

MAY 1993–JULY 1995 — OCCUPATION OF  
THE MILITARY RANGES AND  
SUBSEQUENT EVENTS

**6.1 May 1993 — Occupation of the Ranges at CFB Ipperwash**

On May 6, 1993, long-building frustration resulted in a decision by a group of Stoney Point<sup>1</sup> people to move onto a portion of the Stoney Point lands that were being used for the army camp. Chief Tom Bressette and the Kettle and Stony Point First Nation were talking to the federal government about the return of the lands, but some members of the Stoney Point group felt that little was happening. The purposes of the occupation were to reclaim the land and to get the apparently stalled negotiations moving again.

Prior to May 6, 1993, Stoney Point people had met with representatives of the Department of National Defence (DND) to inform them that people were preparing to enter the army camp. They did not say how long they intended to remain, but they did say that it would be peaceful and that they would not cause a problem for the cadets at Camp Ipperwash. According to Carl Tolsma (at the time, known as Carl George),<sup>2</sup> who saw himself as a spokesperson for the group, the representatives of DND said “no problem.” Carl Tolsma intended to step out of the picture and let Chief Bressette and the Band Council take over once the federal government was involved and a process for communication had been established.

On May 6, 1993, Carl Tolsma went to the OPP Forest Detachment and met with the Detachment Commander, Staff Sergeant John Carson, to tell him that he and his group intended to enter the army camp. Notices signed by Carl George as Chief of the “Chippewas of Stoney Point First Nation #43” and by Maynard T. George as Councillor were left with John Carson.<sup>3</sup> The notices stated, among other things:

We have come home in the name of our people, tradition and custom.

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1 Referred to by the military as the Stoney Point Group or SPG.

2 Carl George changed his name to Carl Tolsma in 1997. He will be referred to as Carl Tolsma except where a document refers to him as Carl George.

3 “Chippewas of Stoney Point First Nation #43” is the name that the occupiers of the army camp used to describe their community at the time and is not a recognized Band under the *Indian Act*.

We are not claiming that Stoney Point Reserve No. 43 in the name of only those uprooted, but also in right of the (1st) first and (2nd) second and third generation children, who's parents and grandparents have been victimized by the taking of their lands (farms) in 1942 ...

We request all outside First Nations, “to stay away from our legal take-over, that misrepresentation, or civil disobedience may not occur.”

We are not hindering the elected Kettle Point Council or people from joining us “but, they do not represent us, in any way, shape or form.”

Staff Sergeant John Carson wrote to his superior, the Superintendent for No. 1 District, headquartered in Chatham, reporting on his meeting with Carl Tolsma. The letter stated that “Chief George” indicated that the occupation would continue until negotiations with the federal government were concluded, that approximately twelve people would take part, and that it would be a peaceful action. Carson reported that the OPP Detachment would monitor the occupation to keep the peace where appropriate and provide traffic control if needed, and that his officers would enter the base only when invited by military officials.

Although Carl Tolsma was sometimes called Chief, he was uncomfortable with the title and identified himself as a spokesperson. He testified at the Inquiry that when he walked onto the lands, he intended to represent the interests of the small group he was with and also Kettle and Stony Point First Nation, “everyone as a whole.”

On May 6, 1993, Carl Tolsma entered the army camp through the main gate to the built-up area along with fifteen to thirty other people, including Clifford George, Abraham George, Rose Manning, Maynard T. George, David George, Clayton George, Glenn George, Dudley George, Marcia Simon, Kevin Simon, Marlin Simon, Gerald George, Warren George, and Stacey George. They brought tents and an old eight-foot trailer. Once they were in the camp, they alerted the media to make it known to the public, DND, and governments that they would not be leaving the army camp and that they wanted their land returned. The people entered peacefully, without weapons or guns. No police were present, and no one requested that police go to the army camp that day.

Some but not all of those who entered the army camp on May 6 stayed overnight, taking up residence indefinitely. Those who did put their tents and trailers in three locations along the north side of the interior road that runs parallel to Highway 21, between the road running north on the west side of the grenade range and the road running north on the east side of the transition range.

The mood amongst the group that entered the camp was jubilant. People were overjoyed to be back on the land. Some later noted their satisfaction at the idea of encroaching on the military, rather than being encroached on, as had so long been the case.

Marcia Simon, the daughter of Melva George and Dan George Sr., described the older people's reaction to being on the lands:

And these old people that went in there, some of them they would say things like it was the happiest days of their lives. You could see the tears in the back of their eyes. They were so happy [because] they didn't think they would ever see that time [when they would be back on Stoney Point lands].

Ron George, the son of Sylvia George and Robert George Jr. ("Nobby"), visited the army camp once every couple of weeks or so after the occupation in 1993. At the Inquiry, he described the feelings of freedom and connection that resulted from being there:

It seemed to me like it ... felt when I was a kid, that you could finally go back in there without having to be subject to somebody else's approval and the parameters that existed by a fence. So, I felt kind of free to do that.

And again, if you think about it, from my perspective, at least for me personally, we had come from — we, I mean the people, had come from a point where you know, in 1990 Dan George finally returns, and now, we had access to it ...

So, it was like this kind of connection back with it. And I know that sounds warm and fuzzy, but that's the way it was.

The Chief and Council of the Kettle and Stony Point First Nation did not sanction the occupation of the army camp, though they continued to call for the return of the lands. In their press release following the occupation, the Chief and Council said they were satisfied that their discussions with the federal government were progressing, and expressed concern that the actions of Maynard T. George and his followers could hamper those discussions. In the press release, Chief Bressette confirmed his support for Elders such as Clifford George, who wanted to return to their homeland.

Around the time of the occupation of the military ranges, Carl Tolsma had open lines of communication with the OPP. For example, on May 11, 1993, Carl Tolsma was concerned about tension between other Band members and the Stoney Point group, and requested assistance from the OPP. As Mr. Tolsma explained at the Inquiry: “[A] lot of people didn’t like us being there ... because we were on the land.” They “said that we were on their parents’, grandparents’ property and they didn’t like the idea of us being there.” In addition, Mr. Tolsma had a good working relationship with Staff Sergeant Bouwman of the OPP Grand Bend Detachment, who would drop by at the army camp to give him advice and other assistance, “more or less just to keep the peace.”

John Carson, promoted to OPP Inspector on May 10, 1993, was appointed Incident Commander with respect to Ipperwash on approximately May 12, 1993, by Chief Superintendent Chris Coles. As Incident Commander, he was responsible for the OPP response to events involving the occupation of CFB Ipperwash. He was made Incident Commander because he had been the Detachment Commander in Forest for the previous four years and understood some of the issues and knew some of the people involved. CFB Ipperwash was within the geographical area of the Pinery Park Detachment, which was a very small detachment. Carson was to manage the issue at CFB Ipperwash with resources from both the Forest and the Pinery Park Detachments and work with both of the Detachment Commanders.

On May 18, 1993, Maynard T. George contacted the Acting Detachment Commander at the Forest Detachment and said that the “Stoney Point First Nations” people would be serving a notice on Camp Ipperwash personnel and that following that service, structures would be moved onto Camp Ipperwash property. The Acting Detachment Commander attended at the site, met with Carl Tolsma and Maynard T. George, and was provided with a copy of the notice. The notice said that no one should resist or willingly obstruct the legal seizure and repossession of the lands named in the letter. Maynard T. George said that a similar notice would be served on a Ministry of Natural Resources (MNR) employee in relation to the movement of buildings onto Ipperwash Provincial Park property.

A wire fence runs along the southern boundary of the army camp, with locked gates permitting access from the area north of Highway 21 to the army camp. On May 18, 1993, Carl Tolsma and Bert Manning cut a lock on one of the gates located at the east end of the army camp near Outer Drive. The point of entry has been described as being near the quarry. Approximately fifty people were present when the lock was cut. The gate was opened and numerous people, vehicles, and a small structure went onto base property. Clifford George described this

as walking in officially. Again they went in peacefully, without weapons: their only goal was to occupy their own lands.

Over the summer of 1993, a number of families entered the army camp including the Manning family, Glenn George and his family, the Cloud family, Clifford George, and Marcia Simon. Some people stayed, while others came in for a weekend and left.

Dudley George also moved to the army camp. In 1993, about a month after the occupation began, Dudley George was given a trailer that had been donated to the Council for whomever might need it. Dudley George treasured his new home, telling Clifford George it was the first home he had ever owned. He moved in full-time. Dudley felt strongly about the land: he had spent his life living in Sarnia, Kettle Point, Forest, and even Guelph, but he knew Stoney Point was where he belonged.

On May 19, 1993, Inspector John Carson's assignment as Incident Commander was confirmed. At that time, the military would have preferred it if the OPP would simply go into the army camp and arrest the occupiers for trespass. The OPP felt that this was not the appropriate approach: instead, they wanted the military to act pursuant to their responsibility for the security of the military base under the Defence Controlled Access Regulations (DCARS), which provide for the removal of trespassers. The OPP would not go into the army camp, but would receive arrested persons at the main gate and let the courts determine whether they had trespassed.

