analysis was to examine “how many times a band located in a different province protests in another protest”, which suggests an interest in acts of solidarity, coordination/collaboration, and movement-building.²⁶¹ This, of course, is one of the “unique” risks of Indigenous direct actions. The ambiguities and scope of what is monitored by the EIMD reflects the inability to pre-define or anticipate concrete “emergency” or “crisis” situations and, thus, the perpetual anxieties underlying the “logic of necessity” that is inherent to the concept of emergency (Neocleous 2008:71), which forms the rationale for constant situational awareness.

Although statistical, the analyses in these incident reports are translatable to “management” concerns by identifying “hot spots” in terms of geographical areas, issues, location targets, and—linked to the master database—knowledge of which bands engage more frequently in protests and the degree of disruptive threat they may pose. The dedication of a substantial space in these reports to protests, treated as equivalent to emergencies despite being outside INAC’s official authority, is indicative of the political dynamics underlying the work of the EIMD. At the same time, it could be argued that the analyses are simply confirming “common knowledge” amongst INAC employees. This would parallel a common sentiment

²⁶⁰ Protests are further categorized according to the specific location of actions, such as INAC offices, federal buildings, highways or roads, on-reserve, provincial legislatures, airstrips, public parks, private property, university, or “off the BC coast”.

²⁶¹ INAC. 2011 (August 23). “Subject: Fwd: Incident Report status update” [email]. INAC ATI request A-2012-00032.

expressed by police officers that strategic intelligence products (i.e. the future oriented as opposed to operational intelligence) is just confirming or repackaging what they already know from experiential knowledge. Yet, “intelligencification” *depoliticises* this knowledge and its production through the administrative rationality (Hussain 2007) of the INAC and Public Safety Canada bureaucracies.

Intelligencification through Standardisation

While INAC had been producing “hot spot reports” prior to 2007, the reporting formats of the EIMD’s various situational awareness products have become increasingly structured and standardised with guidelines developed by HQ to ensure consistency in the regions’ reporting with HQ standards. In 2009, notifications became structured as formal reports with standard fields: title/subject; First Nations profile summary; Description of threat/event; Current actions/responsibilities; threat/event analysis and/or assessment; source of reporting; and the Emergency and Issues Management official who issued the notification.²⁶² Providing further standardisation paralleling an intelligence process, the EIMD developed three separate logic models in 2011 to guide personnel in deciding whether or not to produce notifications for protests, emergencies, and “other” events.²⁶³

The significance of the change in format is that it reflects the formalisation and institutionalisation of a process to enable sharing and collation at the HQ level. This format ensures that what is considered relevant information is captured in the monitoring process. At the same time, this standardisation constrains how information is presented—what is and is not reported about these events. Standardisation is also a means of bringing the EIMD reporting systems in line with those of other government departments as well as with law enforcement

²⁶² E.g. INAC (EIMD). 2009. “Threat/Event: Notification 1 – Members of Six Nations (ON) – Protest – demonstration – City of Brantford – 4JUN2009 – 2268609” [EIMD notification]. INAC ATI request A-2012-00033.

²⁶³ INAC (EIMD). 2011. “EIMD Logic Models for Issuing Notifications” [deck]. INAC ATI request A-2012-00032.

and security agencies. To an extent, these reports increasingly resemble—in form and terminology—those of security intelligence.

In 2010, there was a concretisation of EIMD processes, coinciding with two significant events that required an “all of government” preparation: The Huntsville–Toronto G8/G20 Summits and the Vancouver Olympic and Paralympic Games. Both events had an “aboriginal issues” dimension, which brought INAC into the fold. INAC/EIMD involvement in pre-event planning was the catalyst for the creation of two types of documents, commonly seen in law enforcement and military operations: Concepts of Operations and After Action Reports. These documents were created by the Police Interchange Program officer in the role of Senior Emergency and Issues Management Advisor at the time for each of these major events (Interview, INAC2). Concepts of Operations were also developed by the BC and Ontario Regions. These documents—and their production processes—were seen as good practice in line with the requirements of the new emergency management framework. As standard templates, the Concepts of Operations “[could] be used as a blueprint for future emergencies and potential disasters”.²⁶⁴ Of note, each of the Concepts of Operations included a separate threat assessment for protests and public demonstrations. In summer 2012, the Police Interchange Program officer was in the process of developing a general “civil unrest” Concept of Operations that would be appended to INAC’s National Emergency Management Plan (Interview, INAC2).²⁶⁵

While established by INAC in response to specific moments of (impending) potential “crisis”, governance techniques—whether as policies, reporting systems, or collaborations—do not disappear with a return to “normal” conditions (i.e. before the introduction of these techniques). As Neocleous (2008) and Hussain (2007) argue, “emergency” measures become

²⁶⁴ INAC EIMD. 2010 (April 8). After Action Report – Vancouver 2010 Olympic and Paralympic Winter Games. P. 8. INAC ATI request A-2012-1155, A-2012-0255.

²⁶⁵ In December 2009, INAC drafted an “Operational Plan for Managing Protests at Indian and Northern Affairs Canada (INAC) Offices”, dealing specifically with protests at INAC headquarters in Gatineau. INAC ATI request A-2012-00033.

permanent, producing shifting, or “new”, conditions of normality. Whereas scholars have described the managerial re-organisation of police organisations as reflecting increased bureaucratic professionalization (e.g. de Lint 1998; Chan 1999), administrative bureaucracies have been adopting terminology and practices of the law enforcement realm. These are not two separate trends, but rather the emergence of a *common* logic across policing entities through the all-hazards emergency management paradigm. This logic is aimed at facilitating greater collaboration.

COLLABORATION: INTERFACING WITH THE INTELLIGENCE COMMUNITY AND “STAKEHOLDERS”

Following from the primary role of the EIMD in monitoring and producing situational awareness about issues and emergencies, the second key role for the directorate has been the development of relationships with all the other entities involved in emergency management—other government departments, law enforcement, national security agencies, NGOs such as the Red Cross, and private-sector corporations. There are three inter-related levels through which these relationships have emerged: formal networks (via centralised hubs), direct bilateral relationships with specific agencies, and in ad hoc collaborations for specific “critical incidents” such as at Six Nations-Caledonia or the Days of Action in 2007 and 2008. Within these collaborations, the EIMD has been attempting to establish its relevance and credibility within the INAC bureaucracy as well as to gain traction amongst its “security” partners.

Formal Interfaces

There are two overlapping sectors of formal network collaboration that INAC participates in. The first is the emergency management network via the federal level Government Operations Centre and regional emergency management operations centres (EOCs). The second network is the law enforcement-intelligence sector via the Integrated Terrorism Assessment Centre (ITAC) and

the RCMP's Criminal Intelligence and National Security programs. While each is a discrete entity, as I discussed in chapter 5, they are all interconnected.

As the ministry responsible for whole-of-government coordination, Public Safety Canada's Government Operations Centre is the centralised hub for the dissemination of situational awareness provided by ministries, law enforcement, intelligence agencies, provincial and territorial level emergency management organisations (EMOs), and a wide range of "stakeholders". INAC employees might be embedded with the Government Operations Centre during major events, as they were during the G8/G20 Summits.²⁶⁶ As in the case of the RCMP's National Security Criminal Investigations, there is a consistent insistence by representatives of the Government Operations Centre and provincial level EMOs (i.e. Emergency Management Ontario) that protests are not within their scope of concern or jurisdiction. However, it is evident based on the situational awareness products produced by these entities, as well as in products of the EIMD, that protests *are objects of concern* for the Government Operations Centre and the provincial and territorial EMOs.²⁶⁷

During the 2007 National Day of Action, Ontario's Provincial Emergency Operations Centre issued "NDA Bulletin[s]" providing updates on the status of various events such as the blockade at Tyendinaga Mohawk Territory.²⁶⁸ Similarly, the Government Operations Centre has produced regular reports and a matrix database tracking all events related to Idle No More.²⁶⁹ These reports include events such as flash mobs, horse rides, the Victoria Island "open house" during Chief Theresa Spence's hunger strike, teach-ins, fundraisers, and community gatherings.

²⁶⁶ INAC EIMD. 2010 (August 26). After Action Report - G8/G20 Summits. INAC ATI request A-2012-1155. "The stand-by liaison officer role for INAC at the GOC in Ottawa was elevated to a staffed, daytime position, to ensure direct liaison and interaction with other federal government departments." (p. 9). This was a result of the shift towards a security mode which limited lines of communication with other partners.

²⁶⁷ In June 2014, the GOC requested federal departments supply it with information about protests coming within their areas of responsibility. See my discussion in the concluding chapter.

²⁶⁸ Ministry of Aboriginal Affairs. 2007 (June 29). "FW: NDA Bulletin - NDA 29-006" [email]. INAC ATI request 2011-02004.

²⁶⁹ E.g. GOC Daily Briefs, Notifications, briefing presentation titled "GC [Government of Canada] Contingency Planning Scenario – FN Protests & Potential Escalation". PSC ATI request A-2012-00438.

INAC is the main source of reporting for these reports.²⁷⁰ While concerns about rail or highway blockades could be justified as falling under the Government Operations Centre and emergency management purview, inclusion of events such as teach-ins and fundraisers reflect concerns about managing the Idle No More movement, its visibility, and its future trajectory. As noted in a secret Government of Canada planning exercise for future protests, “success breeds success” and the success of Idle No More in mobilising media attention will “[inform] future protest organisers and the success of their endeavours.”²⁷¹

One of the major reporting sources for the Government Operations Centre is the Integrated Terrorism Assessment Centre (ITAC), and there is a significant overlap and, arguably, duplication of reporting by emergency management offices such as INAC’s EIMD to both entities. As discussed in chapter 5, ITAC was established in 2004 within CSIS as a centralised national security intelligence hub, which is fed by numerous law enforcement and government ministries. As noted above, INAC’s EIMD disseminates its situational awareness products to ITAC. ITAC intelligence reports are also shared with the EIMD and senior INAC officials. The collaboration between INAC and ITAC has also been more direct as EIMD employees have been embedded within ITAC before and during high profile events including the 2007 National Day of Action. Amongst representatives of the intelligence community, INAC was identified as one of “the top departments with intelligence” relating to Indigenous protests.²⁷²

Beyond the formal “brokerage” mechanisms of operational centres (Gill 2006), there are direct relationships between INAC and various partners including the Department of National Defence, CSIS, Canada Border Services Agency, the OPP, Ottawa Police Service and Sûreté

²⁷⁰ E.g. GOC 2012 Situation Reports ST122-12A, ST122-12B, ST122-12C, ST122-12D. PSC ATI request A-2012-00438.

²⁷¹ PSC. 2013. “GC Contingency Planning Scenario – FN Protests & Potential Escalation” [deck]. PSC ATI request 2012-00438.

²⁷² PSC. 2007 (May 16) ADM-EMC Planning and Operations Sub-Committees – Aboriginal Issues; Summary Record [meeting notes]. P. 3. PSC ATI request A-2009-00070.

du Québec (Interview, INAC2). One of the key mechanisms for building these direct relationships is the Police Interchange Program, which was established in 2008. The purpose of the Program is to “provide enhanced networking capabilities with law enforcement agencies and other federal/provincial/territorial government departments across Canada” through the placement of a police officer within the EIMD in the role of a Senior Advisor.²⁷³ The program was spearheaded by former Ottawa Police Service Chief Vernon White, and as of 2013, there has been three officers in this position (Interview, INAC2). The Police Interchange Program Advisor provides INAC with “enhanced intelligence and coordination of activities” with Public Safety Canada, CSIS, the RCMP’s Aboriginal Joint Intelligence Group (JIG), Canada Border Services Agency, and the Department of Foreign Affairs and International Trade, *in relation to civil unrest*.²⁷⁴ As noted above, the Police Interchange Program officer has been instrumental in the creation of Concepts of Operations for the EIMD. One of the aims of the Police Interchange Program was to overcome the reluctance of police agencies to share information with outsiders (Interview, INAC2). One significant bilateral relationship was between the EIMD and the RCMP’s Aboriginal Joint Intelligence Group (JIG) as representatives contacted each other directly seeking information or confirmation about potential and occurring protests.²⁷⁵

The formal networks and relationships facilitate ad hoc collaborations in response to major events, such as the 2007 and 2008 National Days of Action, the G8/G20 summits, Olympic Games, and Idle No More. By the fall of 2006, INAC was already engaged in a “public safety network”, contributing its hot spots reports, risk analysis and advice, “incident

²⁷³ INAC 2011 (March 10). “Capacity & Preparedness for Civil Unrest – Engaging Law Enforcement and Intelligence Partners (Information for Deputy Minister)” [briefing note]. INAC ATI request A-2012-00032.

