

SEPTEMBER 4, 1995: THE OCCUPATION OF IPPERWASH PROVINCIAL PARK

9.1 Plans to Assume Control of the Park

Early in the evening of Monday, September 4, 1995, Labour Day weekend, First Nations people entered Ipperwash Provincial Park. Their intention was to assert control over this land and occupy the park. The First Nations people who initially walked through the park gate included descendants of residents of the Stoney Point Reserve, people from Kettle Point, as well as supporters from other areas.

Adult men such as Dudley George, Marlin Simon, and David George, teenage boys such as Nicholas Cottrelle, Wesley George, and J.T. Cousins, and women such as Tina George and Carolyn George were among the people who first entered the park at approximately 7:30 p.m. On Monday, September 4, 1995, when most campers had left the park for the day and for the season, Aboriginal people from other reserves and areas beyond Forest, such as Les and Russell Jewell from the United States, were also among the group who occupied the park.

The decision to enter Ipperwash Park on Labour Day 1995 was not impulsive. Several Aboriginal witnesses, including David George and Stacey George, confirmed that discussions took place in advance of the September 4 event. David George said plans to assume control of the provincial park were made about one week before the September 4 occupation. It was a group decision that First Nations people would enter the park on Labour Day when the park closed for the season and campers and other park users vacated the area.

Clayton George said a meeting took place on Matheson Drive on the eastern edge of the park on an evening in the week before Labour Day. Glenn George, Les and Russell Jewell, Dudley George, and he believes Roderick George, Stewart George, and Dave George were among those involved in the discussion to occupy the provincial park. As Clayton George said, it was evident from the participants' comments that the group "wanted to take over the park peacefully ... to protect [their] ancestors' graveyards."

On the morning of September 4, the First Nations people made concrete plans as they were eating breakfast at the kitchen facility at the barracks in the built-up area. As Marlin Simon explained, people congregated "to cook

breakfast there every day, so everybody would kind of meet there first thing in the morning:”

... people were sitting around, they were having coffee at the kitchen ... and everybody says, “Well, park’s closing down. Are we going to go in there or not?” So everybody said, “Yeah, sure.”

About two dozen people participated in this discussion, according to Marlin Simon, all of whom were residents of the built-up area at the army camp. Marlin Simon said at the hearings that

[i]t was kind of something everybody sat around talking about ...

... everybody knew it was something that had to be done, so it was kind of a topic of discussion ... every so often.

The First Nations people had informed OPP officers on several occasions before the September 4, 1995 occupation that they would reclaim Ipperwash Park, and the OPP had been making preparations for a possible park occupation since August. As Kevin Simon said, on more than one occasion prior to their entry onto that property on the 4th, they took the opportunity to advise members of the OPP that the park belonged to their people. Prior to September 4, 1995, Mr. Simon had discussions with the OPP about reclaiming the park and told them it was going to happen some time, but he “never knew of an exact date.”

Kevin Simon told police officers that Ipperwash Park was part of the original Stoney Point Reserve. His brother Marlin similarly testified that he told park officials in 1995, 1994, and “maybe even back to ’93” that First Nations people would take over the park. Warren George also testified that the OPP were told in the summer of 1995 that First Nations people would assume control of the park.

When First Nations people were living in the army camp, they would go down Matheson Drive to access the beach. Police who patrolled the area occasionally exchanged words with the First Nations people. As Kevin Simon said, “they’d pull up on the beach, have their little quick discussion ... and just tell [the police], ‘[I]t’s our land, it’s coming soon. You guys should deal with it.’” According to Mr. Simon, the police officers generally responded with laughter and disbelief that First Nations people were entitled to this property. When asked at the hearings why he did not pursue discussions with the police, Mr. Simon replied that he “never really thought that there’d be any point to further discussions with them if they weren’t going to take it seriously.”

9.2 Reasons for Entering the Park

First Nations witnesses discussed the reasons they decided to occupy Ipperwash Provincial Park on September 4, 1995. Warren George expressed the views of many Aboriginal witnesses that the provincial parklands were part of Aazhoodena, their traditional territory. There was a firm belief that the Stoney Point people had a right to this land, and that historically the Indian Agents had not adequately represented the interests of residents on the original Stoney Point Reserve. Kevin Simon echoed the views of many supporters of the occupation when he said the park was part of their ancestral territory, it was part of their people's land.