Occupations were normally handled through the use of court injunctions. The OPP's preferred approach was to wait for an injunction to be obtained before taking any overt action to remove people from an occupied territory. The OPP would not seek the injunction: the owner or landlord of the property would be required to apply to the court for the appropriate injunction. The OPP would then do as directed by the court.

Around this time in May of 1993, John Carson did some research regarding the ownership of CFB Ipperwash. He reviewed copies of documentation from 1942 regarding the appropriation of the property and quickly understood that the Stoney Point people's expectation that the property would be returned to them was very reasonable. The concept of "colour of right" was discussed internally by the OPP and between the OPP and military officials. "Colour of right" can afford a defence to people who might otherwise be trespassing but have an honest belief that they are entitled to property. John Carson felt that there was a lot of room for debate on the question of whether the Stoney Point people were trespassing.

Detective Sergeant Mark Wright first became involved on May 20, 1993, in the situation at Ipperwash when he called the Forest Detachment and offered to work on the criminal investigation of any occurrences in the Ipperwash area.

On May 21, 1993, Inspector Carson convened a planning meeting at the OPP District Headquarters in London to develop an operational plan for the occupation of CFB Ipperwash. Under the heading “OPP Action,” the operational plan stated:

We are aware that this is a very delicate and sensitive issue that can only be resolved in the political arena. We are sensitive to both the rights of the First Nation People and the Department of National Defence and that both believe they have a lawful right to the land. Our personnel involved in policing the event are fully conscious of the sensitivity of the issue and the rights of all parties. We will essentially act in a facilitating role, ensuring that all parties are permitted to execute their respective rights ...

A revised operational plan of June 2, 1993, dealt with the situation of an injunction sought by the DND. In part it stated:

If the injunction orders the Ontario Provincial Police to remove the occupiers, we will attempt to negotiate a peaceful resolution prior to the expiration of the time limit subject to the directions contained in the injunction.

The occupiers will be instructed to remove themselves and their property (tents, trailers and other structures). On failure to do so, the occupiers will be arrested and charged with violation of the injunction.

The OPP operational plan for Camp Ipperwash provided that, in accordance with OPP policy, the military would enforce the *Criminal Code* and provincial traffic statutes and regulations, and the OPP would deal with offences of a serious nature such as murder, manslaughter, or any serious sexual assault. The military would report such offences to the nearest detachment. Under the original and revised operational plans, the OPP were constrained as they could not negotiate with respect to land issues; however, they were prepared to negotiate if any criminal issues arose. However, the operational plans developed in May and early June of 1993 were never implemented because no injunctions were ever obtained by DND for the removal of the Stoney Point people, and no serious offences were reported.

During the period when the Stoney Point people were moving onto the Stoney Point lands at the army camp, the possibility of a similar situation at Ipperwash Provincial Park was raised. During the afternoon of May 18, 1993, Scott Ewart, a bailiff, served a notice on an MNR student summer employee at Ipperwash

Provincial Park. The notice requested that the recipients not resist or willingly obstruct the legal seizure and repossession of the identified lands. It said that structures would be moved into Ipperwash Provincial Park. The notice was signed by Carl George as Chief, and by Councillors Rosalie Manning, Marlene Cloud, Janet Cloud, Gordon Cloud, and Clifford George. The OPP advised Superintendent Les Kobayashi of Pinery and Ipperwash Provincial Parks of the possibility of an occupation of Ipperwash Provincial Park.

A letter dated May 19, 1993, and signed on May 20, 1993, by Carl Otto George as Chief, and by Maynard T. George, Rosalie Manning, Janet Cloud, Clifford George, and Marlene Cloud as Councillors, proposed a co-management agreement for Ipperwash Provincial Park for the 1993 summer program. The Stoney Point group claimed to be the owners of the property on behalf of Stoney Point First Nation Reserve Number 43. The proposal contained in the document was as follows:

1. a structure of approximately 6 metres square or 20 feet for an information booth on Native Title and History;
2. equitable division of the 266 campground sites for 50/50 entitlement, utilizing regular Ipperwash documentation for the 1993 season;
3. uses of defined areas for historical plaques, commemorating the up-rooted families and veterans who died, while waiting to return home;
4. a ceremony on Remembrance Day, in right of the living veterans and landowners at Stoney Point, with MNR officials and other veterans.

The letter states that “[s]ome of the lands within Ipperwash Park are sacred burial grounds,” and “these areas must be recorded and documented by our First Nations structure.”

On May 19, 1993, Inspector John Carson spoke with Ron Baldwin, District Manager of the MNR Aylmer office, about potential activities at the park.

On May 26, 1993, Chief Tom Bressette met with an MNR representative, Terry Humberstone, and they agreed that Maynard T. George should pursue the claim with respect to Ipperwash Provincial Park with the federal government. Chief Bressette told the MNR that the Kettle and Stony Point First Nation did not recognize Stoney Point as an official First Nation nor did they condone the actions of Maynard T. George and his group. Chief Bressette expressed his frustration with the negotiations with the DND, who in his opinion were not negotiating in good faith.

During May and June, the occupiers served more notices with respect to the army camp. For example, a Notice of Trespass dated June 9, 1993, signed by Carl George as Interim Chief, Stoney Point First Nation Number 43, required the military to vacate within thirty days.

In June 1993, the Chief and Council of Kettle and Stony Point First Nation reported that DND was prepared to enter into “official negotiations” with the Chippewas of Kettle and Stony Point concerning Stony Point/Ipperwash and emphasized that the “interests of the people [would] be addressed through the elected Chief and Council of the Chippewas of Kettle and Stony Point.” The individuals camping on Stony Point were encouraged to attend a meeting with DND and to bring a copy of the location ticket in which they were claiming an interest.

Over the summer of 1993, discussions took place between representatives of Kettle and Stony Point First Nation and those of the Stony Point group to try to work out their relationship. Meetings were held with representatives of both groups and in Toronto with Chief Gordon Peters of the Chiefs of Ontario. As well, efforts were made to retain experts jointly to review the land claim.

In June 1993, Maynard T. George repeated the information regarding the burial ground contained in the May 19 letter to Park Superintendent Les Kobayashi during a meeting. In June 1993 MNR communicated its position to Maynard T. George that “through third party purchase the Ontario Crown is in lawful possession of those lands comprising Ipperwash Provincial Park.” The MNR did not take a position regarding the claim that there was a burial ground in the park.

By the end of June 1993, it was clear that the military had decided not to seek an injunction. The aim of the DND was “to arrive at a long-term peaceful solution to the difficulties presented by the illegal occupation of Camp Ipperwash by the SPG [Stoney Point group].” The DND thought that the assistance of the OPP would likely be required as “the appearance presented by the Ontario Provincial Police would be less confrontational than unilateral action on the part of the [f]ederal authorities.” The OPP’s position remained the same: they would only take possession of persons arrested by the military at the main gate. As a police agency, the OPP remained neutral.

## **6.2 Summer 1993 at Stony Point**

Initially the occupiers camped on one side of the steel bridge along Highway 21, in an area east of the rifle ranges. People then moved into the ranges area within a couple of weeks. By early July there were campsites running along the inside of the road running parallel to Highway 21 from the area on the east side of the camp near Outer Drive, to an area just to the east of the built-up area of the army

camp. They cleaned up brush and set up camps and tents. Trailers and a school bus were later moved in. Some, like Glenn George, slept in vehicles initially, and then built more permanent dwellings.

The occupiers received material and other forms of assistance from a variety of sources. Friends and relatives visited to show their support and to bring supplies to those who were living there. Supporters also came from other First Nations. Various groups, such as Christian coalitions, the Mennonites, and the Canadian Auto Workers, became aware of the occupation and arrived to demonstrate their support and provide assistance.

Within a month of the occupation, a sacred fire had been lit. It burned from May until the end of October, twenty-four hours a day, seven days a week. First Nations witnesses testified that when tending the fire, a fire-keeper is expected to have been free of drugs and alcohol for at least three days in order to have a clean mind and clean spirit. Kevin Simon, Marlin Simon, David George, Dudley George, Joe George, Warren George, and Glenn George served as fire-keepers. People gathered at the fire to share stories, knowledge, documents, and memories about the area and the occupation.

The Stoney Point people planted a peace tree in the army camp. A ceremony was held to “bury the hatchet.” The ceremony signified that no weapons would be used in the reclaiming of the land and that it would be peaceful. As Kevin Simon explained:

We were there just to raise awareness of what was happening and through that ceremony, we were able to show our intent to ... each other and to outsiders that we ... didn't mean nobody harm. We were there in a peaceful manner.

To its participants, the ceremony represented a sacred commitment to pursue the return of the lands in a peaceful way.

By the end of the summer 1993, the occupiers had built more permanent structures on the army camp lands. The largest building, located to the west of the road running north on the west side of grenade range, was initially a church with a steeple, intended as a place of refuge, but the steeple was later removed. The building was used mostly as a meeting place and referred to as the “Argument Hall.” Roderick George (“Judas”) testified: “It’s where everybody usually ended up in an argument.” Meetings were held at the Argument Hall for a variety of reasons: to discuss new developments or announcements by the government, and to celebrate birthdays.