²⁷⁴ INAC 2011 (March 1). “Capacity & Preparedness for Civil Unrest – Engaging Law Enforcement and Intelligence Partners (Information for Deputy Minister)” [draft briefing note]. INAC ATI request A-2012-00032.

²⁷⁵ E.g. INAC. 2008 (December 30). “Protest Wed Jan. 7 – 12:00 Barriere Lake Solidarity” [email – forwarded message from RCMP’s Aboriginal JIG]. INAC ATI request (informal) A-2010-00831; RCMP. 2009 (February 17). “Call for protest at Queen’s Park in Toronto...” [Aboriginal JIG email to EIMD]; EIMD. 2009 (October 28). “Indigenous Sovereignty Week (October 24-31, 2009)” [email to Aboriginal JIG]. INAC ATI request A-2012-00033. Also various emails in 2008 and 2009 in INAC ATI requests A-2012-00033 and A-2011-02003.

management teams”, and “fact finders and special representatives”.²⁷⁶ Part of this network was a standing forum to share information about protests. The group was chaired by the RCMP and involved the Privy Council Office, CSIS, Canada Border Services Agency, the Government Operations Centre, Department of Fisheries and Oceans, Natural Resources Canada, Transport Canada, and INAC among others.²⁷⁷ This was a foundation for collaboration ahead of the National Day of Action (NDA) 2007. Public Safety Canada developed a Federal Coordination Framework for the NDA to coordinate the response amongst government departments. INAC was the lead on the policy side and the RCMP was the lead on the operational side. In 2007, there were weekly meetings of the Assistant Deputy Ministers Emergency Management Committee (ADM-EMC) on Aboriginal Issues in advance of the NDA. The participants were INAC, Public Safety Canada, National Defence, Transport Canada, RCMP, Privy Council Office, ITAC/CSIS, Justice, Fisheries and Oceans, Treasury Board, Health Canada, Parks Canada, and Canada Border Services Agency. At one of these meetings,

INAC mentioned it would benefit from a brief roundtable during the weekly meetings to provide them with any intelligence committee members may be able to share ... ITAC noted that people from INAC have been seconded into their centre. It was mentioned that ITAC produces both weekly reports and reports as required, in both classified and unclassified versions. There was a discussion on how information is fed into ITAC reports. It was noted that the top departments with intelligence are RCMP, CSIS, INAC, DFO and Transport.²⁷⁸

The 2007 NDA was a key catalyst for the EIMD’s formalisation and its inclusion in wider security networks through its contribution of intelligence and “expertise” in the area of government–First Nations issues. The longer-term timeframe for planning leading up to the 2010 Olympics and G8/G20 Summits provided an important opportunity for EIMD to further build its capacity and credibility among security partners. Although the Olympics and the G8/G20 Summits were not

²⁷⁶ INAC. 2006 (November 28). “Rebuilding INAC’s Emergency Management Assistance Program (EMAP). ARDG Forum” [deck]. P. 3-4. INAC ATI request A-2013-00499.

²⁷⁷ INAC. 2007 (March 30). “Aboriginal Hot Spots and Public Safety” [deck]. RCMP ATI request GA-3951-3-00060.

²⁷⁸ PSC. 2007 (May 16) ADM-EMC Planning and Operations Sub-Committees – Aboriginal Issues; Summary Record [meeting notes]. P. 3. PSC ATI request A-2009-00070.

considered to have a significant “aboriginal” component, INAC was directly involved in preparations and operations for both major events. While the role of INAC was relatively limited in the overall scope of these events, the department’s involvement appears significant to the evolution of the EIMD. According to a briefing note, the Police Interchange Program officer participated in the Integrated Security Unit for the Vancouver Olympics and “[e]ffectively, the police constable ensured that INAC was fully integrated within the overall security operations. Similar operations took place for the G8/G20 Summit as well.”²⁷⁹

During the G8/G20 Summits, INAC was involved because there are First Nations reserves within the 50 kilometre security corridor of the G8 in Huntsville –the emergency management concerns – and because of a broad concern about First Nations communities “whose political affiliations and attendant assertions may be of relevance”.²⁸⁰ Compared to the Olympics, the EIMD involvement in planning for the G8/G20 Summits was “limited to providing situational awareness and consequence management assistance”.²⁸¹ Prior to the summits, INAC was “taking actions such as strengthened information gathering and information sharing.”²⁸² INAC had planned to have an Ontario region representative “embedded” in the Unified Command Centre, which was an *operational* command space. Here the representative would be a liaison “integrated with other federal / provincial partners as a trusted agent of INAC”. The liaison would report to the Ontario Emergency Operations Centre, which would then report to INAC HQ’s Emergency Operations Centre.²⁸³ However, the After Action Report indicated that this operational presence did not occur.

²⁷⁹ INAC 2011 (March 10). “Capacity & Preparedness for Civil Unrest – Engaging Law Enforcement and Intelligence Partners (Information for Deputy Minister)” [briefing note]. P.2. INAC ATI request A-2012-00032.

²⁸⁰ INAC EIMD. 2010 (June 21). “Concept of Operations Template – G8/G20 Summits”. P. 4. INAC ATI request A-2012-00256.

²⁸¹ However, an EIMD representative was sent to Department of Foreign Affairs and International Trade as part of the Summit Management Team. INAC EIMD. 2010 (August 26). After Action Report - G8/G20 Summits. Pp.6, 8. INAC ATI request A-2012-1155.

²⁸² INAC EIMD. 2010 (June 21). “Concept of Operations Template – G8/G20 Summits”. P. 10. INAC ATI request A-2012-00256.

²⁸³ INAC EIMD. 2010 (June 21). “Concept of Operations Template – G8/G20 Summits”. P. 15. INAC ATI request A-2012-00256.

An INAC representative participated in the RCMP-led Joint Intelligence Group (JIG) for the Vancouver Olympics, which also included CSIS, Canada Border Services Agency, Interpol, and the US Department of Homeland Security. The purpose of this “employee interchange” was

to obtain a good understanding of not only the RCMP but also of the Department’s relationships with BC First Nation leaders and communities identified in the Areas of Interest to the security pillar of the Vancouver 2010 Olympic and Paralympic Winter Games. This representative provided assistance in consequence management and mitigation of issues.²⁸⁴

The liaison person was “not [to be] involved in front line work but are deployed to outside organisations to provide intelligence support and report back to the Department”²⁸⁵ In evaluating the “sensitive information sharing” that INAC engaged in during operations, one respondent to the After Action review commented that “INAC has good working relationships with both CSIS and our policing partners” and that “INAC’s secondment to the JIG enhanced our ability to receive sensitive information.”²⁸⁶ The level of integration of INAC on both the intelligence and *operations* sides through the JIG and Integrated Security Unit challenges the post-Ipperwash emphasis on police autonomy from political influence.

Informal Interfaces: The “Official Unofficial” Way

Despite the proliferation of formal channels of collaboration between government departments and law enforcement in the managing of Indigenous protests, there is also an “unofficial” network of informal interpersonal relationships among police personnel and government officials “in the field”. These channels of communication are an outcome of the formal structures and policies discussed above, and of attempts to institute boundaries between police operations and political interests. On one level, “relationship building” with

²⁸⁴ INAC EIMD. 2010 (August 4). After Action Report – Vancouver 2010 Olympic and Paralympic Winter Games. INAC ATI requests A-2012-1155, 2012-00256.

²⁸⁵ INAC EIMD. 2010 (August 4). After Action Report – Vancouver 2010 Olympic and Paralympic Winter Games. P. 13. INAC ATI requests A-2012-1155, 2012-00256.

²⁸⁶ INAC EIMD. 2010 (August 4). After Action Report – Vancouver 2010 Olympic and Paralympic Winter Games. Annex, p. 3. INAC ATI requests A-2012-1155, 2012-00256.

partners and stakeholders—such as undertaken by the Police Interchange Program officer—draws significantly on interpersonal contacts and relationships, which may evolve into more institutionalised channels of communication as discussed above. On another level, there is what one official from Ontario’s Ministry of Aboriginal Affairs (MAA) described as a “furtive” “official unofficial” means of communication between government and police entities (Interview, MAA1). These practices circumvent the official channels of communication implemented after Ipperwash. Front-line police and Indian Affairs (and other government) officials are not supposed to communicate directly, but must report upwards internally through their respective chains of command. Information may then be shared laterally by the Commissioner or OPP liaison on a need-to-know basis to counterparts in the Ministry of Community Safety and Correctional Services (MCSCS). On the ministry side, this information may then be selectively disseminated to other ministries and then downwards.

The “furtive” practice of communication is directly attributed to the *strength* of Linden’s recommendations and the partitions between the OPP and government. According to the MAA official, the findings of the inquiry regarding Mike Harris’ influence on policing operations, “scared everybody in the system silly [...] And... as a result of that, people not only don’t do anything that could be perceived as committing that sin, but they don’t do anything that could be *seen* as committing that sin” (Interview, MAA1; emphasis by interviewee). As a result, communications between the government and police sides are “not disciplined and focused and organised” with the implication that “we don’t respond in the optimal fashion because we’re all too afraid” (Interview, MAA1). The formal exchange of information is “sanitised” at the senior management levels of the respective organisational bureaucracies, which this official criticised as inefficient and prone to miscommunication or misinterpretation as information travels through multiple levels, individuals, and reporting formats. While these channels exist formally, in practice, Aboriginal Affairs negotiators will talk with police officers in the field. While being “leery” and careful about whether they would

be seen as crossing the line, “if you really, really, really need to find out something, then that’s the official unofficial way to go” (Interview, MAA1).

As another MAA official describes, the post-Ipperwash “leeriness” extends to a greater consciousness among officials to confirm the validity of information before taking action, which echoes the objectives of intelligence-led policing. However, it can foster “official unofficial” avenues of communication:

When somebody hears something, there is a process to have that checked with a reliable source on the OPP side before that information is, is supposed to go anywhere else – it may depend upon where it comes, how it comes through, so there’s always that, you know, amorphous kind of, you know, ‘well I heard from so-and-so, and I heard’, well okay let’s check on that. Let’s make sure we’ve got accurate information before we act on it. And in like fashion, that the OPP have a way of making sure that they’ve got a clear line of communication to know what it is that the government is saying about, you know, this kind of, whatever the nature of the issues are. (Interview, MAA2)

Another interviewee discussed the importance of informal networks alongside formal structures as being a consequence of the disjuncture between the traditional cumbersome hierarchies of bureaucracy and the contemporary realities of instant communication: “I think that’s also why you see the growth, or you’re hearing more about informal networks and contacts and everything else, is... because you can’t wait to get the, you know, approved briefing note that has to go through ten hands... as much” (Interview, MAA3). This observation is supported by the comments of the other MAA official regarding the process of information sharing via “official official” channels of senior officials (Interview, MAA1).

The emphasis on informal communication channels echoes the importance placed on activating personal networks in the realm of policing. In both cases, one of the strengths of these informal channels is a perceived reliability or accuracy about what is happening because of the proximity of sources to the issues or people of interest. The relative autonomy of front line police officers in their exercise of discretion is well-documented (see Skolnick 1975; Ericson 1982; Manning 1997), and this autonomy provides a space for “unofficial” communications outside of the formal reporting structures. Police suspicion of outside

agencies seems to be mitigated by a frustration—shared with bureaucrats—with what is perceived as the politically-driven creation of bureaucratic obstacles to “optimal” responses (Interview, MAA1). These insights about informal, “unofficial” communications disrupt the construct of streamlined, structured, “scientific” processes characteristic of intelligence-led policing rhetoric, which underlies the contemporary police-security apparatus. It also subverts the assumptions that formal lines of decision-making and communication increase transparency and accountability.