Another reason for assuming control of the park was to protect the sacred burial sites in the park. Occupiers such as Warren George, Nicholas Cottrelle, Leland White, and Marlin Simon had been told by their respective grandfathers that graves were in the park. Elwood George testified that his Uncle Fletcher was buried in the park. Aboriginal witnesses said burial grounds existed by the pump house and maintenance shed in the park. Abraham George told his children that there were graves along the road from the maintenance building to the pump house. Stewart George said that his father Abraham mentioned "graves being in the park where his younger brother was buried ... There was a road going from the maintenance building to the pump house ... it was along that road he said that Fletcher was buried ... [H]e told us that it should be blocked off ... to let them rest in peace." Also, a medicine man had determined that burial grounds were on the roadway leading to the maintenance shed.

First Nations people were disturbed that the government had not taken measures to erect a fence around the gravesites in the park to ensure the sacred grounds were protected, maintained, and respected. Roderick George said that when the park was established, the government had agreed to protect the graves of the Aboriginal people. Permitting the land to be used as a provincial park where people camped and picnicked on or near the gravesites, his son Nicholas Cottrelle agreed, was disrespectful to their deceased ancestors and to the Aboriginal people as a whole. This reflected the views of many First Nations witnesses, including Dudley George and Marlin Simon:

... people were camping, partying and drinking, and having all kinds of whatever on a place that we consider ... pretty sacred.

Elwood George stressed that the "people that owned that park ... had their chance to fence off those graves." He stated, "They were completely ignorant of our beliefs," and continued:

It's our duty to protect people, whether they've passed on, as well as the people in the future, meaning the future generations ... We would have to reclaim those lands to protect those graves. (emphasis added)

A further reason put forth for the occupation of Ipperwash Park in September 1995 was that members of the public who used the park to swim and camp often harassed First Nations people, preventing them from freely enjoying the beach and their land. Kevin Simon said, “[W]e had a lot of people that were coming from the park creating a lot of problems with our people”; there was a need “to protect our people” from harassment.

The occupiers who entered the park in the early evening of September 4 believed the provincial park belonged to the Stoney Point people. Their grievances were directed both at the Ontario and federal governments. They were also frustrated that the Stoney Point Reserve had not been returned after World War II as the federal government had promised in the 1940s and again in 1994.

Aboriginal witnesses made it clear at the hearings that the process of regaining their land was moving much too slowly. As Roderick George and others said, by assuming control of the provincial park, the occupiers hoped to get the attention of the federal government. Dudley George believed, said Glen Bressette, that the First Nations people should take over the park to get “media attention.” Glen Bressette agreed with Dudley that the occupation of the park was necessary to attract the media, which the Aboriginal people hoped would pressure politicians to return their land.

9.3 The OPP Continues Its Preparations for a Possible Occupation of the Park

As mentioned in Chapter 8, OPP meetings took place at the end of August and in early September 1995 to prepare for the possible occupation of the park.

In the early afternoon of September 4, hours before the Ipperwash Park occupation, Inspector Carson contacted Inspector Frew of the London Police Department to discuss the availability of light armoured vehicles (LAVs) in Ipperwash. General Motors Diesel in London, Ontario, constructed armoured vehicles for the military. The London Police had an arrangement with General Motors for the use of these vehicles by its officers who had been trained to operate them.

Inspector Carson wanted access to armoured vehicles for the protection of his officers. If matters escalated in the Ipperwash area — if OPP officers were injured or targets of gunfire — he wanted these vehicles to transport his officers and

equipment to a safe location. From his conversations with Inspector Hutchinson in British Columbia, Inspector Carson learned that military armoured vehicles were used for such purposes at Gustafsen Lake. Inspector Frew told John Carson that it was necessary to seek the approval of London's Deputy Police Chief Elgin Austin and to contact GM Diesel.

Preparations were also made with respect to video recording in the park area. Both Chief Superintendent Coles and Inspector Carson thought that video cameras installed in and around the park would be an important source of intelligence. In the event of a First Nations occupation, the actions of the Aboriginal people should be monitored to enable the OPP to make appropriate and safe decisions.