### 6.3 Marcia Simon’s Teaching about the Past and the Traditional Sense of a Warrior Society

At the army camp, Marcia Simon and others, including Abraham George (“Hamster”) and Melva George, undertook to teach the traditions, language, and history of the Anishnabek people, much of which had not been taught to the young people. The classes began in 1993 and continued into 1995.

A society of young people was formed among the occupiers in the summer of 1993. It developed in part out of Marcia Simon’s lessons and was based on fulfilling the obligations of a warrior to the community. She had taught them that a warrior’s primary concern is not with himself. He needs to do whatever needs to be done in the community. A warrior’s obligations are to protect the land, the people, the women, the children, and the Elders; the past (ancestors), the present (people living in the community now), and the future (future generations).<sup>4</sup>

David George, Clayton George, Marlin Simon, Kevin Simon, Glenn George, and Dale Plain George were amongst those who participated — different people attended the meetings and classes, on and off. Anyone who was Anishnawbe from Stoney Point could be a member. Women were also involved. Initially it was going to be called a “Warrior Society,” but because the media seemed to believe that people in warrior societies are masked and armed, a different name was discussed. Abraham George gave the society the name “Etwaagnikejig,” which he said meant “nation builders.” Kevin Simon understood his duties as a member of the nation-builders’ group to be as follows:

Duties of being part of the Etwaagnikejig were to basically help one another, help out [E]lders, cutting firewood. If we were lucky hunting, we’d share some of the meat and fishing, [and] so on.

And it also included duties of learning the history and the language and the culture that we were being taught at that sacred fire. And to act in the manner of someone that learned and knew of those things, and be proud of who we were, where we were.

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4 Although not one of the members who attended the sessions with Marcia Simon, Elwood Tracy George testified as to his understanding of what it means to be a warrior, which is consistent with that passed on by Marcia Simon. Similarly, Ron George’s understanding of a warrior is as a protector of lands, and as people who work for the good of all members of the community. Carolyn George testified that to her, most Natives are warriors and that living up to one’s responsibilities determines whether or not one is a warrior. Those responsibilities are: protecting the lands; returning the lands; protecting the women and children; public speaking for the good of the people; and ensuring there is food for the community.

We weren't trespassers or squatters or everything else that they were calling us in the paper at the time. It was a — I guess a source of pride and something for future generations to ... to be proud of too.

Consistent with the obligations of a warrior, the group had meetings to discuss the community's needs, collected firewood and had a woodcutting bee, organized birthday parties, conducted patrols so they would be present as witnesses to anything that might happen, assisted the Elders with winterization, and helped with fundraising for their leadership (Glenn George and Maynard T. George) so that they could travel. The group was not militant.

From May until early August 1993, Gerald George and several others acted as security, walking around the perimeter of the camp along Highway 21. If anything happened, they were supposed to tell the Elders, Carl Tolsma, Robert George Jr., or Maynard T. George. They understood their role as one consistent with that of a warrior or peacekeeper.

#### **6.4 Interactions Between the Occupiers and the Military**

Although there were some incidents and tension between the occupiers and the military, the period following the occupation of the ranges was basically peaceful. No formal discussions took place between the Stoney Point people and military personnel, but some people felt that there was an understanding that the Stoney Point people would stay in the ranges area and not go into the built-up area and that the military people would not bother the people who were camping in the rifle ranges.

At the Inquiry, the occupiers described some harassment by the military. The military patrols were loud and annoying, with vehicles driving by at all hours of the night. Cadets yelled obscenities at the occupiers and called them "wahoos." Military personnel chanted that the occupiers "forgot to pay taxes." One of the occupiers described their relationship with the military between May 1993 and July 1995 as "just kind of one of taunting each other. Kind of like neighbours bickering at each other all the time."

#### **6.5 July 1993 — Toll Collection Incident**

In mid-July, members of the Stoney Point group attempted to charge a fee for entry to the military beach on Lake Huron. They stopped traffic on Matheson Drive at the gate to the military beach and told people that, for \$5, they could use all of Stoney Point Beach. Glenn George characterized the action as part of the group's efforts to raise funds for legal fees and other things.

Inspector John Carson testified that he encouraged Maynard T. George and Glenn George to avoid confrontation with police in relation to this incident. Glenn George testified that he did not recall having such a conversation with John Carson. John Carson also testified that he advised Maynard T. George that the police would have to make an arrest if the road was obstructed.

Three individuals, including Clifford George, were arrested in connection with this incident. Clifford George stopped a car and, before even speaking to the occupants, was put into a cruiser. At the OPP Forest Detachment, Clifford George and the two others were told they would be released if they promised not to go within two miles of the army camp. Because they would not agree, they were taken to the Sarnia jail, and later released on the condition that they stay away from Ipperwash Provincial Park and Matheson Drive. No condition was imposed in relation to Camp Ipperwash.

## **6.6 August 1993 — Incident with Kevin Simon’s Dwelling and Possessions**

Kevin Simon, Marcia Simon’s son, moved to the army camp in the summer of 1993. At the time, he was sixteen years old. He lived in a building on the edge of the rifle range. Kevin Simon collected some unused refrigerators and stoves from an apartment building in London where he was working and stored them inside the building. In August 1993, members of the military came early one morning before it was light to evict him, removing his personal belongings from the building, including the items that he had collected. The items were put on a truck and taken away.

The military said that they were moving property from a range building when confronted by Kevin Simon and several other occupiers. According to the military, a pickup truck was parked in front of the military vehicle and another vehicle pushed the military vehicle into the pickup truck.

Later the same day, the building burned down. The occupiers and the military blamed each other for burning the building.

An investigator was assigned to the incident but no charges were ever laid. The military refused to return the property from inside the building pending the results of its arson investigation. Inspector John Carson thought that the seizure of the property had nothing to do with the arson investigation and that it was wrong for the military to use the excuse that they were holding the property because of the arson investigation. He thought the military should have returned the property. Around this time there was tension between the OPP and the military: the OPP felt that the military should do more regarding these altercations, and the military were annoyed because they felt that the OPP were not doing enough.

The final graduation ceremonies for cadets were to be held on Saturday, August 21, 1993. Members of the Stoney Point group planned to attend as a form of protest and invited other First Nations to come. Carolyn George and other women dressed in traditional clothing. Some people carried banners that said: “Welcome to Stoney Point First Nation.” During the graduation ceremonies, the burned wood from Kevin Simon’s building was dumped on the parade square.

## 6.7 August 23, 1993 — Helicopter Incident

Military helicopters frequently flew over the army camp at night. The occupiers would illuminate them with hand-held spotlights. On August 23, 1993, at 11:00 p.m., Inspector John Carson was advised that two OPP officers had observed a military helicopter flying overhead and heard what they believed to be rifle fire from the ranges area. Subsequently, at approximately midnight, John Carson was advised by the military that a military helicopter had taken a bullet in the tail section. During the night, Inspector Carson directed the base to be secured as a crime scene.

At 1:45 a.m. Inspector Carson went to Robert George Jr.’s residence at Kettle Point. Robert George Jr. (“Nobby”) is the father of Ron George. John Carson requested assistance from Robert George Jr. in communicating to the occupiers that the OPP would be securing the base pending a search. Mr. George thought Carl Tolsma was at the base and would be able to assist.

When Carl Tolsma had been located, John Carson explained to him that vehicles would be checked if they wished to leave or the drivers would be considered to be obstructing the investigation. John Carson told Carl Tolsma that the OPP were in the process of obtaining a search warrant for the army camp. John Carson felt that Carl Tolsma understood what the OPP had to do and that he was going to do his part to communicate to the occupiers what the police would be doing in the hours ahead.

Inspector Carson testified that he had no concerns about entering the army camp during the night on August 24, 1993. Although he was aware that the occupiers were hunters and had access to weapons, he did not believe that anyone would use a weapon against a police officer. After the incident involving the alleged shooting at the helicopter, there was no perceived threat to Ipperwash Provincial Park staff or campers.

Prior to conducting the search, Detective Sergeant Mark Wright and an OPP Inspector met with Chief Carl Tolsma and advised him of the fact that they were about to obtain a *Criminal Code* search warrant and that they were going to enter onto the property and search the area of CFB Ipperwash. The purpose of the advisement was to allow Carl Tolsma time to tell the residents what was going to happen.

The search began at approximately 11:35 a.m. on August 24, 1993, and lasted until approximately 8:30 p.m. The search included the part of the base occupied by the First Nations individuals in the non-built-up area, the eastern part of the base, and then northward, well into the base in the rifle ranges. During the day, additional Emergency Response Teams (ERT) arrived and the search extended to the dunes at Lake Huron on the northern part of the base.

The search was perceived by the occupiers as intrusive and aggressive. David George testified that the police tore his camp apart; threw his dishes all over the place; threw his guitar to the ground; and took items from his camp, including barbed wire, duct tape, twine wire, a pellet gun, and a slingshot. Carolyn George said that the police came “in one big wave right across the whole area,” and ripped open trailers if no one was there to let them in.

Detective Sergeant Wright prepared a case report noting that the following were found: “Several high-voltage hand-held spotlights, one (1) pellet pistol, one (1) flare gun, Military trip wire, several boxes, several rounds of ammunition of various calibre.”