OPERATIONAL COLLABORATION: NEGOTIATED MANAGEMENT, INDIAN AFFAIRS STYLE

Thus far I have discussed the information work—surveillance—of INAC’s EIMD. In this section, I examine the role played by INAC in managing protests as “critical incidents”. Interviewees emphasized that there is a separation between the EIMD and the policy and negotiations sides of the INAC bureaucracy; however, in practice the convergence of political interests with the front-line management of protests is inevitable. The Indian Affairs bureaucracy is the administrative arm of the colonial apparatus of the settler state—it is the defendant to, and arbitrator of, Indigenous legal and quasi-legal challenges while also being responsible for “supporting” Indigenous peoples. Drawing on Hannah Arendt’s argument that race and bureaucracy are the “defining elements of imperial rule”, Hussain (2007:518) argues that the prerogative power—the executive decision—to declare “emergency” or crisis rests upon classifications of threat determined by the bureaucracy. The formalised surveillance of “unrest” carried out by the INAC bureaucracy and the intelligencification of these practices introduces ways of classifying threats based on bureaucratic expertise.

The connection between bureaucratic governance and executive decision becomes evident in the central role played by INAC as “subject matter expert” in operational responses to “critical incidents”. There are two main ways that they might be involved, which would come from different areas in the federal and provincial Indian Affairs bureaucracies: negotiations and

emergency management. The first “expert” role would be as representatives of the department most familiar with the history and status of any specific land claims or rights challenges at the root of a protest, through its direct engagement with these challenges. The second role as subject matter experts would be in the EIMD context with the department’s knowledge about the situation as a safety and security “risk”, based on its monitoring of the “issues”, groups or people involved. Both roles stem from the *historical* proximity that Indian Affairs employees have to communities in the capacity as field agents (negotiators) or as emergency management coordinators. There are divergent perspectives, however, in what members of INAC, MAA, and law enforcement see as an appropriate level of involvement in managing protests. Part of this stems from claims to “subject matter expertise” on both sides. There is an evident tension stemming from the idealised and formal separation between government and police decisions. As discussed in chapter 4, several OPP and RCMP interviewees expressed frustration with the *lack* of involvement from INAC or MAA in addressing the issues underlying protests. What emerges with greater inter-organisational collaboration in managing Indigenous protests are a number of inter-institutional tensions between police and government, and between the federal and provincial levels.

Managing the Heat: Strategies of Mitigation and Response

The EIMD’s work in documenting “hot spots” and potential hotspots of “civil unrest” is meant to inform senior officials and their decisions on whether and how to respond. This sheds light on the rationale of including civil unrest within the mandate EIMD in terms of the potential for “hotspots” to impact upon the department itself (and on other First Nations communities). For INAC—as part of the whole-of-government response—the primary objective is to prevent hotspots from escalating and igniting wider mobilisations. The spectres of Oka, Ipperwash, and Caledonia are often invoked in planning documents and messaging, emphasising the importance of taking mitigative action to prevent “validat[ing] the threat and/or use of violence”

by “militants”.²⁸⁷ This is an objective that is also articulated by front-line police. The strategies employed by INAC draw on the same liberal legal-security logics as police strategies in managing protest actions. Rather than addressing the underlying issues giving rise to direct actions—such as housing, land and consultation issues—prevention and mitigation in the emergency management framework pertain to the problem of *protest actions*.

The 2007 National Day of Action (NDA) was a highly significant event in the concretisation of INAC’s EIMD but also for “integrated” responses among government and law enforcement to manage high profile protests. As discussed in chapter 3, the NDA 2007 converged with the ongoing Six Nations action at Douglas Creek Estates and with blockades at Tyendinaga—two of the major enduring “hot spots” of concern to government and police. Here I will focus on INAC’s active engagement in strategies of mitigation and response alongside those of front line police. These strategies took two interconnected trajectories through working with First Nations leaders and by making strategic policy announcements. Both of these strategies are enabled by Indian Affairs’ administrative relationship to Indigenous peoples and its specific jurisdictional authority—*an authority that police forces are not vested with*. Yet, we see the same organising logics of pacification at work. Central to INAC’s strategies is the fabrication of the good liberal “subject of empire” (Coulthard 2007) through a divide and conquer strategy that is specific to Indigenous peoples. Unreasonable and *illegitimate* groups are positioned as extremists or criminals outside of “legitimate” institutionalised avenues of dissent. At the same time, the liberal-legal institutions of land claim negotiations and Aboriginal rights are reinforced. Although emanating from separate institutions, there are clear commonalities in Indian Affairs and police strategies in managing resistance to prevent political-economic disruption.

²⁸⁷ Symbolically, invocation of these past conflicts reinforces the potential of any and all Indigenous civil unrest to escalate. E.g. INAC. 2007 (February 23). “Communications/Media approach around 1st anniversary of Caledonia - version #928537.” INAC ATI request (informal) AI-2012-00081 (copy of 2011-710); PSEPC. 2007 (March 30). “Response to Aboriginal Occupations and Protests” [briefing note]; Deputy PSC. 2007 (April 30). Minister’s Dinner with the National Chief of the Assembly of First Nations (AFN), Mr. Phil Fontaine, May 7, 2007” [briefing note]. PSC ATI request 1336-A-2007-0121.

Isolation of the “Militants” (or, Criminalisation)

Underlying the goal of “mitigating” potentially disruptive events, INAC’s efforts worked to isolate “militants” while reinforcing the status quo of colonial systems, reflected in an INAC presentation to the RCMP in March 2007:

Incidents led by splinter groups are arguably *harder to manage* as they exist outside negotiation processes to resolve recognized grievances with duly elected leaders. We seek to avoid giving standing to such splinter groups so as not to debase the legally recognized government. Incidents are also complicated by external groups such as Warrior Societies or non-aboriginal counter-protest groups.²⁸⁸

Those who engage in activities outside of the formal mechanisms of the negotiations and legal systems are constructed as inherently risky. They are positioned as illegitimate in contradistinction to the “legally recognized government” of Indigenous communities, which are products of the elected band council system imposed on First Nations through the *Indian Act*. To maintain the status quo of the state-imposed governance systems, which it administers, INAC must “seek to avoid giving standing” to those who challenge those systems. The power of the imposed governance systems as a mode of pacifying political resistance is captured in the description of “incidents led by splinter groups” as being “harder to manage as they exist outside” these institutions.²⁸⁹

The Public Safety Canada Federal Coordination Framework for the 2007 NDA identified two “success indicators” for mitigating the threat of “militant incidents,” which can be understood as *objectives* of pacification strategies: “[i]solate the splinter group as an anomaly in efforts to improve relations with First Nations” and “[a]void situations developing which cause others to be

²⁸⁸ Emphasis added. INAC. 2007 (March 30). “Aboriginal Hot Spots and Public Safety” [deck]. RCMP ATI request GA-3951-3-00060.

²⁸⁹ There is a parallel here to the police juxtaposing of legitimate protesters from “trouble-makers” and “militant” protesters based on the criminal law limits on freedoms of dissent. Similarly, “trouble-makers” are characterized as not representing the “interests of the community”, and often at odds with band leadership.

attracted to the splinter groups (e.g. confrontations which may be provoked for this purpose).”²⁹⁰ These “indicators,” or objectives, work through constituting “good liberal subjects” or “subjects of empire” (Coulthard 2007) through a divide and rule approach that incorporates some First Nations communities and people into the Canadian state while Othering the “militants”. The identification of “militants” as “anomalies” positions them as aberrations to the norm of settler state-First Nations relations and to liberal democratic norms. The settler state seeks to forge common *identity* or purpose with Indigenous communities and peoples against the “splinter groups”.

There are “hotspots” that appear as persistent areas of concern because of their “unpredictable” quality due to the involvement of “splinter groups” and “militants”. These include Douglas Creek Estates (identified as Caledonia in documents), Belleville, Brantford, Deseronto, Grassy Narrows, and Maniwaki (Barriere Lake, QC).²⁹¹ Reflecting the nexus of political and “security” concerns, all of these “hotspots” were identified as “communities of concern” by the RCMP’s Aboriginal Joint Intelligence Group’s threat assessment (see chapter 5, p. 223). For INAC and the RCMP, there are two main implications of these events which stem from their high profile. First, these events have potential to be “beacons” or “lightning rods” that fuel solidarity actions and broader Indigenous mobilisations. A second implication is that the ways in which government responds to these events can create precedents that potentially validate militant tactics.²⁹²

²⁹⁰ Public Safety Canada. 2007 (May 8). “Federal Coordination Framework for the AFN National Day of Action 29 June 2007.” P. 10. PSC ATI request 1336-A-2009-0052. These indicators had been redacted by a version of the Framework released by DND under ATI Act provisions exempting release of information that could reveal law enforcement investigative techniques or plans for specific investigations (s.16(1)(b)), information that could be “injurious” to the enforcement of law (s.16(1)(c)), and information that could “facilitate the commission of an offence” (s.16(2)). These redactions indicate how some departments understood some of the mitigation activities undertaken by INAC as police activities.

²⁹¹ INAC. 2007 (March 30). “Aboriginal Hot Spots and Public Safety” [deck]. RCMP ATI request GA-3951-3-00060.

²⁹² INAC. 2007 (September 28). “Strategic Communications Plan: Negotiations with Six Nations and Community Relations.” INAC ATI request (informal) AI-2012-00081.

Shaping the Message (or, Institutionalising Dissent)

Just as the RCMP drew on its Public Safety Protocol with the Assembly of First Nations (AFN) prior to the 2007 NDA, one of the key mitigation activities undertaken by INAC was to use its existing relationships with First Nations leaders and the AFN to shape the *branding* of the event. This was an important piece of the formal integrated government management of the 2007 NDA, as identified in the Federal Coordination Framework: “INAC has proposed to the AFN that events be organised around the theme of *Building Bridges not Blockades*. To this end, they have proposed to the AFN a number of suggested events to build public support and deter militant protests”²⁹³. This occurred through meetings and discussions between INAC representatives and the AFN—including then-INAC Minister Jim Prentice—aimed at persuading leaders to “stand down their plans”.²⁹⁴ The AFN’s own promotion of the event reflected their adoption of this branding in explicitly stating that the AFN was not “calling for blockades” but intended “to build bridges—not blockades—with Canadians.”²⁹⁵

Of significance is that this direct involvement of INAC in encouraging “legitimate” forms of protest, and directly working with the AFN, is not evident in many of the unclassified versions of intelligence products, including ITAC reports. Further, in a version of the Public Safety Canada Framework released by the Department of National Defence via access to information, this information had been entirely redacted.²⁹⁶ This gives the impression that the NDA was an autonomous event led by the AFN based its December 2006 resolution. The redacting of this information is significant because it indicates awareness—at least in some parts of the state apparatus—that these political interventions were part of the *policing* management of the NDA.

²⁹³ Public Safety Canada. 2007 (May 8). “Federal Coordination Framework for the AFN National Day of Action 29 June 2007.” P. 6. PSC ATI request 1336-A-2009-0052.

²⁹⁴ DND. 2007 (May 31). “Subject: 30 May ADM EMC Sub-Committee on Aboriginal Issues” [email]. DND ATI request (informal) DND A-2007-00590.

²⁹⁵ Assembly of First Nations, “National Day of Action Questions and Answers.” Retrieved from Internet Archive March 22, 2013 (<http://web.archive.org/web/20100803174807/http://www.afn.ca/nda/q-a.htm>).

²⁹⁶ This was redacted in the DND released version under s.21(1)(a) of the ATI Act, which excludes “advice or recommendations developed by or for a government institution or a minister of the Crown”.

Policy Announcements (or, Active Lawfare)

INAC's bureaucratic and political power—deriving from its administration of claims, policy, and funding—was deployed as a key strategy in the “negotiations” aimed at mitigating the impact of the 2007 NDA. One month before the NDA, Public Safety Canada officials noted that INAC officials were meeting with individual First Nations leaders “to ensure that Ministerial commitments are acted upon. It would appear that the FN leadership in those provinces may establish a moderate posture in relation to the protest activities.”²⁹⁷ Rather than an ad hoc approach this was a deliberate political strategy of mitigation. At a June 6 meeting of the Assistant Deputy Ministers-Emergency Management Committee on Aboriginal Issues, “INAC reported that three major policy initiatives are to be announced next week. INAC noted its cross country Ministerial tour is having a significant impact”.²⁹⁸ Public Safety Canada officials observed that these activities and the content of the policy announcements “may help minimise protest activity.”²⁹⁹ A secret National Defence email more bluntly stated that “INAC has made a significant offer related to Caledonia and plans to make some broader policy announcements in the coming weeks as preventative measures. *Everything will be timed carefully.*”³⁰⁰

The major announcement made on June 11, 2007 by then-INAC Minister Jim Prentice related to the federal government's establishment of an independent specific claims tribunal with a committed annual fund of \$250 million to resolve land claims. On June 25, Prentice announced that his priority during the summer of 2007 was to “jump-start the treaty process” and address outstanding claims in BC. This was a significant commitment in light of the collapse

²⁹⁷ PSC. 2007 (May 30). “ADM-EM Meeting Summary of Discussions” [email]. PSC ATI request 1336-A-2007-0121.