Prior to the occupation, a video was taken of the buildings in Ipperwash Park. Video cameras were installed by the OPP at the maintenance building and at the park kiosk at the main entrance to the park. However, video cameras were not placed in all the park buildings because of technical problems encountered by the police. Nor were cameras installed in areas outside the park such as the sandy parking lot, the site at which Dudley George was killed two days later in a confrontation between the OPP and First Nations people.

9.4 Confrontation with Roderick and Stewart George Before the Park Occupation

An altercation occurred on the afternoon of September 4 between two Aboriginal men and the OPP before the occupation of Ipperwash Park. Roderick and Stewart George were the men involved in this incident. At that time, Roderick and Stewart George did not know that people from Stoney Point would be occupying the provincial park that day.

Stewart George, his brother Roderick, and others had gathered on part of the beach known as "The Pass," as it allowed access from the beach, over sand dunes, to a road built by the military. They were approximately a quarter mile from the park property. First Nations people were relaxing, eating, and drinking beer on the beach. Roderick George said he consumed about twenty bottles of beer that day. Stewart George also said he drank "quite a few" beers that afternoon.

People at the gathering were told that police cars were parked at the end of Matheson Drive near the lake. Roderick George thought this was unusual because police cruisers had not been seen in this area since the Stoney Point people had occupied the base. Stewart George and his brother Roderick decided to drive to the area to confront the police because this was First Nations land:

... we felt that is our territory and they ... had no business coming down there. So we went up and told them that they weren't wanted, and we told them to leave.

Stewart George was a passenger in Roderick George's dark blue Trans Am. They drove to the end of Matheson Drive to the site of the police cars.

Constable Wayde Jacklin and his partner Constable Myers were patrolling the north end of Matheson Drive near the beach at about 4:00 p.m. Shortly after they arrived, a Trans Am car driven at high speed by Roderick George approached them and came to a "sliding stop." Stewart George ("Worm") abruptly opened the car door, which made contact with the police cruiser and caused some minor damage to the front bumper. Detective Sergeant Richardson also witnessed the car door of the Trans Am hit the police cruiser. Roderick George explained at the hearing that the latches on the door did not operate properly as the door pins were worn and needed replacement. The occupants of the car appeared to be intoxicated. Officer Jacklin saw an open bottle of alcohol in the vehicle. Detective Sergeant Richardson thought the driver was impaired because he could smell alcohol.

A heated exchange ensued. Stewart George was told by a police officer that he was under arrest for mischief, to which Mr. George replied, "I told him [the officer] that he was under arrest for trespassing." An argument followed regarding the ownership of Matheson Drive. The officer claimed it was a public access road, to which Roderick George responded, "No, it's not. It's on our territory ... it belongs to us."

Other Aboriginal people began to congregate in the area. They yelled at the OPP officers to "get off" Matheson Drive, as this was "their land." This was not the first time Constable Jacklin had heard First Nations people claim ownership of Matheson Drive.

Tension was mounting and Constable Jacklin called for "backup." He told the two men they could be arrested as there had been *Criminal Code* violations: dangerous operation of a vehicle, driving while impaired, and mischief, for the damage to the police cruiser. Constable Jacklin decided not to execute the arrests because the situation was "escalating" and he thought it was "more prudent to disengage."

Constables Gransden and Dougan were parked on Army Camp Road when they heard a request shortly after 4:00 p.m. on the police radio for assistance on Matheson Drive. Their assignment was to observe First Nations activity in the area of the army camp, and to report anything significant to their supervisor,

Sergeant Korosec. Both Constables Gransden and Dougan were members of the Emergency Response Team (ERT). The two constables drove to Matheson Drive near the beach.

Sergeant Korosec and other ERT officers arrived. Roderick George told them that Matheson Drive and Ipperwash Park belonged to the First Nations people and the OPP “had no business on the roadway.” Then Mr. George threatened to confiscate the police cars.

When Constables Gransden and Dougan arrived, they saw several Aboriginal people near a blue Trans Am in a verbal confrontation with the OPP. As they left their police cruisers, they heard a heated exchange between Sergeant Korosec and Roderick George over the ownership of Matheson Drive. Mr. George claimed that this section of Matheson Drive belonged to First Nations people. Sergeant Korosec took the position that the Town of Bosanquet owned the property.