A fired projectile was taken from the helicopter and submitted to the Centre of Forensic Sciences for examination. The examination indicated that the projectile may have been fired from a .270-.30 calibre centre-fire rifle or perhaps a .25 calibre handgun.

Inspector John Carson recommended to the military that the “Forward Looking Infrared Technology” (FLIR) helicopter mission over the army camp cease. FLIR is camera technology that senses and captures images based on the emission of heat. John Carson testified that he believes that the military acted on his recommendation that the helicopter flights stop.

After these incidents, the balance of 1993 was relatively quiet. A Ministry of the Solicitor General and Correctional Services (MSGCS) Briefing Note dated September 24, 1993, states, in part: “Considering the potential for confrontation, conflict between the members of the military, the Natives and the OPP has been minimal.” After referring to the helicopter incident and search, the Briefing Note ends with the statement: “The situation has reverted to the status quo prior to the shooting incident.”

## **6.8 September 1993 — March to Ottawa**

In September 1993, Stoney Point people organized a march to Ottawa to bring attention to the issue of the return of the army camp. A group of approximately fifty to sixty people walked to Ottawa to try to meet with the Prime Minister. They took a petition signed by a substantial number of people. They passed

through towns and reserves along the way to raise awareness among both non-Aboriginal and Aboriginal people. David George described the walk in his testimony at the Inquiry:

A: It was a long walk and it was tough, man, it was real tough.

Q: Did you walk all the way from Stony Point [sic] to Ottawa yourself?

A: Not all the way. I think there was a couple — maybe two or three — days that I couldn't walk at all. There was a lot of people. Almost everybody had days like that where they couldn't walk because of great big blisters on your heel like that, or it feels like there's [a] great big nail coming up through your foot. It's like we were walking anywheres between twenty-five to fifty kilometres a day and this was everybody. It wasn't just three people it was the whole people. Everybody was walking.

Q: And what was the message that you were carrying to Ottawa?

A: We want our land back. We want the army out of there.

At the end of their long journey, no federal official, including Prime Minister Kim Campbell, would meet with them.

While the protest walk to Ottawa was taking place, Dudley George, one of the fire-keepers, was the only one who stayed behind to tend the fire.

## **6.9 Winter 1993–1994 at Stoney Point**

On December 8, 1993, there was a meeting between Stoney Point Councillors, Elders, and residents, and two military representatives at the Forest Golf and Country Club. At the meeting, the Stoney Point people again raised the issue of a burial ground in Ipperwash Provincial Park, asking for “an investigation as to who is responsible for safeguarding the cemetery in the Provincial Park.”

The Aboriginal people who resided at the army camp in 1993, 1994, and 1995 endured difficult conditions. There was no electricity, running water, or facilities of any kind. During the winter of 1993 to 1994, Clifford George, at the age of 73, remained on the army camp in a small shack. Dudley George lived in his trailer. Kevin Simon lived in a small shack that he had built among the trees on the west side of the rifle ranges. Although David George, Joe George, Glenn George, Warren George, Kevin Simon, Marlin Simon, Clayton George, and Stacey George spent time there over the winter, Clifford George and Dudley George were the only people to reside there permanently for the winter.

## **6.10 Efforts for the Return of the Army Camp — Announced Return in 1994**

In fall 1993, Chief Tom Bressette met with Jean Chrétien who was campaigning in the North Lambton area during the federal election campaign. Ovide Mercredi, the National Chief of the Assembly of First Nations, was staying at the Holiday Inn in Point Edward and ran into Jean Chrétien there. Chief Mercredi called Chief Bressette and asked him if he could come to Sarnia very quickly because he had managed to arrange a meeting with Mr. Chrétien. Chief Mercredi told Chief Bressette that Mr. Chrétien was campaigning to be the next Prime Minister and it might be worth his while to come and discuss the land claim issue. Chief Bressette drove to Sarnia and met with Mr. Mercredi and Mr. Chrétien.

When Chief Bressette met Mr. Chrétien in 1993, he asked him, “Mr. Chrétien, when you were Minister of Indian Affairs, you gave a commitment and you failed to live up to it. If you are elected to be the Prime Minister of Canada, what will you do with our land? We’re asking now again. What’s your position on this?” Mr. Chrétien said, “Look, if I’m elected as the Prime Minister, I’ll tell you yes or I’ll tell you no. You have my word on that. I will live up to the word that I gave.”

In February 1994, the DND finally announced that it would return the CFB Ipperwash lands to Indian Affairs. On February 22, 1994, Chief Bressette received a telephone call from the DND informing him that Camp Ipperwash would be closed due to budget restraints and that the land would subsequently be returned to the First Nation. Chief Bressette sent an announcement to all members of the Kettle and Stony Point First Nation, which read in part as follows:

This day will be celebrated as a landmark victory for all members of the Kettle and Stony Point first Nation ... [f]or all those who fought for the return of the land since 1942, and for our generations yet to come. We have persevered and we have won!

As your duly elected representatives we take this opportunity to announce to you, one and all, young and old, that one day soon, these ancestral homelands reserved for us by our forefathers and foremothers, will again be re-united.

There are still many outstanding issues that have yet to be resolved. We cannot let these issues overshadow what has happened here tonight. These issues, including compensation for loss of economic use of the land, the clean-up of the land, and the claims by locatees or location-ticket holders will all be addressed in due time.

But the land was not returned. In March 2005, the First Nation was still negotiating with the federal government to get the land back.

### **6.11 March 1994 — Tribute to Clifford George and Dudley George**

In March 1994, a ceremony was held to honour Clifford George and Dudley George as nation builders. Marcia Simon and other Stoney Point people wanted to recognize the hardy individuals who had stayed at the army camp over the record-setting cold winter in such difficult conditions. They planned a feast and called it “Surviving the first winter back in Stoney Point: A tribute to our Stoney Point Residents.” Clifford George’s and Dudley George’s birthdays were around March 17. Tributes were prepared in honour of them for their birthdays and as nation builders. The tribute to Dudley George said, in part:

A tribute to Dudley, born March 17th, 1957. On March 17, 1957 a little brown baby boy, the eighth “Nagdoonsag” was born in Sarnia to Reginald Ransford George Sr. and Genevieve Pauline Rogers George.

He was given the name Anthony O’Brien George by mother Genevieve who thought an Irish name would be appropriate.

Uncle Nug and Aunt Jenny had already had Karen Gail, Michael Patrick — deceased in 1949, Reginald Jr., Carolyn Joyce “Cully”, Maynard Donald “Sambo”, Perry Neil Watson “Pierre”, and Joan Marie “Hoss”. Later they had David Lorne “Peter”, Pamela Rose “Mouser”, and if that weren’t enough, they adopted Lavern “Razz” to complete their family ...

In May 1993, Dudley’s homeland was opened to him here in Stoney Point — finally some roots, finally a community, and finally a home. Now all he needs is a “kwe” to produce many little “Dadliinsag”, some little Duds and Dudettes ...

And in closing, even though we may not always be serious, Dudley, we do want to let you know that we give thanks to Gzhe-mnidoo for you, for making it through. Dudley, from your cousins, aunts, uncles, brothers, sisters, all your relations — for your dedication and perseverance for hanging in there as a Stoney Pointer, we say “gchi-miigwech”. May you continue to work as a Etwaagnikejig — a Nation Builder for Stoney Point. Gchi-miigwech miinwaa Mno-dbishkaa Giizhgad. Thank you and Happy Birthday!

Dudley George was a joking, happy-go-lucky kind of guy. He had been gifted with an infectious good nature and a joking personality. He had a tremendous sense of humour and a very outgoing personality. Dudley's good friend Marcia Simon was very fond of him:

He — in that trailer on the ranges, he had the kind of personality that made one feel good to be around him. My spirits would always be lifted when I would spend a little time with him. And he liked to tell jokes and it was always a light-hearted, outgoing nature that he portrayed ...

He responded to most any situation with laughter and playfulness. Dudley's sister, Carolyn George, described him as a person that could always make you feel better by making you laugh: "If there was something really serious that — otherwise everybody would be, like, bawling their eyes out, he'd come in and say something just to make you laugh to get the mood lighter and just generally make you feel better."

## **6.12 Summer 1994 — OPP Policy and Training**

Over the spring and summer of 1994 the OPP directed and trained its officers to meet a policy developed for handling occurrences at CFB Ipperwash and in the West Ipperwash Beach area. The stated intent of the policy was to eliminate any confusion as to what the OPP response would be when called by the military to occurrences on the base. In May 1994, Staff Sergeant Wade Lacroix issued a memorandum to all area officers stating the following with respect to the neutrality of the OPP:

It is imperative that the Ontario Provincial Police be seen by all parties as neutral in this ongoing land dispute. Accordingly, it should not be the practice of officers to take coffee breaks and other extended visits at the military base ... In the event of a MAJOR OCCURRENCE such as the Attempted Murder of the military helicopter crew last summer, the ability of investigators to work effectively is dependent upon all involved parties recognizing the Ontario Provincial Police as a neutral law enforcement agency.