²⁹⁸ PSC. 2007 (June 6). DM-EMC Planning and Operations Sub-Committees – Aboriginal Issues; Summary Record [meeting notes]. PSC ATI request A-2009-00070.

²⁹⁹ PSC. 2007 (May 30). “ADM-EM Meeting Summary of Discussions” [email]. PSC ATI request 1336-A-2007-0121.

³⁰⁰ Emphasis added. DND. 2007 (May 31). “Subject: 30 May ADM EMC Sub-Committee on Aboriginal Issues” [email]. DND ATI request (informal) DND A-2007-00590.

of the Kelowna Accord, which contributed to the call for the day of action.³⁰¹ Two other policy announcements were directed specifically at mitigating two of the “hotspots” identified by INAC, Public Safety Canada, ITAC, and the RCMP: the ongoing Six Nations reclamation and the intended rail blockade by Roseau River First Nation. Roseau River Chief Terrance Nelson had spear-headed the AFN resolution in 2006 calling for the NDA and had announced his intentions to blockade rail lines on June 29. On June 20, the federal government transferred 30 hectares of land to settle an outstanding claim of the Roseau River First Nation. The following day, Nelson announced the blockade had been called off in favour of a rally and concert.³⁰²

The Caledonia announcement had been made earlier on May 30, 2007, regarding a settlement offer of \$125 million in four out of 27 outstanding Haudenosaunee/Six Nations land claims—but not the one encompassing the Douglas Creek Estates site. On the day of, but prior to, the announcement an email exchange in Public Safety Canada noted, “[t]here will be offer made today re: Caledonia which includes the requirement for everyone to leave the site.”³⁰³ According to an INAC Ontario backgrounder produced after the NDA, “One condition of the offer is cessation of the Douglas Creek lands occupation. The H/SN representatives would also have to demonstrate a strong consensus in the community in support of the agreement, signalling no further occupations.”³⁰⁴ In the time between the offer and the NDA, officials were careful in their communications with the Haudenosaunee/Six Nations representatives “1) [t]o minimise the risk that it becomes a trigger for direct action prior to the June 29 National Day of Action; and 2) to prepare the ground for a frank discussion (i.e. a reality check on what is and is not open for

³⁰¹ The Kelowna Accord emerged from a series of roundtable consultations, identifying initiatives in the areas of education, health, housing and economic development and a federal financial commitment to fund programs for five years. The Accord collapsed under the federal Conservative government that replaced the Liberals in 2005.

³⁰² Paul, Alexandra. 2007. “Party to replace blockade after land handed to band.” *Winnipeg Free Press*. June 21, A.7.

³⁰³ PSC. 2007 (May 30). “ADM-EM Meeting Summary of Discussions” [email]. PSC ATI request 1336-A-2007-0121.

³⁰⁴ INAC. 2007 (n.d.). Background Advice. [Ontario Region]. INAC ATI request 2011-02004.

further discussion between Canada and H/SN), at the first scheduled meeting post June 29 [...].”³⁰⁵ The Six Nations representatives rejected the settlement offer and its conditions.

While the flurry of political activity in response to the perceived potential threat of widespread disruptive protest in the summer of 2007 could be viewed as “successful” results of the intensity of Indigenous mobilisation, the “carrots” offered as preventative measures—specific claim settlement offers and improving the treaty process—have been severely critiqued as assimilative mechanisms that extinguish aspects of Indigenous self-determination (see e.g. Diabo 2012). As I discussed in chapter 2, liberal mechanisms have often followed high profile encounters between Indigenous peoples and coercive state power. The refusal of communities to accept settlements can be construed as “unreasonableness” in rejecting a reconciliatory gesture from the state; being outside of state-imposed systems—like “splinter groups”—they may be subject to more coercive forms of mitigation by police-security agencies as ‘extralegal’ subjects who *choose* to be outside of the “legitimate” state apparatus.

Conflicting Perceptions on the Role of Indian Affairs in Managing Protests

The incorporation of “civil unrest” within the work of the EIMD has not been entirely welcomed by those within INAC. As one of the EIMD officials noted, some of their colleagues feel that civil unrest should not be included within the EIMD purview because it is seen as a law enforcement matter (Interview, INAC2). Indeed, such sentiments were expressed by some of the law enforcement personnel interviewed, who critiqued both INAC and Public Safety Canada’s Government Operations Centre as reaching beyond their respective realms of authority and being somewhat redundant.

These tensions have an evident impact on the flow of information between law enforcement and their “partners.” One EIMD representative acknowledged the continued

³⁰⁵ INAC. 2007 (June 12). “Subject: Re: Six Nations / Caledonia May 30 offer – Canada’s response to Six Nations” [email]. INAC ATI request (informal) AI-2012-00081 (copy of 2011-0710).

reluctance of police contacts to share information and intelligence. But to one RCMP liaison officer, the lines are clear: “They’re an outside agency; they’re not a police agency. Some of these people kind of forget that issue. And I’m very cautious of what I release and who I release it to.” In terms of dealing with EIMD personnel seeking information about protests,

They call for like, ‘how many people are in the protest’. Well... what’s that gotta do with INAC? I mean, like... [...] I don’t get a phone call from some other agency wondering how many uh, Chinese people are there. Y’know. So I uh, y’know, I said ‘I couldn’t tell ya, I didn’t pay attention to the numbers’. Which I do [I do] but I mean, it’s not an issue. They can hear it from the media. If it’s open source stuff, I’ll give it to them. (Interview, RCMP9)

Similar annoyance was expressed in relation to the Government Operations Centre and emergency management more generally: “And they’re always asking us, ‘well what’s up? What’s up?’ Well there’s nothing goin’ on right now, you know, leave us alone! [...] But you know, they’re sending stuff out [...] they’re looking for things sometimes” (Interview, RCMP6). Interestingly, this interviewee suggested that in relation to emergency management, “Other government departments try and manage those command centres out of the corners of their desk, *and that’s the way it should be done*” (Interview, RCMP6; emphasis added). As discussed, this was the predominant model of emergency management prior to the 2007 *Emergency Management Act* and INAC’s establishment of the EIMD.

Some OPP liaisons have experienced similar interactions with Indian Affairs:

Well, you know something, I don’t really talk to government... and not to be disrespectful – I have command staff ... that speak for me. You know? I know like, when we were in [*a highway blockade/slowdown*] I was getting calls from the government, like from INAC and all that, and trying to get more of a feel for on the ground. I go, well, I said, ‘I’m not in a position to talk right now. Right now things are peaceful’ – and I kept it generic – ‘but, you might want to speak to my bureau commander...who could give you more insight. Because those are the people that, I mean, those are the people that ... run in your circle,’ so to speak, you know? And more, like, *I’m not here to be your intel – and that’s, and I’m not here to be your, your... your scapegoat, you know, and like, you know you ask me how are things going and how many people are there? Well, why aren’t you having some people here to deal with this?* (Interview, OPP3, emphasis added)

The OPP interviewees indicated that direct contact on the front line from INAC “doesn’t seem to happen anymore. We feed our stuff up and then someone in our organisation talks to someone over there. So, I think that’s pretty stream-lined now” (Interview, OPP4). As discussed above, the organisational protocols in the sharing of information between the OPP and MAA coupled with this reluctance by police to share informally, is a source of frustration for some of the government officials, related to assertions of expertise:

[I]f the idea of collaborating to manage ... incidents... means that they get to ask us anything they want but we can’t ask them anything that we want... and they get to get all our information and we don’t get any of their information... That’s kind of not the best basis, just at a bureaucratic level. [...] you never know what happens to the information, and you never know how it gets interpreted, and ...sometimes you could see the effect of its use; you’re pretty sure, ‘oh, I said that, look what happened.’ And sometimes you have no idea and ... but we, we you know, don’t ever ask any questions back for fear of crossing the line. And so, although you could make some inferences from the kinds of questions you’re getting, but generally there’s been, it’s just been a one-way collaboration when it’s happened” (Interview, MAA1).

From the police intelligence side, there is a question as to the utility of intelligence material for INAC or MAA, but also security restrictions on sharing sensitive information that may have been obtained from confidential sources:

Now we’re always criticised that it’s always a one-way thing, right? ‘We’re going to give you all this and we get this from you guys’. But again, you know, my position I guess – biased opinion – the value of giving you a [thirty day] report on ... several organised crime investigations... and then we’re challenged with the added burden of we have to go to a court and then protect the integrity of [...] this; those issues come into play as well. And then where does it go in your wider community? So you know what I mean? So for you, if you’re going to report it out, that, okay, this is the awareness issue in Davis Inlet, you know, it’s not really going to create another secondary issue, but for us it would, eventually would. So that’s why... and then, we’d have to give you a heavily redacted ... which, the value of which would be questionable. (Interview, RCMP11)

On the police side, official findings such as those of the Ipperwash Inquiry or of the APEC inquiry are a means of reasserting police autonomy: “because of the Hughes Inquiry...if politicians or anybody tries to interfere in our operations, we say, take a look at the Hughes Inquiry! You know? So they step right back [...] it becomes something for us to...clearly show, you know, anybody who forgets, what our mandate is and the distance that needs to be kept”

(Interview, RCMP6). An OPP member alluded to the new climate of “being scared silly” within provincial government as a result of lpperwash:

[...] political, politics, political entities, political [masters], I think since after lpperwash have gotten the message loud and clear. In eight years [...] I've only had one instance where a political entity called into a command post, and actually they didn't quite make it into the command post, but somebody knocked on the door and said, this ministry's on the phone. I said, no, you tell them that's not an appropriate contact. Tell them to go through their, go through to our minister. Wanna talk? Talk to our minister. That's the appropriate line of communication; not directly into a command post... during a police [incident].

[TD] Yeah. I mean I've talked to some folks at the Ministry of Aboriginal Affairs, and –
And I'm sure that frustrates them! (Interview, OPP2)

Indeed, the one-sidedness is seen as integral for police preparedness in managing potential protests. One OPP member distinguished between the utility of having information about government positions and plans in relation to outstanding First Nations issues versus operational interference: “For us to be aware of it, to be able to sit down and have a cup of coffee, and say ‘how are things going’, on either side of the table? Great information. But if it sparks a critical incident? When it comes to operational decisions—that’s where we have to draw the line” (Interview, OPP2).

The views on INAC’s involvement in police planning and coordination are mixed. For some liaisons and Aboriginal Policing sections, these tensions are subtly related to the deeper frustrations about being the “meat in the sandwich” where government—particularly INAC—is seen as part of the problem:

And... the... the different agencies like INAC and Public Safety ... are all looking out for their interests, within their programs, to brief up to their ministers about the issues that are happening. And they're... I'm not sure they're quite as concerned about putting the issue to bed as we are. We're the ones that get left wearing it. They don't have to show up. [...]but I find the other agencies, because they're not on that front-line of doing that -- we gotta let them know what's happening, let 'em know what's going on, but... yeah, do they gotta get out there and solve that tomorrow? (Interview, RCMP1)

Some police personnel see INAC involvement as indispensable, particularly from a political management perspective and with their jurisdiction for addressing land and rights claims. Speaking about the NDA 2007, a former member of RCMP Aboriginal Policing stated that “it was so important to have them join with us at the hip; and you know, working very closely with Public Safety Canada, right, because I know, like the way government works, the questions would be coming to Public Safety, National Security Advisor, and also CSIS right?” (Interview, RCMP3). On the operational side,

[...] when you're dealing with a real time live issue, it's good to have those more frequent interaction type of things, you know, if it can't be face-to-face the phone works, you know, so... but no, it was important to have INAC's participation and they were right there you know; they were pretty good, like, for the first year it was, 'cause there was some things they had to move on pretty quick and they were moving [...]. (Interview, RCMP3)

For some officials working in federal and provincial Indian Affairs, there is also a sense that the police are overstepping their realms of expertise and authority. This is directly tied to a lack of communication coming from the police, whose operational decisions are seen as reflecting arbitrary judgements on the validity of protesters' claims:

I mean, we don't know what standard they use. So sometimes they go in there on something that seems, to me, to be completely spurious. Some claim from somebody—never heard of this claim, never heard of these people, like they have no legitimacy in any community. And the OPP are out there acting like this is the best established claim in the world and keeping everybody apart. Doesn't happen too often, but it does sometimes, so you just shake your head, you know? And think then, so we'll watch this. If it gets bad enough, then we'll have to find a way... to say to the OPP, are you sure you know what you're doing in this one? (Interview, MAA1)

While there is a significant degree of inter-organisational collaboration in the managing of Indigenous protest, there are also conflicts. These inter-organisational tensions reflect anxieties and discontinuities of colonial governance. Rather than monolithic or absolute, colonial institutions are characterised by instability that must constantly be dialectically (re)negotiated both internally and externally vis-à-vis other organisations. These discontinuities and disjunctures arise in part from the constant shifting of pacification strategies and legitimating

discourses, as well as from quasi-autonomous bureaucratic interests, federal-provincial jurisdictional politics, and inter and intra-organisation tensions such as competing assertions of “expertise”.