Sergeant Korosec stood a couple of feet away from Roderick George who was visibly agitated. Mr. George spoke in a loud voice and demanded a meeting with Sergeant Korosec’s superiors. The Sergeant gave him Inspector Carson’s name. Roderick George said he planned to contact Staff Sergeant Charlie Bouwman to arrange a meeting with Inspector Carson.

Roderick George did not recall the discussion with Sergeant Korosec about Inspector Carson or Staff Sergeant Bouwman. Nor did he follow up with Charlie Bouwman, an officer at Grand Bend, to arrange an appointment with Inspector Carson.

While Sergeant Korosec was speaking to Roderick George, Constable Jacklin claimed he had an exchange with “Worm” (Stewart George), which concerned him. Stewart George allegedly asked, “How many ... rifle sights do you think you’re in?” Trying to defuse the situation, Wayne Jacklin replied, “I hope they’re a good shot because your head’s between mine and theirs.” Constable Jacklin considered Worm’s threat “serious.”

At the hearings, Stewart George denied that he made a statement to the effect of “[H]ow many gun sights do you think are aimed at your head from the sand dunes?” He also denied that he made a statement to an officer about crossbows. Stewart George claimed he would not have made these statements, as he knew he could be criminally charged for uttering death threats.

I find it surprising that Constable Jacklin failed to include in his notes Stewart George’s threatening comments about Constable Jacklin being in “rifle sights.” Constable Jacklin conceded at the hearings that this was a “major oversight.”

When Constable Whelan and his partner Constable Japp arrived at the scene, they were told to provide security to the OPP officers who were dealing with the

occupants of the Trans Am. They positioned their cruiser a short distance from the “commotion,” and watched “crowds ... starting to build” as First Nations people gathered from the army camp and from the provincial park.

Constable Whelan claimed that a vehicle with “rebel plates” (the Confederate flag) slowly backed up to Constable Whelan’s cruiser. An Aboriginal male opened the trunk, according to Whelan, “reached in” and “started to bring out ... a butt or the stock of what [he] believed to be a firearm.” A second Aboriginal man “motioned with his hands in a downward motion,” which Constable Whelan interpreted as meaning “leave it in the trunk.” The man complied. Constable Whelan stared at the first Aboriginal man for what “seemed like a long time,” but in fact was “probably only seconds.”

Roderick George testified that he did not have a rebel flag on his car. Similarly, his brother Stewart said at the hearings that he did not see a car with “rebel plates.”

Other officers did not observe a rifle butt or any other weapons carried by First Nations people at this incident. Constable Whelan told Sergeant Korosec and Detective Sergeant Richardson about this incident. Sergeant Korosec received Constable Whelan’s report at approximately 4:45 p.m.

Officer Whelan claimed he told Constable Jacklin he saw a rifle stock in the trunk of a First Nations person’s car. However, there is no notation of this conversation in Constable Jacklin’s notes. Other officers at the scene, such as Constable Dougan, did not see any weapons belonging to the Aboriginal people in the incident on Matheson Drive on the afternoon of September 4.

In an attempt to de-escalate the situation, Sergeant Korosec instructed the officers to leave the area.

After this incident, Roderick George went to the Kettle Point Reserve.

Stewart George was charged with mischief for intentionally damaging a police vehicle, but the charges were ultimately dismissed.

At approximately 4:45 p.m., Sergeant Korosec informed Inspector Carson about the confrontation with the Aboriginal people on Matheson Drive. Sergeant Korosec told Inspector Carson that eight ERT team members were stationed in this area and officers were also on standby at Grand Bend. The park was almost vacant and the undercover trailer was in the process of being transported out of the park.

There were also reports from Detective Sergeant Trevor Richardson that the Aboriginal people he had interacted with at 4:00 p.m. were intoxicated, and that an officer had observed the butt of a rifle in the trunk of a car. The Aboriginal man did not remove the rifle from the car. Inspector Carson thought there could be weapons because of what an officer had seen in the trunk of the car, but he was not concerned they would be turned on the OPP.