Detective Sergeant Wright also issued a memorandum "intended to hopefully clear some of the confusion" surrounding the OPP's position "with respect to policing in the area where the cottages are located on Ipperwash beach,"

following a meeting between OPP representatives and legal counsel and representatives of the West Ipperwash Cottage Owners Association. The Association was concerned about the policing they could expect to receive from the OPP “when they called for police to deal with [N]atives ‘harassing’ them, their families and their property.” Detective Sergeant Wright wrote:

2. The Regional Crown and our Legal Branch have explained that because of the impending legal battle over final ownership of the land [at West Ipperwash Beach] the natives now enjoy what is called “COLOUR OF RIGHT”.
3. As a result, a trespassing charge pursuant to the Provincial Offences Act would, in all likelihood, not result in conviction if brought to court.
4. Accordingly, we have been instructed NOT TO LAY TRESPASS TO PROPERTY CHARGES PURSUANT TO THE P.O.A. with respect to incidents involving natives on the front, side and backyard areas of homes on the beach.

The memorandum then goes on to outline charges that might be considered. It states, among other things: “Remember, we are a neutral entity. We will take enforcement action against ANYONE who breaks the law, regardless of race.”

OPP training material specific to the Ipperwash situation contains a map noting the West Ipperwash Beach area as property “subject of a land claim by the Kettle and Stony Point Band.” In relation to the army camp, the map notes: “[T]he military camp will be returned to native ownership, but negotiations have been slow.” The training material then sets out a variety of potential criminal and other charges that might apply, including the facts that needed to be proved, and information as to arrests and release. Mandatory training took place in June of 1994.

### **6.13 1994 Creation of Operation Maple by the Military and the Arrival of Captain Howse**

At some point in 1994 the military created Operation Maple. Captain Allan Percy Howse was posted to Camp Ipperwash as Officer Commanding in July 1994. He described Operation Maple as a security operation established to maintain timely information flow to higher headquarters on the operation of Camp Ipperwash, to protect the assets of the camp as much as possible, and to provide security to the camp staff. The mission of Operation Maple was “to secure

public property, and to ensure public safety at minimum cost.” With respect to staffing, Operation Maple consisted of officers assigned to Range Patrol and an available detachment of Military Police.

After Captain Howse arrived at Camp Ipperwash, he met with Carl Tolsma to negotiate topics such as the security element of Operation Maple. When Captain Howse arrived, he was instructed that the specific occupied areas and sites were to be observed but left alone. In July 1994, the sites were along Highway 21 in the ranges area and up in the dunes by Lake Huron. Toward the end of November 1994, Captain Howse understood that “since the announcement that the Government intended to return CFB Ipperwash to Native ownership, instances of conflict and confrontation at the Camp had decreased.” He also understood that “[t]he intent of Op Maple is to continue to avoid confrontation, to exercise due diligence with respect to public safety, to minimize the threat to public property through removal of recoverable assets, and to establish a minimum prudent manning level at the Camp.”

As part of Captain Howse’s role as Officer Commanding, he was to oversee the removal of recoverable assets. Recoverable assets included all things that could be picked up and moved. Other than firearms and ammunition that may have been kept by Military Police or those officers assigned to Range Patrol, there were no other weapons, firearms, or ammunition at Camp Ipperwash: the stores of ammunition and weapons had been removed in 1993.

The Military Police were primarily to provide security for the built-up area, and the Range Patrol were to go into the training area (the bush area in the tank ranges and throughout the 2,000 acres, excluding the firing ranges), but not into the camps that the occupiers had set up. There was no change with respect to the non-confrontational approach.

## **6.14 1995 — Growing Frustration**

On March 30, 1995, Captain Howse informed his superiors about the points made in a radio interview with Carl Tolsma:

- a. the occupation of the land (Ipperwash) was taken upon by individuals to show that they were no longer going to back off pressing for the return of the land;
- b. the younger members of the band are difficult to control like in any other community, and the reported violence is blown out of proportion;

- c. the local police (OPP) are not willing to get involved with controlling any native rowdyism;
- d. this behaviour will likely get worse if the Govt. does not move quickly to return the land, and local residents should pressure local MPs to force Govt. action;
- e. the Govt. will not allow the natives to work on the clean-up project, denying natives work; and
- f. accepts the Ministry of Indian Affairs' position that "We are all one Band," and the Govt. should return the land to everyone.

Carl Tolsma was concerned with the length of time it was taking to resolve the issue of the land being returned.

During May 1995, it was reported to the military that Glenn George had been elected leader of the Stoney Point group. Beginning in the winter of 1994, Captain Howse had discussions with Glenn George while on patrol about his views of the land, the history of the land, and why the land was important to the Stoney Point group. At first, the discussions were not confrontational. But from Captain Howse's point of view, some time in spring 1995, things began to change.

Glenn George testified that he had never been elected Chief of the Stoney Point group. He had no desire to be a Chief or Councillor. He had been elected as a Councillor in June 1993, but does not remember being elected in 1994. In his view decisions should be made by consensus, which was part of Aboriginal culture.

In May 1995, Glenn George asked Captain Howse about the military presence in the camp, what the military was doing there, and why the military had not left yet. Captain Howse characterized Mr. George's tone as demanding and accusatory. Captain Howse understood that Glenn George was expressing his frustration that nothing had happened and that they had been waiting for so long for the return of the land.

In spring 1995, the CFB Ipperwash incident log was created. Inspector John Carson discussed with Detective Sergeant Mark Wright the maintenance of a daily reactive and proactive log. The CFB Ipperwash Incidents Log, covering the period May 2, 1994, to August 10, 1995, was intended to record all of the reported occurrences for both the OPP Forest Detachment and Grand Bend Detachment. Reported occurrences were treated like formal reports. OPP members were asked to provide information from their notes so it could be entered into the log. The log was sorted chronologically, by date, time, place, and source. John Carson could see who had been responsible for what so that he could talk to the right person if he needed additional information. The log was kept at the OPP Forest Detachment.

On May 14 and 15, 1995, there was a protest by members of the Stoney Point group and Kettle and Stony Point First Nation: signs were posted around the camp perimeter; thirty to forty people gathered at the gate to protest the planned DND environmental assessment; and people gathered at the Argument Hall in the training area.

In June 1995, Captain Howse thought that, as their frustration increased, the occupiers were becoming more aggressive in order to persuade the military to leave. On June 12, 1995, Captain Howse and another member of the military were conducting a patrol in the training area when stones were thrown at their vehicle. Captain Howse reported to his superiors that the incident showed an increased level of attempts at intimidation, since hard objects such as rocks and oak blocks had been used, rather than apples or potatoes. Captain Howse believed the incident reflected the occupiers' increasing concern and frustration with the length of time it was taking for the military to leave.

Inspector John Carson thought that in mid- to late June 1995, tension increased at the army camp. He felt that this was due to increasing frustration on the part of the occupiers with respect to the slow pace of the negotiations, along with the increased number of altercations between the military and occupiers. At this time, John Carson became aware that Glenn George appeared to be occupying a leadership role.

Around this time, there was an allegation that military personnel had slashed the tires of an occupier's vehicle. Marlin Simon testified that tires were flattened. He also said that the occupiers were always catching military personnel sneaking into their camps. Kevin George testified about an incident in which a drunk army person slashed the tires of his brother's (Marlin Simon's) four-wheeler. David George testified that army personnel slashed people's tents, stole flags, and stabbed tires. Glenn George tried to have the OPP investigate the flattening of tires, but nothing transpired.

On June 27, 1995, there was an incident involving Glenn George. Captain Howse had temporary barricades erected during the evening and night of June 27 on a bridge over a small creek, which separated the built-up area from the training area. Some infrastructure of the barricades stayed permanently on the bridge. On June 27, 1995, the Military Police reported to Captain Howse that Glenn George was at the bridge and was removing the infrastructure from the barricade. Glenn George testified that he removed steel fence posts and barbed wire from the road. Captain Howse went to the bridge to observe what Glenn George was doing, and he and Glenn George had a disagreement. Glenn George then hit the side of Captain Howse's vehicle with his tractor. Glenn George, during the confrontation, said that he was concerned about his people being injured. Glenn George testified at the Inquiry that having the items on the road was

dangerous, as there were no signs or lights to warn people. He stated to Captain Howse that the military personnel should not be on any part of this land and that they had to get off the land. The incident was reported to the OPP and investigated by Detective Constable Speck.

Charges were laid against Glenn George. He pled guilty and was convicted of mischief under \$5,000, uttering death threats, and two counts of assault. He received a suspended sentence and was placed on probation for fifteen months. Glenn George testified at the Inquiry that he feels uncomfortable with the fact that he has a criminal record for occupying lands that he views as his inheritance. He testified that it would be fair to say that prior to moving onto the range he had had a normal relationship with the police, and after, it changed for the worse. He thinks that others have had the same experience.

At the end of June, the military suspended all Range Patrols in the training area: “Patrolling will be restricted to the built-up area of the camp and the exterior perimeter [of the outer fence of the Camp]. To avoid unnecessary confrontation, areas occupied by the SPG will not be patrolled.”

OPP all-terrain-vehicle (ATV) patrols, which had been instituted between West Ipperwash and Port Franks through the army camp, were discontinued at the request of Glenn George.