CONCLUSION

While the Indian agent may no longer exist formally within the Indian Affairs administrative apparatus the surveillance role endures, articulated within the language and logics of the “all-hazards” emergency management paradigm. In this chapter, I have shown how the construction of Indigenous “civil unrest” as a perpetual potential “emergency” serves as the rationale for continuous monitoring of Indigenous people on and off reserve. The emergency management paradigm works as a means of managing Indigenous peoples *as a distinct category, or population, defined by the geopolitical colonial relationship*. This relationship is (re)inscribed with/in emergency management programs and operations and is therefore a(n other) mechanism of racial-colonial governance. Through this paradigm, we can see how front line policing entwines with the lawfare mechanisms of claims negotiation and settlements, deployed by Indian Affairs as prevention strategies.

The contemporary emergency management apparatus is continuous with the “colonial emergency” as a liberal political mechanism justifying “exceptional” modes of governance for Indigenous peoples. Enduring colonial anxieties over threats to settler-colonial order are institutionalised and de-politicised through the language and practices of intelligencification and the “common good” objective of securing critical infrastructure. The expansion of the emergency management apparatus is self-rationalising because of the perpetual and potential nature of anti-colonial challenges. Measures implemented in response to “exceptional” events such as the 2007 National Day of Action, blockades at Tyendinaga, the G8/G20, or the Olympics, are not dismantled once the events end. Rather, they are incorporated as “best” practices or improvements in managing “issues” to prevent “emergencies”. The “normalisation” of so-called

exceptional measures is, as Neocleous (2008) and Hussain (2007) have argued, characteristic of liberal-security logics. The anxieties over potential “civil unrest”, as fundamental challenges to the state’s assertion of sovereignty, are an enduring feature of settler colonialism. By disrupting the ideological dichotomisation of the “norm” of rule of law and everyday practices of surveillance on the one hand, and “exceptional” conditions or emergency, on the other hand, we see how settler state sovereignty is an incomplete, unstable project.

The tensions and disjunctures between ideal models of governance and actual practices reflect this instability. Despite the formalisation of processes through text-based formats, at the “ground” level of responding to protests (potential and occurring), the activities of Indian Affairs bureaucrats is very much informal particularly in their relationships with law enforcement partners. This is consistent with the importance of informal relationships emphasised by those working in law enforcement, particularly in liaison and operational roles. Also, as in the case of police-intelligence operations, there is a disconnect between the formalised processes of intelligence production (and even decision-making) and the on-the-ground activities that operate through informal relationships amongst colleagues and between sectors “in the field”. The expansion of bureaucracy resulting from the multiplicity of formal collaboration platforms and channels has perhaps consequently fueled the unofficial, informal means of communication among bureaucrats and police personnel. The “furtive” nature of these exchanges—driven underground because of the “fear” of being perceived as crossing the line—raises implications about transparency and accountability as such communications are generally not documented.

The multiple sites of both formal and informal knowledge production (i.e. situational awareness products) and monitoring processes, creates a redundancy and excess in information production. Despite the formality of official structures and processes, there is evident overlap and circularity in communications among entities. As one member of INAC Ontario Region stated in an email updating colleagues on a recent meeting with the provincial emergency operations centre ahead of the 2008 NDA, “Only the government could make things

this complicated, they are receiving the same info from about six sources!”³⁰⁶ The establishing of centralising entities such as the Government Operations Centre, ITAC, the HQ EIMD at INAC, or provincial emergency operations centres, appears to institute an order to the production of information, yet there is significant overlap among these processes alongside those of police organizations as discussed in the previous chapter. The result is a proliferation of official, formal documentation of varying classification levels and ranging from “heads’ up” messages to operational plans. Again, this production of documentation significantly exceeds the assessed potential for “actual” emergencies arising from the documented events. One implication of the formal apparatus is the sustained, or even *amplified*, perception of risk and threat in which the *anticipation* of potential threat—with reference to Oka, Ipperwash, and Caledonia—to economic and political state interests may be(come) self-fulfilling.

³⁰⁶ INAC. 2008 (May 28). “Subject: SITREPs Ontario Region” [email]. INAC ATI request A-2011-2003.

CONCLUSION

The Meat of the Sandwich?

The OPP handling of Idle No More protests in 2012 and 2013 was consistently identified as emblematic of the significant changes made to the organisation since Ipperwash, and even since the 2006 Six Nations reclamation. There were blockades of international bridges, highways, and railways, and in the end, there was only one arrest at Aamjiwnaang spurred by a CN Rail injunction. Returning to a quote from earlier in the dissertation, an OPP member reflected, “ten years ago, fifteen years ago, if [Idle No More] would have happened? God knows what we’d look like today, right? Which is, it wouldn’t have been good at all. There would have been thousands of charges, probably, and people hurt” (Interview, OPP8). Embedded in this sentiment, which was echoed by many of the police officers interviewed, is an acknowledgement of the police role in escalating conflicts. Following from this, an important caveat is needed, in that the outcomes of any event cannot be attributed solely to the actions of police and/or government, but are shaped by the intentions and decisions of organisers and participants. The history of Indigenous political actions has been largely non-violent, even in the few cases where participants were armed; those events that have escalated have often been fueled by aggressive policing and/or settler provocations.

In Ontario, current police practices seem to have been successful in limiting the escalation of conflict by decreasing antagonism and tempering aggressive police enforcement. In the post-Ipperwash context, the policing of Indigenous protests has adopted discourses of prevention and of reconciliation through building relationships. Carried out within the institutional objective of maintaining police control in managing events, these practices reveal the paradoxical nature of these discourses in the context of settler colonialism in which Indigenous self-determination is antithetical to settler state sovereignty.

As policing strategies, prevention activities work in ways that constrain the parameters of “legitimate” protest while intensifying governance and having punitive implications for those who transgress. These processes are organised through and reinforce the symbiotic logics of (1) liberal legalistic discourses of *rights*, and (2) security discourses of *prevention* and *management*. These processes are part of settler colonial pacification that simultaneously works to suppress Indigenous nationhood and (re)produce the authority of the Canadian nation-state. The tensions and disjunctures of policing practices made visible in my research reveal tensions in these governing logics.

In this concluding chapter, I bring together the preceding chapters by (re)presenting the various institutions of the police-security apparatus as a visual “map”. I then (un)map the rights-prevention logics that organise the institutional practices of this apparatus as they are applied in the specific context of Indigenous communities and protests. In concluding, I identify some limitations and implications of this project, which open up avenues for further inquiry.

MAPPING THE POLICE-SECURITY APPARATUS

The convergence of public order policing, intelligence, and national security developments in the post-Ipperwash period has produced a policing-security landscape in which responses to Indigenous resistance extend far beyond the local police force of jurisdiction. Encounters at events such as those at Six Nations in 2006 (which is ongoing), the 2007 National Day of Action, blockades in Tyendinaga, and the Idle No More movement have contributed to shaping this apparatus/map. There have also been many other events that I have not discussed in detail, such as the anti-mining protests at Kitchenuhmaykoosib Inninuwug (KI) First Nation and the anti-uranium exploration actions by Ardoch Algonquin and Shabot Obaadjiwan First Nations. In 2008, six leaders from KI and the co-chiefs of Ardoch Algonquin First Nation were jailed for participating in the respective protests. Both of these cases involved government failure to consult the First Nations before granting access to corporations, and led to judicial

precedents around the use of injunctions. In addition to these high-profile events, there are also all of the encounters that occur on an everyday basis as police engage in relationship-building with/in communities, and “governing at a distance” through various modes of surveillance by police, intelligence, government, and corporations.

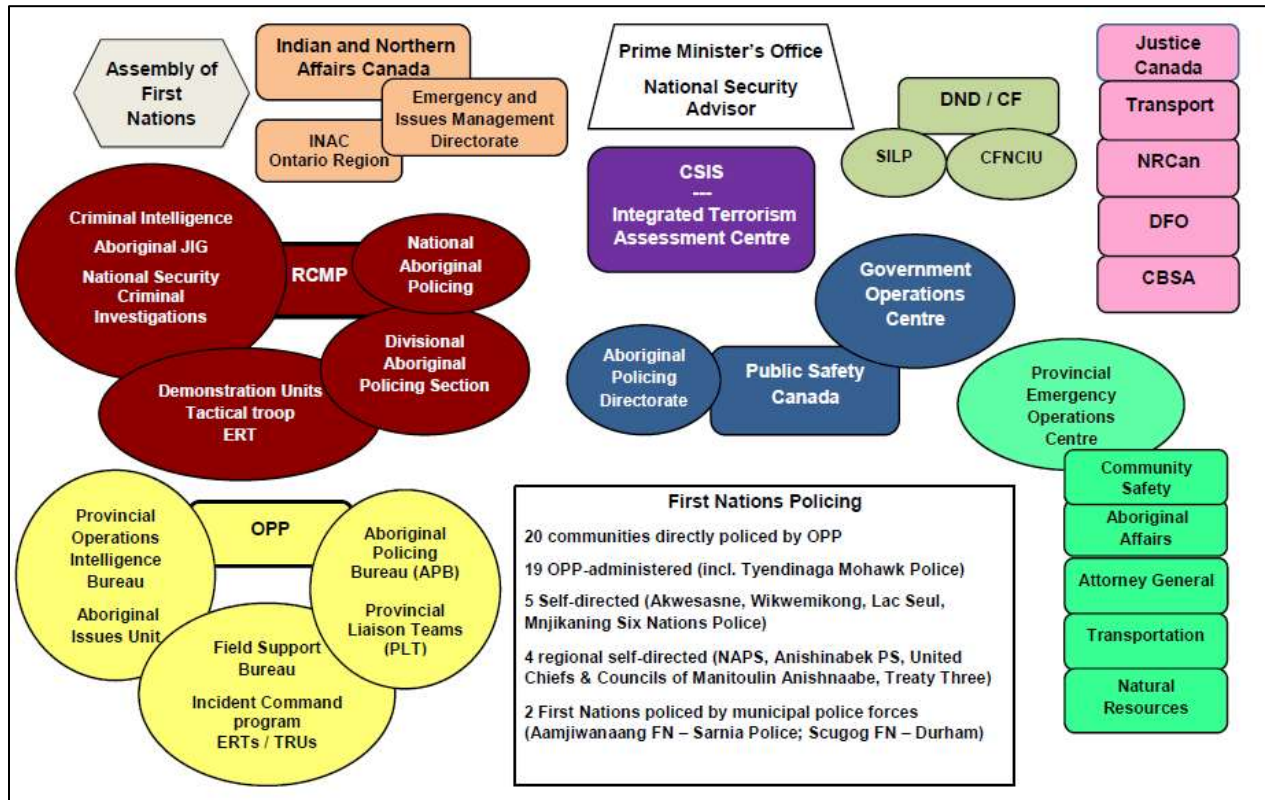
The institutions and social relations that form “the state” are not static monolithic entities. While I describe these institutions and organisations as symbiotic on an *institutional level*, they are shaped by quasi-autonomous interests and objectives that may conflict or compete with others. This gives rise to inter-organisational tensions, such as between police organisations, and between police and government, especially with Indian Affairs.