9.5 Trees Felled on Matheson Drive

Shortly before 6:00 p.m., Constables Gransden and Dougan heard a chainsaw and the sound of falling trees. The officers were parked at the intersection of Army Camp Road and Matheson Drive on patrol.

Constable Gransden climbed onto the hood of his police car and saw “trees being felled” across Matheson Drive where the road turns toward the beach. Neither officer was concerned. They conveyed their observations on the police radio.

It was evident to the officers that trees were being cut in order to close the roadway and block vehicle access. With binoculars, they also saw First Nations people lock a gate at Matheson Drive. This event was reported to Sergeant Korosec who thought things seemed to be “heating up a little bit.”

9.6 First Nations People Enter Ipperwash Park

The men, women, and teenagers who congregated in the early evening on Labour Day 1995 for the purpose of asserting ownership of Ipperwash Park approached the park from different directions. Some, such as Carolyn George, came from the beach. Many others, including David George, Clayton George, and Marlin Simon, drove in a convoy of seven or eight cars from the built-up area to Ipperwash Park. They travelled down a road inside the military base and proceeded north to the beach to a gate at the east side of the park. Kevin Simon happened to be on Matheson Drive at this time and noticed a gathering of one to two dozen people. He joined the group as they entered the park.

First Nations people assembled at the east gate of Ipperwash Park. The gate was chained and locked, barring entrance to the provincial park. Large cement blocks had been placed at this entrance in the summer to prevent campers from accessing the park through this gate. These blocks had been removed prior to September 4. The Aboriginal people assumed that MNR officials or the police had removed them, which they considered out of the ordinary.

They noticed police officers in the area monitoring the group. The OPP appeared to be expecting the First Nations people.

Constable Gransden and other OPP officers were in the provincial park after it had been closed for the season to overnight camping. It was prior to 7:30 p.m. when they saw a group of First Nations people on Matheson Drive trying to break a lock on the link fence gate with a pair of bolt cutters. They were trying to gain access to Ipperwash Park. Constable Whelan requested police assistance at the east gate of the park. There were eight to ten officers and about ten to twenty First Nations people in the area.

Sergeant Korosec arrived and spoke to Bert Manning who was on the inside of the park fence. Mr. Manning announced that the First Nations people were occupying the park. Sergeant Korosec replied that unless Mr. Manning had an official document to the contrary, Ipperwash Park was provincial property — the park officially closed that evening and any person found on the property would be considered a trespasser. Mr. Manning asserted that this land belonged to the First Nations people. He spoke in a calm manner. Sergeant Korosec tried to encourage Mr. Manning not to take any action at this time.

Glenn George appeared with other First Nations people. He yelled profanities and said they were assuming control of the park. Glenn George suggested that residents west of the park to Ravenswood be cautioned that they would be taking “their land next.”

David George had retrieved a tire iron from his car in order to break the lock on the fence at the park gate. As he was about to knock off the chain, a police officer warned, “I wouldn’t do that if I w[ere] you.” David George did not use his tire iron.

Sergeant Korosec tried to dissuade the Aboriginal people from cutting the gate lock, but to no avail; “the gate was pulled open,” and “Native vehicles and Native people entered the park.”

With bolt cutters, Nicholas Cottrelle severed the chain and lock on the park gate held by Marlin Simon. As David George said, “the chain was cut,” “the gates were open,” and everybody entered the park.

Nicholas Cottrelle “laid some tobacco down” on the ground and “asked the Creator ... [to] watch over all of [them].”

The OPP made no attempt to prevent the First Nations people from entering Ipperwash Park in the early evening of September 4.

Some First Nations people carried sticks and bats into the park. Glen Bressette had a club in his hand, which he planned to use to either threaten or ultimately force the police to leave the park. David George thinks he also might have had a bat or stick with him when he entered the park on September 4. The occupiers scattered to different areas of the park. Several occupiers, including Dudley George, Glen Bressette, and Wesley George, walked to the park store. They were met by police officers and MNR officials. The occupiers told these officials they were assuming control of the park.

Several First Nations people made their way to the maintenance buildings where MNR officials were present. The park authorities did not resist the entrance or inspection of the maintenance buildings by the occupiers.