On June 30, 1995, Inspector John Carson met with members of the military. They discussed the decision that the military police would patrol the exterior perimeter of the base, particularly around the gun ranges. There would be no patrol of the training area, and after dark, there would be no patrol outside of the built-up area of the military base. John Carson was aware that the military would be clearing most of its equipment from the base by July 15, 1995. The military’s plan was to remove the assets from CFB Ipperwash during the period from July 3 to 17, with all recoverable assets from the camp due to be removed by July 17, 1995. Recoverable assets were those that could be easily moved, such as vehicles, equipment, office supplies, and furniture.

At the end of June 1995, Captain William Douglas Smith was appointed as the Tactical Commander or Commanding Officer of the security force at CFB Ipperwash. Captain Smith had been involved peripherally with CFB Ipperwash since May 1993, when he served as the Base Security Officer and Commander of the Military Police at CFB Toronto and coordinated six-week secondments of Military Police officers to CFB Ipperwash. Captain Howse’s role changed with the arrival of Captain Smith: he took on administrative responsibilities while Captain Smith took charge of the operation and protection of camp assets. When he arrived, Captain Smith understood that the Canadian Forces non-confrontational policy with respect to the occupiers had not changed from the policy that had been instituted in 1993.

Captain Smith saw his role as one of trying to maintain a degree of calm in what seemed to be a fairly confrontational situation, and trying to peacefully hand over the base to the Stoney Point group. Captain Smith established a liaison relationship with Staff Sergeant Charlie Bouwman from the OPP Grand Bend Detachment.

There were very few incidents in July at the army camp or the park except for ongoing issues with the military. John Carson had little involvement from July 3, 1995, to July 27, 1995.

On July 4, 1995, Captain Smith met with the Kettle and Stony Point First Nation Council. The purpose of the meeting was to introduce himself to the Band and its leadership, to explain what the military were trying to accomplish, and to see if they could mutually come up with a solution to the problem of violence or potential for violence on the base. Council members told Captain Smith that they had no control over the people at the army camp.

As of July 5, 1995, Captain Smith felt that all groups seemed to be in a holding pattern to see “who would blink first.” They had achieved an uneasy calm, and were just waiting to see how things would progress.

### **6.15 July 1995 — Cross-Cultural Awareness Training**

Cross-Cultural Awareness Training (CCAT) was held at the army camp for military personnel on July 12 and 13, 1995. Bob Antone was contacted by Priscilla George, who worked for the provincial government in Toronto with the Native Education Policy Unit, Ministry of Education and Training. She told Mr. Antone that she had received a call from the DND, or somebody, asking if they knew of any facilitators who could do some sensitization work with the military at Ipperwash. She asked Mr. Antone if he would like to do this. Mr. Antone agreed.

A number of people attended as instructors and facilitators: Bob Antone; Bruce Elijah; Dick Bressette, Elder, Kettle and Stony Point First Nation; Captain David Scandrett, Canadian Rangers; Priscilla George and Leigh Jessen, both with the Native Education Policy Unit, Ministry of Education and Training, Ontario; Paul Trivett and Murray Wood, First Nations Policing Section, OPP; and Peter Moon, reporter, *The Globe and Mail*. Although an invitation was extended to the Stoney Point group, no occupiers attended.

Bob Antone understood that there was a bit of badgering going on between the soldiers and the men from Stoney Point and that some of the military men were making racist statements about the Stoney Point people. One of the reasons for the sensitization process was to prevent the situation from escalating. The objective was cultural sensitization: helping people to understand the Aboriginal culture and

world view. The military personnel did not understand that there were deeply rooted feelings and attitudes around the people's belief that it was still Stoney Point land. The objective was to try and build a relationship between the Stoney Point people who were occupying the range and the military personnel.

In the sensitization process, Bob Antone and Bruce Elijah offered the Aboriginal perspective of what had happened in North America, how the invasion of North America impacts on the makeup and the dynamic of the Anishnabek person or the Ongwahonay person, and how it causes certain attitudes and beliefs about society. Mr. Antone testified: “[P]eople say, ‘Well, why don’t you trust the white man?’ I say, ‘Why should I? Show me one treaty that wasn’t broken. You know, show me one agreement that wasn’t broken’ — and that’s evidence enough right there as to why you don’t trust the white man. That’s a reality in our communities.” Mr. Antone thought they were successful in helping the military personnel understand their perspective as indigenous people with respect to relationships, treaties, and the dynamics of Western society and indigenous society.

In Bob Antone's view, the cross-cultural awareness training was, to some degree, successful. He heard that there was a reduction in the number of incidents between the Stoney Point people and the men who were patrolling the area. From what Captain Smith said to Bob Antone, it reduced the intensity of the interactions between the men on the base.

Bob Antone and Bruce Elijah met with the Stoney Point people shortly after the training and talked to them about whether it was possible to try and work out some arrangements with respect to co-existence in the territory.

During the process of the CCAT, a plan was made to bring everyone together at a meeting on August 26, 1995. In his situation report dated July 14, 1995, Captain Smith listed the proposed attendees, representatives from all involved groups. The military thought that the meeting could reduce tension between the Stoney Point people and military personnel at Camp Ipperwash, and could ensure that the environmental assessment was completed in conjunction with an orderly handover of the land.

With respect to the proposed meeting on August 26, 1995, it was strongly recommended that the military participation at the meeting be kept at the lowest level possible. According to Captain Smith, every effort was to be made in support of this meeting as the military had a “window of opportunity” to eliminate a confrontational situation, achieve the political aim of properly returning “cleaned up land,” and establish credibility with the First Nations people for possible future land claim issues.

Captain Smith understood that Chief Tom Bressette was not in support of the meeting scheduled for August 26, 1995, and that Bob Antone and Bruce

Elijah hoped to meet with him on July 25 or 26, 1995, to convince him to support the meeting.

On July 27, 1995, Captain Smith reported that Bob Antone was continuing his contact with the Stoney Point Group who were in the process of picking three people to attend the proposed August 26 meeting. Ultimately no meeting took place on August 26, 1995.

The target date for removal of recoverable assets was pushed back from July 17 to July 28, 1995. The final cleanup of the built-up area was to be completed by August 4. Although they were close to having most of the assets out, they were not all out by July 28.

## **6.16 June 1995 — Campaign and Election of Michael Harris and the Progressive Conservative Party of Ontario**

In June 1995, Michael Harris's Progressive Conservative Party won the provincial election, and Mr. Harris became Premier of the province.<sup>5</sup> Shortly after he became Premier, Mr. Harris appointed the members of his Cabinet, including Charles Harnick as the Attorney General and Minister Responsible for Native Affairs, Christopher Hodgson as Minister of Natural Resources, and Robert Runciman as Solicitor General. Each of these Ministers, as well as the Premier and the Ministers' respective Ministries, would eventually become aware of and involved in the government's response to the events at Ipperwash Provincial Park.

The Progressive Conservative Party campaigned on a set of policies named, collectively, "The Common Sense Revolution." That platform was first introduced in 1994, after having been developed over a number of years while the Progressive Conservatives served as the official Opposition. The Common Sense Revolution did not specifically address policies or issues involving First Nations, although Mr. Harris testified that a number of the initiatives and economic policies in The Common Sense Revolution would affect Native Ontarians.

The Progressive Conservative Party had conducted a series of public consultations prior to the June 1995 election where First Nations issues were discussed. In January 1995, Mr. Harris toured Northern Ontario, in what was termed

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5 Mr. Harris was first elected as an MPP in 1981 in the riding of Nipissing, and went on to become Parliamentary Assistant to the Minister of the Environment (1983-1985), Minister of Natural Resources (1985), Minister of Energy (1985), Opposition House Leader (1985-1986), Critic for Natural Resources (1985-1986). Prior to being elected as an MPP, Mr. Harris was, among other things, a school teacher. He also worked in a family-owned tourist and ski resort business and from 1975 to 1981, and he was a school trustee on the Nipissing Board of Education.

the “Northern Focus” tour. A campaign document entitled “A Voice for the North” was drafted as a result, based on what was heard from people during the public consultations that took place during this tour. Municipalities, tourist operators, non-Native hunters, anglers, trappers, and resource companies participated in the meetings. It does not appear that First Nations participated in developing the positions outlined in “A Voice for the North.”

Under the heading “Native Issues,” “A Voice for the North” noted the concerns raised by non-Aboriginal people about the land claims negotiations process:

There is growing anger and resentment over Queen’s Park’s handling of native land claims in Northern Ontario. *Non-natives voiced concern and consternation that land claim negotiations are conducted behind closed doors.* With most of Ontario under some form of land claim, resource companies said they were worried about the potential impact of settlements on property rights and long-term development.

In many instances, Northern Focus found that Queen’s Park was alienating non-natives. People believe that two systems of conservation law are being created: one for natives, and another for non-natives. (emphasis added)

In “A Voice for the North,” Mr. Harris stated that, if he became Premier, non-Natives would be included in land claim negotiation processes involving the provincial government:

#### OUR COMMITMENTS

A Mike Harris government will balance the interests of native and non-native Ontarians by ensuring that all stakeholders are represented in native land claims negotiations. Native rights must be respected, but land claims negotiations cannot be the exclusive preserve of provincial bureaucrats and native band leaders.