In chapters 4 to 6, I *unmapped* this landscape by examining how it has and is being constituted—and challenged—through concrete policing practices in three overlapping institutional *clusters* of front line policing, national security, and the Indian Affairs bureaucracy. As I have argued, the involvement of these institutions is not new. The symbiosis among police, security, bureaucratic, and corporate entities are the foundations of settler colonial pacification. Strategies of pacification shift continuously, and are (re)organised in configurations deploying new rationalisations. The post-Ipperwash configuration of practices works through symbiotic discourses of liberal rights and prevention-based security.

Figure 2 maps a constellation of the key institutions that compose this landscape that I have examined at the micro-level in the dissertation. The landscape consists of both formal (institutionalised) and informal relationships and has been built-up over time in terms of the entities involved and the relationships among them; it is important to understand this as a shifting constellation that fluctuates especially in relation to events such as high-profile “critical incidents”. This map is produced from a specific standpoint of the problematic of policing Indigenous resistance—it is not an exhaustive or static arrangement. Institutions may fade in and out in terms of their relevance or roles during particular events. While I have emphasized the interconnectedness of institutions, facilitated by “brokerage” mechanisms such as ITAC and

the Government Operations Centre, I have not included lines or arrows on this map to symbolise the relationships amongst the entities because they are constantly shifting and vary in terms of degrees of formality or “officialness”.

Figure 2 Police-Security Apparatus Post-Ipperwash



(UN)MAPPING PRACTICES AND LIBERAL RIGHTS-PREVENTION LOGICS

My research addresses limitations of the substantive literature on public order policing within both social movement studies and the field of police studies. It also makes an intervention in the relatively new body of work in theorising and applying the concept of pacification. Extending on Neocleous' argument for “re-appropriating” the concept of pacification in the study of policing and security, I draw on settler colonial theory to articulate an analytic concept of settler colonial pacification in understanding police power in the specificity of Canada as a settler colonial state.

Pacification is a process, not an *event* or *programme*, and thus, is ongoing (dialectic) and characterised by dissonances, disjuncture, conflict, disruption and constant tension. There are three interconnected analytical pillars for this framework: (1) centring imperialism and colonialism(s), (2) spatial governance and territorialisation, and (3) resistance and agency.

First, by analytically centring colonialism, the ongoing subjugation of Indigenous peoples informs our understanding of state institutions such as the police. The study of policing cannot be disconnected from the historical foundations of the police institution which are rooted in imperialism and colonialism. The social, political and economic relations of the state have emerged out of the historical and ongoing attempted elimination of Indigenous peoples. The enduring resistance and presence of Indigenous peoples and assertions of self-determination means that the settler state sovereignty remains insecure.

Second, because settler colonial sovereignty depends on the assertion of political-spatial authority, it is important to address the spatial dimensions of order-production. The assertion of sovereignty is based on the maintenance of boundaries of authority; settler colonial territorialisation is an ongoing process, reflected in the abrogation of treaties and the comprehensive claims process. Protests and direct actions, as assertions of Indigenous self-determination, are spaces in which the incompleteness of settler state sovereignty can be the most visible. The significance of “the state” as an idea and as a system of institutions, including *law*, remains a relevant level of analysis. Although situated in a global state system, international law, and global capital, pacification is enacted through localised institutions. The policing of Indigenous protest is not “just” the management of an event to minimise disruption and harm, but it works to contain self-determination while asserting settler state sovereignty (and the assumed legitimacy of the state). The disruption and (re)production of settler colonial order occurs in legal, political, institutional and geographical spaces.

Third, spaces of resistance are spaces in which the exercise of power is made visible. Understanding pacification and settler colonialism as *processes* emphasizes the dialectic of

power and resistance in shaping social, political and economic relations. The constant flux produces disjunctures where institutional shifts may not align with other institutions. “Ruptures” to settler colonial order can occur when dominant discourses of liberalism appear irreconcilable with institutional practices, leading to shifts in practices and/or discourses. While there are continuities of settler colonialism, the techniques and discourses through which they are organised have changed over time, often in direct response to “ruptures” emerging from confrontations with Indigenous resistance.

In chapter 1, I discussed the role of international law in legitimating imperialism and colonisation as a means of making *peace*. The legitimation of the sovereign power of nation-states was based on the “common good” of security. Drawing on the contributions of Foucault and political economy, police is a modality of power that is historically specific to the symbiotic emergence of capitalism and the formation of nation-states. Policing was a state project of organising “public life” to maximise productivity and wealth of the population as a source of state power. If police is the production of public order, *pacification* was—and is—a form of imperial and colonial order production, couched in Enlightenment ideals of “civilisation”. In the settler colonial context, the making of ‘peace’ is contingent on elimination of Indigenous peoples.

In chapter 2, I showed how liberalism has been integral in settler Canadian state formation through the “liberal treatment” of colonial policy and the application of “rule of law”. Since the late twentieth century, lawfare strategies have shifted to a liberal legal rights regime and the politics of recognition and reconciliation (Comaroff 2001). It is through these logics that contemporary pacification strategies are organised. Through lawfare, the categorical subjugation of Indigenous peoples is reconciled with liberal discourse, grounded in the constitutionalised “exception” of Indigenous peoples (Agamben 1998; Williamson 2009). This “exceptional” state is the norm if we understand the lawfare of settler colonialism as continuous with warfare—an ongoing conflict between settler state sovereignty assertions and Indigenous self-determination. As Comaroff and Comaroff (2006) argue, lawfare is an arena of struggle.

Within this arena, and from outside and against it, dominant discourses can be unsettled and (re)articulated.

In chapter 3, I argued that crises for the legitimacy of institutions and “the state” are managed by institutionalised reconciliation processes such as public inquiries. These are a form of the “judicialisation of politics” (Comaroff and Comaroff 2006:27). I discussed the Ipperwash Inquiry as a liberal mechanism of governance that (re)articulated a problematisation of Indigenous protests as an object of liberal democratic policing. In identifying the “unique” dimensions of indigenous protests, this problematisation validates and normalises the categorising of indigenous protests as inherently high(er) risk. This has been translated in police policy and structural reforms which continue to change, especially after being “tested” by successive direct actions and protests. The dimensions identified as making indigenous protests “unique” and “high risk”—such as the tendency to occur on or near a First Nations territory—are conditions that have been produced by settler colonialism over time. If policing-security practices draw on this specific problematisation of indigenous protests as “truth”, and these practices have been rationalised and normalised through policies and frameworks, there is also a naturalising and normalising of settler colonialism.

Contemporary police-security practices reflect the management of settler colonial anxieties and the constant (re)production of sovereignty through the constitution of liberal “subjects of empire” (Coulthard 2007), and processes of criminalisation and exclusion. The logics of liberalism-security take shape in the entwined discourses of *rights* and *prevention*, which underlie the pacification strategies I have examined: (1) the public inquiry as governance mechanism; (2) liaison policing and measured response; (3) intelligence-led policing; and (4) the critical infrastructure nexus of national security and emergency management. Threading through these strategies are common legitimating devices of *transparency*, *formalisation*, *rationalisation*, *neutrality*, *reconciliation*, and *rights and responsabilisation*. These devices have the effect of masking the political nature of policing while normalising practices.

The most visible activation of the rights regime is by front line police in (1) building relationships with communities, reflecting a *reconciliation* discourse, and (2) in the specific context of protests through the deployment of rights in establishing parameters of legitimate protest and responsabilising protesters. The success of these strategies depends in large part on the police assertion of *neutrality*, especially on the part of liaisons. As I explore in chapter 5, one core dimension of constructing neutrality is by asserting a distinction from intelligence work. The “front door”/ “back door” metaphor used by liaisons relies on a central binary of liberal democratic policing that associates intelligence—or “spying”—with “high” or political policing versus the apolitical “peacekeeping” of “low” policing. In situating the activities of liaisons in relation to measured response and intelligence led policing, the governance of protests through rights and responsabilisation reflects a disciplinary-judicial form of power; this is amplified in the context of protests as Indigenous rights are subsumed by *individual liberal rights* defined by the settler state.

Another device of establishing “neutrality” as a basis for developing “trust” and facilitating communication is through openness, or transparency. I have shown how *transparency* is activated by liaisons and incident command as a means of responsabilisation through relationship-building, maintaining the distinction between liaisons and intelligence operations (the “front door”/ “back door”), strategic shows of force, and educating protesters about rights and their limits. The transparent communication of police intentions to protesters shifts responsibility for the police use of force and their deployment of covert intelligence operations to protesters as based on their “choices” or decisions not to comply.

Several of the police personnel that I interviewed describe their role in protests as “the meat in the sandwich” between protesters and government, being on the front-line of conflict but lacking the power to “resolve” the claims or issues at stake. This characterisation alludes to being an independent entity caught in the middle of two opposing parties. On one level, this position is an assertion of institutional authority and autonomy from the interference of other

institutions. However, through (un)mapping the ways in which front-line policing is entwined within the broader police-security apparatus of the state, their role is much more substantial and significant to broader power struggles. A more accurate metaphor might be the “meat of the sandwich”, which emphasizes the integral role of the police as a *state institution* in settler colonialism. As the *front line* in “managing” conflicts, police activities have deep ripple effects on the work of other institutions. At the same time, I have also shown how the “meat in the sandwich” could also describe the role of liaisons and First Nations officers vis-à-vis their own organisations.

Historically, the colonial office (in London) relied on surveillance on the ground in the colonies as a basis for governance. Gradually the political locus of governance shifted to colonial governments. Both the North West Mounted Police (NWMP) and the network of Indian agents were indispensable sources of information about people and land. The NWMP used small police patrols and Métis guides to facilitate access to Indigenous peoples and to increase their knowledge of the communities. While relying on “consent”-based strategies, this was leveraged by surveillance and the enduring potential of violence. The knowledge of conditions and political climate on the ground informed when and how the mechanism of colonial emergency was deployed by government to legitimate “exceptional” military interventions. Surveillance and the colonial emergency were *prevention* mechanisms used to circumvent political mobilisations against imperial power. In the contemporary emergency management apparatus, the protection of colonial sovereignty through “emergency” is most evident in the formalisation of Indian Affairs’ systematic “monitoring” of Indigenous “unrest” for the purpose of “situational awareness”.

Since the mid-1990s, across the realms of emergency management, national security, and police practices there has been a *formalisation* of insecurity through the creation and publicising of official policies, structures, frameworks, and partnership agreements, which enhances discretionary power based on institutional expertise. This is a manifestation of

prerogative power, understood not as the prerogative of a ruler, but the prerogatives of settler colonial security—accumulation and *order*. The prerogative is delegated and diffused within the expertise of bureaucracies. Prerogative power is exercised through the discretionary decisions made in assessing when conditions meet thresholds requiring intervention. This power and the expanded practices of information gathering (surveillance) are depoliticised through the rationalisation and “scientization” (Ericson and Shearing 1986) of knowledge production through the intelligence-led policing paradigm.

This diffused prerogative power is necessary in the emergency management paradigm because of the inherent unpredictability of “emergency”. This reflected in the lack of defined boundaries of the “all-hazards” approach—evident in the open-ended definitions of “emergencies” and “issues” as well as the criteria in official assessments of risk. This same logic underlies the national security impetus to not “take chances” and investigate “everything and anything”, and the police logics of always preparing for the “worst case scenario”. Applied to Indigenous communities and protests, these logics are further shaped by the anxieties of settler colonialism to normalise elevated *prevention* responses.

While formalisation reflects a mode of transparency and *pre-emptive accountability* (often spurred by external pressures for accountability), it also works to enhance institutional *secrecy*. First, these activities reinforce the asserted expertise of institutions and the circular assumption that their actions are justified because they are undertaken based on this expertise. Second, through operational collaborations and the exchange of information and intelligence, a cloak of secrecy in the name of security extends from the law enforcement and intelligence realm to include “partner” organisations. Third, the implementation of formal lines of communication and institutional barriers between police and government as a means of (a) guarding against political interference, and (b) providing transparency and accountability, *create* conditions that encourage covert informal communications.