OPP officers asked the occupiers to allow them to evacuate the remaining campers in the park. Kevin Simon and his brother Marlin followed the police cruisers as the OPP asked campers to leave Ipperwash Park.

Kevin and Marlin Simon then made their way to the gatehouse. First Nations people were present as well as OPP officers and about six police cars. Kevin Simon and other occupiers approached the OPP parked by the gatehouse and asked them when they planned to leave. The response was that the police would remain in the park until they were ordered by their superiors to leave the area.

The OPP made no attempt to arrest any of the First Nations people; it was neither feasible nor prudent in the circumstances and “would have escalated the situation.” Sergeant Korosec instructed the ERT officers to evacuate the remaining people in the park quickly and safely. He called the OPP communication centre to alert them to the occupation of the park.

Constable Gransden and the other officers proceeded to evacuate day users from the park. The OPP escorted civilians out of the park.

Don Matheson, the Assistant Park Superintendent, notified Park Superintendent Les Kobayashi at his home of the park occupation. Mr. Kobayashi immediately changed into his uniform and made the forty-five-minute drive to Ipperwash Park.

When Mr. Kobayashi arrived at the front gate of the park, he saw Don Matheson and the OPP officers. It was just before 8:30 p.m. Sergeant Korosec and Mr. Matheson briefed him on the events.

OPP officers remained in the park as night set in and it became dark. The First Nations people repeatedly asked the police to leave the park. The officers spent time making notes and trying to identify particular First Nations people.

9.7 Incident Commander Notified of Park Occupation

It was about 7:40 p.m. when Sergeant Marg Eve informed Inspector Carson that First Nations people had cut the lock and entered Ipperwash Park. He learned that Bruce Manning and Glenn George were involved in the park occupation as well as a dozen vehicles. The Aboriginal people had made it clear they intended to remain in the park. Inspector Carson immediately contacted A/D/S/Sgt. Wright and instructed him to travel to the Forest Detachment. ERT Teams 3 and 6 were placed on standby.

When Inspector Carson arrived at the OPP Detachment, he assigned Constable Johnson to scribe duty. The role of the scribe is to shadow the Incident Commander and to make notes of discussions and decisions made by the Incident Commander. The command post was initially set up in the OPP Forest Detachment until the mobile command trailer arrived from London.

Sergeant Korosec made contact with Inspector Carson shortly before 9:00 p.m. Nine OPP cruisers remained in the park. Inspector Carson wanted ERT officers to secure the area near the bridge as well as the park maintenance building

where gasoline and park equipment were stored. Inspector Carson instructed ERT officers to hold their positions in the park. The OPP’s plan was to cohabit or coexist with the First Nations people within the park boundaries. But Inspector Carson stressed that safety “for ERT is #1” — “if safety [is] threatened, use cruiser to go through fence.” The OPP were instructed to leave the park if police safety was at risk.

9.8 Escalation of Events at Ipperwash Park: Flares and Damage to a Police Cruiser

Some of the Aboriginal people who did not initially enter the park on September 4 fully supported the acts of their friends, siblings, and children who severed the lock on the gate and entered to assume control of Ipperwash Park.

The news quickly spread about events at Ipperwash Park. Shortly after entering the park, Tina George contacted her father, Abraham, and brother Elwood in Kettle Point, who immediately drove to the park. Other people, such as Stacey George, arrived at the park later that evening when told that First Nations people had occupied the park.

Marcia Simon believed the Ipperwash Park occupation to be premature. She thought the existing tensions in her community should be addressed before the Aboriginal people took control of the park: “I felt the timing wasn’t right to go in there,” and that there was a need “to get our community a little bit better running before they tr[ie]d to take on anything else.”

Nevertheless, once the decision was made and acted upon, Marcia Simon decided to fully support the park occupation. She went to the park in the early evening as it was starting to get dark.

As mentioned, Roderick George (“Judas”) was another person who did not know the Stoney Point people would assert control over Ipperwash Park that day. Even in the late afternoon of September 4, he was unaware that his son, members of the community, and his friends had decided to occupy the provincial park.