By the same token, a balance must be struck between native hunting and fishing rights and the priorities of conservation, with equal treatments for all Ontarians.

In a Progressive Conservative Party policy document dealing with planning and local government, though not circulated to the public prior to the election, the party indicated that, were it to come into power, it would promote and encourage economic development in Native communities, and that it would strive to strike

a balance between Native hunting and fishing rights and Ontario's conservation priorities. The document, entitled "Bringing Common Sense to Community Development," also stated that the party would insist on the application of the "same conservation rules for all Ontarians." Finally, it stated that the party would "work with native leaders to reflect aboriginal concerns and include the native viewpoint in government policies."

The document did not discuss the implications of these objectives in relation to the Crown's obligations under section 35 of the *Constitution Act*. As the original occupants of the lands that later became Canada, Aboriginal people enjoy certain unique rights not enjoyed by other Canadians. Aboriginal people also enjoy rights as a result of treaties that they or their ancestors made with the Crown. Section 35 of the *Constitution Act* recognizes and affirms those rights.

Notwithstanding these position documents, Mr. Harris testified that he had not decided, prior to or in the two months following the June 1995 election, what direction his government would take concerning Aboriginal issues. The main priorities of his government were evident in the policies articulated in *The Common Sense Revolution*, and later in Premier Harris's Throne Speech and the legislative agenda: economic issues, including \$2 billion worth of spending cuts that the Progressive Conservative government undertook in its first year in power.

Mr. Harris testified that neither his government nor he took the position in summer 1995 that Aboriginal people did not have any special rights. Other witnesses disagreed. Gordon Peters was Regional Chief for the Chiefs of Ontario in 1995. His organization did not have any communication with the new government in the months following the June 1995 election. He testified that normally the Chiefs met with new Premiers and their Cabinets to discuss relationships shortly after an election. In contrast, there were no meetings with Premier Harris's government about the future of the government-to-government relationship and no dialogue such as the Chiefs had engaged in with the previous NDP government.

Mr. Peters characterized the election strategy of the Progressive Conservative Party as emphasizing the "equal" treatment of all people, including Aboriginal people. He explained what the concept of "equal" treatment means to Aboriginal people, when applied to their relationship with the Crown:

It means that on the parts of the government that they're going to step up their processes of assimilation. They're going to try to bring us into the mainstream. It means they're going to disregard our treaty

relationships and ... virtually revert back to the 1969 White Paper that set out a process about how ... Indigenous peoples would be swallowed up within the politic of Canada.

Mr. Peters went on to testify that, from the perspective of the Chiefs of Ontario, the policies and approach of the new government demonstrated that it was intent on ignoring the historic and constitutional elements of the relationship between First Nations and the Crown.

Some members of the civil service who played a role in briefing the new government during the summer of 1995 registered concerns similar to those raised by Mr. Peters. They spoke of an apparent lack of awareness on the part of certain Ministers and their political staff that Aboriginal people enjoy a unique constitutional status and protection under section 35 of the *Constitution Act*, which the provincial government was required to respect.

Julie Jai was Acting Legal Director of the Ontario Native Affairs Secretariat (ONAS) in 1995. She testified that Minister Harnick, the Attorney General, appeared sensitive to the Constitutional requirements imposed on the government concerning Aboriginal people. Ms. Jai also briefed the Minister of Natural Resources and his staff, as well as some staff from the Premier's Office, about Aboriginal issues and section 35 of the *Constitution Act* during the summer of 1995. She testified that some members of the Premier's staff, including Deb Hutton, Premier Harris's Executive Assistant, appeared initially "surprised ... that Aboriginal people had constitutionally protected rights and there were certain obligations and constraints on the Provincial Government." The Premier's staff requested, and Ms. Jai prepared, further briefing material concerning the legal basis for these rights and obligations.

Ms. Jai testified that when she attended a briefing at the Ministry of Natural Resources on the provincial government's constitutional obligations toward Aboriginal peoples, Minister of Natural Resources Christopher Hodgson and his staff responded by emphasizing that, regardless of section 35 of the *Constitution Act*, their view was that Aboriginal people have the same rights as everybody else. Ms. Jai reiterated that Aboriginal people had special status as the original occupiers of the land, and that the provincial government was legally bound to respect that status. She testified that she understood that the Minister and his staff maintained their position that there are no special rights for Aboriginal people.

Ms. Jai testified that the new government's apparent lack of knowledge and concern about the province's obligations toward Aboriginal people represented a "180-degree shift" from the policies and practices of the previous government. She

and other ONAS employees were anxious about the implications of this shift and its possible impact on the relationship between Aboriginal people and the province, as well as on ONAS employees' ability to do their work.

Shelley Spiegel, who in September 1995 was the Acting Executive Coordinator in the Cabinet Office, dealt frequently with members of the Premier's Office on policy issues. She was responsible for advising on various policy areas, including Native Affairs. She testified that during the summer of 1995, she understood that the new government intended to head in a new direction with respect to policies affecting Aboriginal people. While she was not aware of or could not recall any specific policy directives or initiatives concerning Aboriginal people, she understood that the new government did not intend to further the progress made over the previous ten years under successive governments with respect to Aboriginal rights, and that the "new direction" would involve a less sympathetic approach.

Ms. Hutton testified that, as far as she knew, the Harris government had no intention of disregarding either the requirements of the Constitution respecting Aboriginal rights or the legal rights of Aboriginal people apart from the Constitution.

Minister Hodgson and his Executive Assistant Jeff Bangs both testified that Mr. Hodgson did not and would not make statements either denying that Aboriginal people had constitutionally protected rights, or indicating an intention to disregard those rights. They each gave evidence to the effect that Minister Hodgson spent a great deal of time during his tenure as Minister of Natural Resources on Aboriginal issues, and was fully aware of the obligations imposed by section 35 of the *Constitution Act*.

Larry Taman, Deputy Attorney General during the summer of 1995, had had several years' experience in the public service. He attended and participated in many of the briefings Ms. Jai recalls. He testified that he did not remember hearing that the government would insist that Aboriginal people did not have treaty or Aboriginal rights at the meetings he attended. Mr. Taman recalled, though, that there were indications that people from the Premier's Office were exploring differences in policy that they might like to advance and were talking about issues differently from the previous government. He commented, however, that a first initial challenge for all governments is to make the transition between the campaign trail and being a government.

Mr. Taman observed that the difference between campaigning and governing was that, while campaign speeches often have limited consequences, statements by government can have critical consequences, with the result that members of new governments need to find ways, and perhaps be educated by members of

the professional public service, to be more careful about what they say. He agreed that members of the new Progressive Conservative government were undergoing this educational transition process during the summer of 1995, and that it was the role of the professional public service at a time of change of government to assist them in making the transition from campaigning to governing by educating them as to facts either in law or government policy.

Prior to the June 1995 election, Larry Taman directed Attorney General staff to prepare briefing material in anticipation of a possible change in government to ensure that the civil servants at the Ministry were fully prepared to properly brief, educate, and assist a new government. Several of the Ministers and their staff testified that during the summer of 1995, they underwent a veritable whirlwind of briefings intended to orient them regarding the issues falling within their portfolio. It was, as a result, sometimes difficult for these witnesses to remember specific briefings in any detail, or at all.

It is clear that different actors had different perceptions and views of the policies of the new government. The new government may not have thought out its positions with respect to a variety of issues. As Mr. Taman said, there is a difference between running for election and running a government, and there is a transition period between the two where the political actors must adjust to their new role, and the civil servants and others must adjust to the new government.

## **6.17 June–September 1995 — Ministries and Offices in the Ontario Government**

Before discussing the events of September 1995, and the provincial government's activities during the crisis at Ipperwash, it may be of assistance to understand the relationships between Ministers, their political staff, and civil servants, as well as the specific roles and responsibilities of various individuals, departments, and Ministries in the Province of Ontario during summer and fall 1995.

### ***6.17.1 The Structure of the Provincial Government***

Ontario's system of government is based on the concept of ministerial responsibilities. Ministers are accountable to the Legislature and ultimately to the people of the province. All members of Cabinet are Ministers, including the Premier. Ministerial responsibility is both individual and collective, in that individual Ministers, as well as the Cabinet as a whole, are expected to explain, and sometimes justify, the direction and management of government in the face of questions and criticisms from the Opposition, the media, and ultimately the people.

The Premier appoints Ministers, who report directly to the Premier. The Premier also appoints a Secretary of Cabinet, who is the senior public servant in the Ontario government and is associated with the Cabinet Office. The Secretary of Cabinet is responsible for hiring Deputy Ministers, and his or her role is essentially equivalent to acting as the Premier's Deputy Minister. Deputy Ministers report to the Secretary of Cabinet.

Ministers sit at the top of two distinct reporting lines. One reporting line is through the bureaucracy, or civil service, of the Ministry. The civil service reports up a chain of command to a Deputy Minister, who is responsible for the administration of the Ministry. The Deputy Minister provides advice and also reports to the Minister.