None of the governance mechanisms discussed in this dissertation—rights-based policing, measured response, intelligence-led policing, the national security prioritisation of critical infrastructure, and emergency management—are specific to Indigenous peoples and communities in the way that the *Indian Act* is. However, *because* of the settler colonial regime of which the *Indian Act* is a significant component, these mechanisms work in specific ways when deployed vis-à-vis Indigenous peoples. One way that this is most visible is the deployment of lawfare mechanisms of land claims negotiation and settlements by Indian Affairs to *prevent* or mitigate direct actions that disrupt (or threaten to disrupt) critical infrastructure. In the “ruptures” of Indigenous direct actions, we can see the convergence of the administrative-bureaucratic and police apparatuses of the settler colonial state.

LIMITATIONS, IMPLICATIONS AND FURTHER RESEARCH

In examining how police and government policies are being implemented in practice, my work moves beyond evaluating the “success” or “failure” of organisational reforms to show how they are rooted in, and shape, colonial relationships between the Canadian state and Indigenous peoples. This research contributes to understanding the unique complexities and historical continuities of colonial policing and well as the significance of anti-colonial resistance in rendering settler-colonial order *insecure*. This has implications in terms of thinking about policing practices as historical dis/continuities rooted in settler colonialism and therefore for understanding the enduring integral relationship of police-security institutions to settler-state formation. As I have discussed above, these are analytically important because they challenge perceptions of institutional reforms as being “new” and fundamentally different modes of governance, which reinforces dominant legitimating narratives that naturalise settler sovereignty and relegate colonialism to a distant past. Connected to this, and by centring resistance, there is a third set of implications for ongoing Indigenous struggles and the possibility of decolonisation, including the role of settlers.

(Un)mapping is always a partial project, intended as Dorothy Smith (2005) suggests of institutional ethnography, as interconnecting with other “maps” to form multilayered, multidimensional analyses. There are therefore always many avenues for further (un)mapping. The objective of this research project has been to make institutional practices visible, in part as a counterpoint to official representations. As I discussed in chapter 1, by choosing to “study up” and focus on the practices of state institutions, I have not included the experiences of those “on the other side” of the encounter: the Indigenous communities and individuals involved in protests and direct actions. These perspectives and experiences are central to fully considering the questions raised by this research and the bigger picture of decolonisation.

I have also focused on the protests and direct actions that have been categorised by police and government departments as “militant” and therefore of greater *risk*. This categorisation is important because it indicates the degree that these events could be “ruptures” to order. Of significance, many of these events take place on or near a reserve community and are direct conflicts with government and/or a third party. I have not addressed the specificity of intra-community political conflicts, which the OPP and RCMP often respond to. Internal conflicts *within* First Nations communities that have local First Nations police services raises complex questions about jurisdiction, conflicts-of-interest, and the perception of OPP and RCMP involvement as colonial interventions. Also, while I have discussed the Idle No More movement and protests at Parliament Hill, I have not addressed the unique dynamics of Indigenous protests that occur in urban centres. Consequently, I have not substantially looked at the practices of municipal police forces, which have different histories with First Nations communities and Indigenous people.

While the institutional practices discussed in this dissertation reflect broader trends that transcend the nation-state, there is always a specificity in how they are implemented. One of the significant factors is the political-legal jurisdiction in which encounters occur. There are significant variations in the history of settler colonisation in the formation of the Canadian state.

For example, in BC, which is provincially policed by the RCMP, most First Nations have not signed historical treaties and much of the land remained unceded. Contemporary comprehensive land claims have therefore been more prevalent in BC than in other regions. In Quebec, which like Ontario has its own provincial police force, Indigenous self-determination contends with Quebec sovereignty interests and more pronounced provincial-federal tensions. Each of these provinces is also shaped by the events of Gustafsen Lake and Oka, respectively, and are the sites of frequent protest “hot spots” according to Indian Affairs and the RCMP. These are just some of the contingencies that shape policing practices.

Implications and Further Inquiry

Perhaps the most important and complicated question that arises from this dissertation is what impact do current policing practices, couched in the language of reconciliation, have for the potential of decolonisation? If institutions and specific organisations are shaped by quasi-autonomous factors and local conditions and experiences, shifts in their practices can sometimes be in tension or conflict internally with existing practices or externally with other institutions. Changes in one organisation or even in one institutional cluster (e.g. policing, Indian Affairs, national security) can occur independently of other institutions. This is something that has emerged in different ways in this research. One example is the potential for Aboriginal policing programs and liaisons to challenge dominant constructions of risk (re)produced in intelligence threat assessments. The question is whether these inter- and intra-organisational/institutional tensions—which have emerged from externally produced ruptures of colonial encounters—can themselves become ruptures or contribute to ruptures in unsettling settler colonialism.

As the “meat of the sandwich”, front line policing maintains a tenuous and temporary *order* that may be beneficial in terms of the liberal politics of reconciliation, but not necessarily in terms of material restitution and respect for self-determination. Policing strategies have worked

to institutionalise resistance through legal and quasi-legal venues, which historically, have secured colonial interests, and reinforced criminalisation of “extremists” and “militants” who reject institutionalised processes. Coupled with the extensive surveillance apparatus, does contemporary policing reduce the pressures on government to address land claims and respects treaty and inherent rights? Despite the overall positivity expressed around changes in policing practices, most of the people that I interviewed were confident that Indigenous protests and direct actions will inevitably continue and likely intensify in the future. The most common explanation for ongoing conflict is the persistent failure of government to address root issues and to respect treaties. As one RCMP member put it, “if nothing gets done from the last [flash point] and we remain complacent and idle—the big ‘we’, GOC, Government of Canada—you know, what do you expect? There’s going to be another uprising, right; and do you think the issue’s going to be different? No” (Interview, RCMP3). Many interviewees identified increased resource extraction and energy projects as the source of future flashpoints, which will bring long-simmering land and rights struggles to the fore.

This is already evident as the arena of settler colonial lawfare has been producing conditions or spaces for potential rupture. On one front, the federal government have enacted a series of unilateral legislative changes directly impacting Indigenous peoples without engaging in consultation. On another front, recent court rulings have clarified legal aspects of the colonial relationship through their interpretations of Aboriginal title and rights; in doing so, these ruling have established grounds for further legal challenges by Indigenous peoples, but also have set parameters on which state and corporate entities can justify incursions.

The *Tsilhqot’in Nation* decision,³⁰⁷ released in June 2014, confirmed recognition of the Tsilhqot’in Nation’s title over territory extending beyond its current reserve; it created the possibility that title could cover wide territories and not only small tracts of land where there has

³⁰⁷ *Tsilhqot’in Nation v. British Columbia*, 2014 SCC 144.

been “proof” of permanent, continuous inhabitancy. However, the Supreme Court’s ruling also reinforces the existing limit on Aboriginal title that allows federal and provincial governments to infringe title for certain purposes such as critical infrastructure development (subject to the duty to consult with the First Nations). Based on the Tsilhqot’in decision, the Gitksan First Nation has issued eviction notices to sport fishers, forestry operators, and CN Rail.

In another major Supreme Court decision released July 2014, the ruling went against Grassy Narrows First Nation, which has been engaged since 2002 in the longest running blockade in Canada’s history.³⁰⁸ The Court’s finding that Ontario has the power to take treaty lands has set the stage for continued resistance and confrontation with the province and logging companies. Meanwhile, conflict continues at Kanonhstaton (the former site of Douglas Creek Estates) and people from Six Nations have promised to engage in ongoing disruptions if Haldimand County forcibly removes a barricade on the reclaimed site.

Conflicts over a number of pipeline projects have brought First Nations and settler groups together in opposition. Aamjiwnaang First Nation and non-Indigenous groups in Sarnia have been engaged in disruptions of Enbridge’s Line 9 project, and members of Six Nations recently blocked Enbridge digging operations. First Nations organisations and grassroots activists—as well as non-indigenous environmental and community groups—have been mobilising against the Northern Gateway pipeline expansion project. There have been demonstrations, marches, blockades and constitutional challenges launched by BC First Nations.

Another implication of this research pertains to the trajectory of pacification strategies. I have suggested that the formation of mechanisms and techniques of governance provide the foundations for expansion in part through their self-justifying discourses of security. As Neocleous (2008) and Hussain (2007) have argued, the “exceptional” measures introduced in

³⁰⁸ *Grassy Narrows First Nation v. Ontario (Natural Resources)*, 2014 SCC 48.

response to specific events tend to become incorporated and normalised as part of the security apparatus. Historically, policing and other social control strategies were and are deployed against Indigenous peoples and then applied to ‘domestic’ populations. In the time that I have been working on this project, we have already seen the extension of strategies to the wider settler population through normalised, regularised surveillance of protests in the name of “national security” and protecting critical infrastructure.

Public Safety Canada’s Government Operations Centre (GOC) was one of the entities that I had contacted to participate in interviews. In this case, I had an opportunity to speak with a GOC official, who explained that they were declining to participate because the GOC did not have anything to do with protests, and therefore would not be of relevance to my research. In this conversation, I pointed to the nexus of critical infrastructure and Indigenous communities, but to no avail. The position of the GOC reflects the emergency management refrain that the object of concern is critical infrastructure. As I show in the map above (Figure 2), and in my discussions in chapters 3, 5 and 6, the GOC is very much a part of managing Indigenous resistance as a “brokerage” mechanism connecting police and political realms.

In June 2014, an email was leaked to a journalist with the *Ottawa Citizen*. This was an email sent by the GOC to its partners asking them to assist the GOC with “compiling a comprehensive listing of all known demonstrations which will occur either in your geographical area or that may touch on your mandate.” The GOC will disseminate the compiled information to its partners, although sensitive information “will only be used by the GOC for our Situational Awareness” (Pugliese 2014).

Most commentary in response to this leak has revolved around the questionable “legality” and constitutionality of monitoring peaceful protests and the inconsistency with liberal democratic societies—in short, describing these practices as *illiberal*. As I have critiqued, this is a problematic characterisation because it presumes a *legitimate* scope for monitoring— i.e. threats to public order, which, as I have argued, tends to legitimate the monitoring of Indigenous

communities. Other commentators have linked the GOC's request to political motivations of the current Conservative government. Based on my findings, there are quasi-autonomous dynamics at work independent of the intentions of a specific government executive. First, the widening of monitoring objectives reflects an extension of institutional mandate, which I argue occurs in part to maintain its relevance (and existence) amid the plethora of intelligence producers and competition for funding. As I noted in chapter 6, the GOC's relevance has been questioned within the law enforcement realm. Second, this is a clear example of the redundancy of intelligence. Considering law enforcement and CSIS concerns to maintain secrecy and security of their intelligence (and sources), it is likely that the main type of information that would be shared with the GOC would be *open source*. The GOC's compiling of this information is a (re)packaging of information that has already been compiled elsewhere. Third, and most importantly, this reflects the expansion of pacification practices that have already been *normalised* in the case of Indigenous peoples.

Throughout the dissertation and in this concluding chapter, I have discussed only some of the protests and direct actions that reflect the ongoing processes of settler colonialism. With every encounter, the settler colonial relationship is reshaped. The most recent events discussed in this concluding chapter reflect what Gordon (2010) argues is an intensification of (potential) conflicts driven by the expansionist impulses of global capitalism and accumulation. In the current conflicts over energy projects, there is already evidence of greater collaboration between corporate and state security activities. As I have discussed, the critical infrastructure security strategy *depends* on the partnership of corporate owner-operators with state intelligence producers. Mapping the interfacing of the "in-house" operations of critical infrastructure owner-operators and resource extraction companies with the various police-security state institutions can make visible (a) the potential extension of *invasive police power* ("legitimate violence") and (b) the expansion of the national security blanket of *secrecy* over the operations of corporate entities. In light of the conditions that seem to be setting the stage for

future conflicts around energy projects further work is needed that addresses the symbiosis of the state and the corporate sector. Although I have alluded to it, it is not something I took up substantially in the dissertation. This would contribute to theorising and unsettling the binary of public/private policing in terms of the role played by the corporate sector in pacifying threats to the status quo of social, political and economic relations to facilitate the accumulation of wealth as a central driver of settler state formations.

APPENDIX A

List of Texts Obtained through Access to Information / Freedom of Information Requests

This list only includes the texts specifically referenced in the dissertation. They are divided according to the department from which they were obtained and grouped by the request file number. The documents are listed chronologically.

File Number	Description of Document
Royal Canadian Mounted Police	
A-2012-07569	RCMP. Tactical Operations Manual.
A-2011-05620	RCMP. 2004 (September 1). "Subject: Sunpeaks" [email].
GA-3951-3-05023/8	RCMP. 2006. Compensation, expense and travel claims for 'Project O Caledonia'.
2007-02463 (informal)	RCMP. 2007 (January 23). Project Plan RCMP Criminal Intelligence. RCMP. 2007 (February 12). "Critical incident Program – Aboriginal Initiative."
A-2013-05807 (informal)	RCMP. "Tactical Troop Use of Force Guidelines" [deck]. RCMP. 2007. "Decision Making Process: Police Crowd Management Mandates" [deck]. RCMP. 2006-7. "Tactical Troop Crowd Psychology" [course training presentation].
GA 3951-3-00060/11 (informal)	RCMP. 2007 (January 4). "Subject: Ministerial Deck for PM" [email]. INAC. 2007 (March 30). "Aboriginal Hot Spots and Public Safety" [deck]. CSIS. 2007 (May 3). "Subject: Message from ITAC Director, Daniel Giasson" [email]. RCMP. 2007 (May 16). Briefing Note to the Commissioner (BN CCAPS-07-067). RCMP. 2007 (June 4). Briefing Note to Deputy Commissioner (BN CCAPS-07-069). RCMP. 2007 (June 12). Briefing note to the Commissioner (CCAPS-07-077).
GA-3951-3-04344/09	RCMP. 2007. Aboriginal and Community Public Safety Situation Reports [April 11-June 30].
A-2012-00176	RCMP. 2007. Aboriginal and Community Public Safety Situation Reports [July 1 – December 31]
A-2012-00178	RCMP. 2007 (September). The National Day of Action Debrief – Draft.
A-2012-06995 (informal)	RCMP. 2007 (June). "Threat Assessment of Aboriginal Communities of Concern."
A-2012-0660	RCMP. 2008 (May). "Threat Assessment of Aboriginal Communities of Concern."
GA-3951-3-03434/11 (informal)	RCMP. 2009 (March 3). "NAPS 2009 POWPM" [deck]
A-2011-06291	RCMP. 2009 (June). "RCMP Criminal Intelligence. Aboriginal Joint Intelligence Group. Aboriginal Communities, Issues, Events and Concerns 2009/10."
GA-3951-3-00094/12 (informal)	RCMP. 2009 (November 13). "Subject: Aboriginal JIG" [email].
GA-3951-03510/11 (informal)	RCMP. 2011. "G8/G20 Summits Integrated Security Unit (ISU). Royal Canadian Mounted Police (RCMP). After Action Report (AAR)."
Indian and Northern Affairs Canada / AANDC	
A-2013-00499	INAC. 2006 (November 28). "Rebuilding INAC's Emergency Management Assistance Program (EMAP). ARDG Forum" [deck].
AI-2012-00081 (informal; copy of 2011-710)	INAC. 2007 (February 23). "Communications/Media approach around 1st anniversary of Caledonia - version #928537." INAC. 2007 (June 12). "Subject: Re: Six Nations / Caledonia May 30 offer – Canada's response to Six Nations" [email]. INAC. 2007 (September 28). "Strategic Communications Plan: Negotiations with Six Nations and Community Relations."
A-2011-01156	Holman, Brad. 2007 (July 31). <i>Final Report: Formative Evaluation – Indian and Northern Affairs Emergency Management Assistance Program. Ottawa: Indian and Northern Affairs Canada.</i>
2011-02004	Ministry of Aboriginal Affairs. 2007 (June 29). "FW: NDA Bulletin - NDA 29-006" [email]. INAC. 2007 (n.d.). Background Advice. [Ontario Region]. INAC. 2007. EIMD Weekly Summaries, Weekend Summaries, Notifications [January 1 – December 31]

A-2012-02003	INAC. 2008 (September 25) "Subject: Fwd: National Day of Political Action on September 29, 2008" [email]. INAC. 2008. EIMD Weekly Summaries, Weekend Summaries, Notifications [January 1 – December 31]
A-2010-00831 (informal)	INAC. 2008 (December 30). "Protest Wed Jan. 7 – 12:00 Barriere Lake Solidarity" [email – forwarded message from RCMP's Aboriginal JIG]. INAC. 2008. EIMD Weekly Summaries, Weekend Summaries, Notifications [January 1 – December 31]
A-2012-00033	INAC. 2009 (February). "National Emergency Management Plan – Draft" RCMP. 2009 (February 17). "Call for protest at Queen's Park in Toronto..." [Aboriginal JIG email to EIMD]. INAC. 2009 (March). "Ontario Region – Incident Management Guidelines Crisis and Emergency Management Unit, Intergovernmental Affairs, Ontario Region, March 2009 – DRAFT." INAC (EIMD). 2009. "Threat/Event: Notification 1 – Members of Six Nations (ON) – Protest – demonstration – City of Brantford – 4JUN2009 – 2268609" [EIMD notification]. EIMD. 2009 (October 28). "Indigenous Sovereignty Week (October 24-31, 2009)" [email to Aboriginal JIG]. INAC. 2009 (December). "Operational Plan for Managing Protests at Indian and Northern Affairs Canada (INAC) Offices" INAC. 2009 (December). Ontario Region Emergency Management Plan. INAC. 2009. "Brantford Incident Management System, Ontario Region." INAC. 2009. EIMD Weekly Summaries, Weekend Summaries, Notifications [January 1 – December 31]
A-2012-00257	INAC. 2010 (August). "Incident Report 2009-2010: Emergency and Issue Management at INAC."
A-2012-00256	INAC EIMD. 2010 (June 21). "Concept of Operations Template – G8/G20 Summits".
A-2012-1155	INAC EIMD. 2010 (April 8). After Action Report – Vancouver 2010 Olympic and Paralympic Winter Games INAC EIMD. 2010 (August 4). After Action Report – Vancouver 2010 Olympic and Paralympic Winter Games INAC EIMD. 2010 (August 26). After Action Report - G8/G20 Summits.
A-2011-01157	INAC. 2010. EIMD Weekly Summaries, Weekend Summaries, Notifications [January 1 – December 31]
A-2012-00032	INAC. 2011 (February 10). "Subject: Civil Unrest" [email]. INAC 2011 (March 1). "Capacity & Preparedness for Civil Unrest – Engaging Law Enforcement and Intelligence Partners (Information for Deputy Minister)" [draft briefing note]. INAC 2011 (March 10). "Capacity & Preparedness for Civil Unrest – Engaging Law Enforcement and Intelligence Partners (Information for Deputy Minister)" [briefing note]. INAC. 2011 (August 23). "Subject: Fwd: Incident Report status update" [email]. INAC (EIMD). 2011. "EIMD Logic Models for Issuing Notifications" [deck]. INAC. 2011. EIMD Weekly Summaries, Weekend Summaries, Notifications [January 1 – December 31]
A-2010-02632	EIMD Weekly Summaries, Weekend Summaries, Notifications (August 2010 to Jan 31, 2011)
A-2012-01674	INAC. 2012. EIMD Weekly Summaries, Weekend Summaries, Notifications [January 1 – December 31]
A-2013-00501	AANDC. 2013. EIMD email distribution lists [screen shots of address groups].
2012-01680	AANDC. 2013. "Cheat Sheet – Supplemental Flood, Wildland Fire Season and Other Issues Update as of Tuesday January 29, 2013."
Department of National Defence	
AI 2009-00443 (informal)	DND. 2006 (April 24). CFNCIU Counter-Intelligence Report. CFNCIU. 2006 (April 24). "Threats to Security – Demonstrations – Native Protests – Further to CIC INTREP 012-06" (CIC 013-06).
AI-2009-00442 (informal)	CFNCIU. 2006 (December 6). Counter Intelligence Information Report (2106-15-8-5).
A-2006-00447 (informal)	Canada Command. 2006 (May 3). "Commander's Planning Guidance – CF Policy in Support of Law Enforcement Agencies in Caledonia and Other Linked Sympathetic Demonstrations" [memorandum]. CFNCIU. 2007 (April 4). Liaison report (File No. 2106-10).

	DND. Incident Management System of Canada Command [entry re: probable blockade"].
A-2007-00590 (informal)	DND. 2007 (May 10). "ADM EMC Sub-Committee Meeting on Aboriginal Issues" [email]. DND. 2007 (May 31). "Subject: 30 May ADM EMC Sub-Committee on Aboriginal Issues" [email]. DND. 2007 (June 7). "6 Jun ADM EMC on Aboriginal Issues" [email]; DND. 2007 (June 26). "Subject: RE: ADM EMC Sub-Committee on Aboriginal affairs" (email).
A-2010-00659	CFNCIU. 2010 (June 16). JTFC Counter-Intelligence Summary. CFNCIU. 2010 (June 22). Counter Intelligence Information Report.
A-2012-01839 (informal)	CFNCIU. 2012 (December 18). CFNCIU Counter Intelligence Report.
A-2013-00679 (informal)	DND. 2013 (May 7). "Issue: CFNCIU reports on road protests" [media response line].
Public Safety Canada	
1336-A-2007-0121 (informal)	RCMP. 2007 (February). "RCMP Response to Aboriginal Occupations and Protests" [deck]. Public Safety and Emergency Preparedness Canada. 2007 (March 30). "Response to Aboriginal Occupations and Protests" [briefing note]. PSC. 2007 (April 30). Minister's Dinner with the National Chief of the Assembly of First Nations (AFN), Mr. Phil Fontaine, May 7, 2007" [briefing note]. PSC. 2007 (May 30). "ADM-EM Meeting Summary of Discussions" [email].
1336-A-2009-0052	Public Safety Canada. 2007 (May 8). "Federal Coordination Framework for the AFN National Day of Action 29 June 2007." ITAC. 2007 (May 25). "ITAC Threat Assessment: Aboriginal Protests – Summer 2007" (07/34).
A-2009-00070	PSC. 2007 (May 16). ADM-EMC Planning and Operations Sub-Committees – Aboriginal Issues; Summary Record [meeting notes]. PSC. 2007 (June 6). DM-EMC Planning and Operations Sub-Committees – Aboriginal Issues; Summary Record [meeting notes].
A-2012-00438	GOC. 2012 (January 3). "Addendum to ST122-12G First Nations Protests" [report]. GOC. 2012. Situation Reports ST122-12A, ST122-12B, ST122-12C, ST122-12D. GOC. 2012 (December 28). "Notification – Incident NT122-12" [email]. PSC. 2013. "GC Contingency Planning Scenario – FN Protests & Potential Escalation" [deck].
Canadian Security Intelligence Service	
117-2008-123	CSIS. 2006 (March 30). "Native protesters in Caledonia Ontario refuse to end demonstration despite court order" (06/71). CSIS. 2006 (April 21). "Native demonstrations in Caledonia, Ontario" (06/91) [CSIS Threat Assessment Lasers]. ITAC. 2007 (May 11). "Threat Assessment: Aboriginal Protests – Summer 2007" (07/30). ITAC. 2007 (June 21). "ITAC Threat Assessment: Aboriginal Protests Summer 2007" (07/46).
2012-210	ITAC. 2008 (April 16). "ITAC Situation Report: Aboriginal Protests - Summer 2008" (08/32). ITAC. 2008 (June 20). "ITAC Special Assessment – Aboriginal Protests - Summer 2008" (08/87).
117-2012-95 (informal)	ITAC. 2010 (December 30). "Canada: Biannual update on the threat from terrorists and extremists" (10/151-E).
117-2012-476 (informal)	ITAC. 2012 (April 19). "Canada: Biannual update on the threat from terrorists and extremists" (12/35-E).
A-2012-384 (informal)	ITAC. 2013 (January 24). "Activist group plans to deliver a message to Ottawa" [Threat Laser].
Ministry of Community Safety and Correctional Services (Ontario FIPPA)	
A-2012-03063	OPP. 2011. Provincial Liaison Team Review 2009-2010. [includes PLT Standard Operating Procedures, and Position Descriptions]

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Portions of chapters 5 and 6 appear in my chapter, "Beyond the Blue Line: Researching the Policing of Aboriginal Activism Using ATI." Pp. 209-233. This excerpt is revised with permission of the Publisher from *Brokering Access: Politics, Power and Freedom of Information in Canada*, edited by Mike Larsen and Kevin Walby. © University of British Columbia Press 2012. All rights reserved by the Publisher.

Portions of chapters 1, 2, 4 and 6 appear in my article, "Pacification and Indigenous Struggles in Canada". *Socialist Studies* 9(2):57-77. © Tia Dafnos 2013.

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