The second reporting line is comprised of the Minister's political staff, which is organized in a fashion chosen by the Minister. Political staff, including Ministers, have no authority with respect to civil service staff. Requests to the civil service must go through the Deputy Minister. If the Deputy Minister considers it appropriate, he or she will direct the appropriate person in the appropriate branch of the Ministry to do the work.

David Moran, the Attorney General's Executive Assistant, described each side of the government as working like a "mirror image" of the other, with the civil service on one side and political staff mirroring them on the other.

### ***6.17.2 The Role of Deputy Ministers***

Deputy Ministers are members of Ontario's professional public service and are not elected. They are responsible for providing advice to government through their respective Ministers, running the Ministry itself, and participating in the overall governance of the public service. The Deputy Minister's main roles are to ensure that his or her Ministry implements the policies set by the Minister, and to coordinate and manage the activities of the civil servants working in his or her Ministry. Deputy Ministers must ensure that coherent information and advice flows up to the Minister from the civil service.

A significant part of the Deputy Minister's role is to mediate or act as a buffer between the civil service below him or her and the political staff working directly under the Minister. Information that flows from the civil service to the Minister passes through several hierarchical filters, culminating in the Deputy Minister. Each successive filter is intended to enhance the accuracy, coherence, and therefore value of the information eventually provided to the Minister. Similarly, directives from the Minister and his or her staff to the civil service are directed first to the Deputy Minister, so that the Ministry's and government's

policies can be implemented and operations can be realized in a coordinated, integrated, and effective manner.

The activities of the many levels and branches of the civil service must be coordinated, or the enormous and enormously complex task of governing the province cannot be accomplished effectively. There are two main risks associated with not adhering to appropriate reporting relationships.

Firstly, as former Crown counsel Scott Hutchison testified, the reporting structure is intended to ensure the development of coordinated, coherent, integrated policy with respect to a broad range of issues. If information or advice is sought by a Minister or his or her staff from individual members of the civil service, the result may be that the Minister receives information that is based solely on the area of expertise of the particular civil servant who may not appreciate how a particular issue fits into the broader mandate of the Ministry or government in general. The Minister would then not receive the more refined and (again) integrated advice that is produced when information is filtered up through the various levels of the bureaucracy.

Secondly, a possible result of direct interaction between political staff and civil servants might be that “one little piece” of an integrated policy being developed by the Ministry’s bureaucracy would be communicated, and that piece might or might not reflect the coherent and more refined product that the Minister would benefit from and for which the Deputy Minister is responsible.

### ***6.17.3 Executive Assistants***

Executive Assistants are political staff. Their role is to provide support to their respective Ministers in setting policy. When a new government is sworn in, each Minister hires his or her Executive Assistant. An orientation session is then held for the Executive Assistants, conducted by the Cabinet Office and the Premier’s Office, to build relationships and develop guidelines for each Minister’s office. Jeff Bangs, Executive Assistant to former Minister of Natural Resources Christopher Hodgson, testified that Executive Assistants have four main areas of responsibility:

1. To manage the Minister’s office;
2. To look after the Minister’s political responsibilities and responsibilities to constituents;
3. To liaise with other Ministers’ offices and the Premier’s Office; and

#### 4. To build relationships with the civil service within the Ministry.

Mr. Bangs identified this last task as being the “most important” of an Executive Assistant’s responsibilities.

Deb Hutton described her role as Executive Assistant to the Premier as “facilitating the best possible decision making and the best ... carrying out of the duties of the Premier.” She briefed the Premier with respect to any issues or crises that arose, conveyed his views at meetings or elsewhere when asked to do so, prepared him for Question Period, ensured the government had a spokesperson identified on particular issues, and helped to craft the government’s public message on issues.

Executive Assistants normally remain in close contact with their Ministers, communicating throughout the day. They represent Ministers at meetings, conveying the views of the Minister at the meeting and bringing information back to the Minister from the meeting. Executive Assistants advise Ministers on the political considerations arising from any issue or decision. They also provide support to staff in the Premier’s Office to ensure that the Premier’s staff is aware of any issues arising from a particular Ministry’s business of which the Premier should be made aware.

#### ***6.17.4 Cabinet Office***

The Cabinet Office provides bureaucratic or public service support for the Premier’s Office and the workings of Cabinet. (The Premier’s Office is comprised entirely of political staff, and not civil servants.)

#### ***6.17.5 Ministry of the Attorney General***

The Attorney General has a number of distinct roles and duties. The Attorney General is the chief law officer of the Crown and the primary legal advisor to the government, with the responsibility of ensuring that all governance of the province is conducted in accordance with the law. He or she is the principal overseer of all the legal dimensions of the work of the government, and along with the staff of the Ministry of the Attorney General, provides legal advice to the government.

He or she is responsible for the administration of the courts, the civil law practice of the Ministry of the Attorney General, and all criminal prosecutions, as well as running the offices of the Public Guardian and Trustee, the Office of the Children’s Lawyer, and Legislative Counsel. The Attorney General is responsible for the administration of a number of tribunals, as well as certain pieces of

legislation, including the *Courts of Justice Act* and statutes dealing with people who cannot manage their own affairs. The Attorney General is also responsible for the Special Investigations Unit, which investigates when a member of the public dies or is injured while involved with police officers.

The Attorney General is a member of Cabinet, involved in day-to-day political life. At the same time, the Attorney General fulfills a number of other roles, with respect to which complete independence from Cabinet and the Premier must be exercised. It is particularly important that the Attorney General acts entirely independently, and without the advice or direction of Cabinet, with respect to criminal prosecutions.

The Deputy Attorney General plays a significant role in ensuring that the Attorney General's office is independent and free from political interference in its execution of those functions that the Attorney General must perform without political direction.

#### ***6.17.6 The Ontario Native Affairs Secretariat (ONAS)***

One of the first changes implemented by Premier Harris in June 1995 was to make the Attorney General responsible for ONAS, which had previously been the responsibility of the Minister of Natural Resources. ONAS's mandate was to:

1. assist the Government of Ontario in creating opportunities and initiatives which advance the recognition of the rights and aspirations of Aboriginal peoples;
2. contribute to an improvement in the quality of life of Aboriginal peoples; and
3. resolve issues of concern to Aboriginal peoples that are within the [p]rovince's authority, responsibility, resources and priorities.

ONAS provided advice to the Government of Ontario on Aboriginal issues, and dealt with those issues when they fell under provincial responsibility and jurisdiction. Part of its role was to ensure consistency across the various Ministries that dealt with First Nations people. It was not a front-line Ministry: it did not deliver services, but monitored and coordinated the services delivered by other Ministries. It was also responsible for negotiating land claims and self-government agreements on behalf of the provincial Crown.

Prior to June 1995, ONAS had its own Deputy Minister and its own bureaucracy. The new Progressive Conservative government folded ONAS and its bureaucracy into the Ministry of the Attorney General. Ms. Jai observed that

after ONAS became part of the Ministry of the Attorney General and no longer had its own Deputy Minister, it lost a certain amount of prestige and access to decision-makers.

### ***6.17.7 Ministry of Natural Resources (MNR)***

The MNR is one of the largest operational ministries in the province, as well as being one of the most decentralized — it is responsible for the administration and stewardship of provincial parks in well over one hundred locations in the province. Among other things, the Ministry is responsible for ensuring that processes outlined in the *Cemeteries Act* governing burial sites, including Aboriginal burial sites, are adhered to, where there is an allegation of a burial site within a provincial park.

### ***6.17.8 Ministry of the Solicitor General***

The Solicitor General oversees policy development in policing and is responsible for ensuring that the *Police Services Act* is adhered to. The Solicitor General is the guardian of the line of demarcation between politicians and the police to ensure there is neither the fact nor the appearance of political interference with the police by other Cabinet Ministers. He or she is responsible for ensuring the appropriate separation between police and politicians.

The relationship between the Solicitor General and the police is very carefully circumscribed in relation to the line between policy and operational matters. The Solicitor General can impose policy that would affect the operation of the force, but cannot influence operational matters and has no direct contact with police officers concerning operational matters.

Under the *Police Services Act*, the Commissioner of the OPP has control and management of that police force, subject to the direction of the Solicitor General. In broad terms, the Solicitor General is entitled to know about the operations of the OPP, though any inquiries about operations must relate to general information only, and must go through appropriate channels to ensure that the spectre of political interference is not raised. Former OPP Commissioner O’Grady agreed that if the proper protocol for communication between the Solicitor General and the police were overridden, particularly in the area of police operations, it could give rise to the perception or reality of political interference.

According to former Commissioner Thomas O’Grady, the Solicitor General and the OPP Commissioner would occasionally speak directly about general or administrative issues. In practice, the Commissioner dealt most often with the

Deputy Solicitor General, who acted as a buffer or filter between the Commissioner and the Solicitor General to ensure that politics did not interfere with operations. The flow of information between the Deputy Solicitor General and the Commissioner may have been somewhat freer, although both (again) acted as filters in deciding what information should be passed on to their respective organizations. If the Deputy Solicitor General did receive operational information, he or she would ensure that only information essential to the Solicitor General's function as a Cabinet Minister and Solicitor General was passed on to him or her.