Roderick George went to Kettle Point after the altercation between the OPP, his brother Stewart, and himself. Roderick was nursing a sore foot as he suffered from gout. He learned from his mother that Aboriginal people had entered Ipperwash Park, and that his father Abraham (“Hamster”) and others had left to support First Nations people at the provincial park.

Roderick George was anxious to get to the park. He telephoned his wife Gina at work and asked if she could find a replacement, as he needed a ride to the park. Roderick George “considered [himself] to be impaired.” He had consumed a large quantity of beer earlier that day and was not capable of driving a car.

Gina George soon arrived and the couple travelled along Highway 21 through the main gate of the built-up area of the army camp, north on the road that runs parallel to Army Camp Road, and east on Matheson Drive. They entered the park at the east entrance through the open gate.

Upon their arrival, they saw several First Nations people congregated near the park store as well as police officers, one of whom was Detective Constable George Speck. About three police cars were parked nearby. It was almost 9:30 p.m. A fire, built earlier that evening by the occupiers, burned near the park store. Roderick George spoke with his father, Abraham, and his son Nicholas Cottrelle, who informed him that the OPP refused to leave the park.

Just before 9:30 p.m., about two hours after the First Nations people entered the park, Sergeant Korosec radioed for police assistance. Night had set in and it was dark.

Minutes before this call, tension had escalated between the occupiers and the police. About twelve officers and their cruisers were parked at the kiosk at the front entrance to Ipperwash Park. First Nations people remained nearby in the darkness.

Flares were thrown in the direction of the officers. A flare narrowly missed Constable Parks. Detective Constable Speck told the group of Aboriginal people to “cut it out before somebody got hurt.” The occupiers yelled at the officers to get out of the park.

It was fifteen-year-old Wesley George who threw the strobe lights or flares at the OPP officers. His father Elwood George had given him these flares, which were shaped like a cupcake. They were one-inch in diameter and had a thick wick. When the flares were ignited, they emitted a small flame or spark, bright colours, and smoke.

Kevin Simon, Marlin Simon, and Nicholas Cottrelle saw Wesley George throw a couple of packs of these flares at a group of police officers. Kevin Simon thought one of the flares “may have bounced” off the chest of a police officer. David George also believed that Wesley George “might have grazed one officer ... on a pant leg or something.” But, in fact, no officers were hit by the flares.

Roderick George approached the police and stood near one of the cruisers. In a loud and threatening voice, he demanded to speak to “the head OPP man.” He had a three-foot stick in his hand and was agitated. He yelled profanities and told the police to leave the park. Roderick was “belligerent and face to face” with Sergeant Korosec, who told him the OPP had no intention of vacating Ipperwash Park. Roderick George began a countdown for the police to get into their cars and leave what he considered to be First Nations property. Tension was “high” and “escalating.”

Roderick George continued to yell at the OPP to leave the park. He called George Speck “a fucking Nazi,” and ordered the officers to “get off the land” in profane language. When the police officers did not comply, Roderick George returned to his car, retrieved a wooden crutch, and “issued a twenty-second count-down for them to leave.”

As Roderick (“Judas”) approached the police, his brother Elwood and his son Nicholas quickly gathered Aboriginal men to stand behind Roderick. Elwood George said:

I jumped up and asked the guys to come and stand behind Judas ... to let him know that he wasn't alone ... I guess it would give him a stronger sense of, I can't explain it — a feeling. He [would] know that we were backing him up. I guess that's the way to put it.

Glen Bressette said some of the occupiers had clubs, sticks, or tree branches in their hands at this time. Elwood said that “one of the officers started talking back,” and Kevin Simon noticed OPP officers were laughing. Because of the police comments and reaction, Roderick George told the police that they now had only ten seconds to leave the park.

Roderick George estimated that about fifteen occupiers closed in on the six to seven police officers, who were visibly tense. The OPP did not move after Roderick George had counted down to “one.” Roderick took his wooden crutch and hit the rear window of the OPP car. Mr. George explained, “[T]hey didn't leave so I smashed the back window in.” The occupiers shouted at the police. Kevin Simon heard “the glass as it was falling out.” Although fourteen-year-old J.T. Cousins did not see the altercation, he also heard the “big smash” and saw that “the rear window in the car was smashed.”

Constable Gransden and other OPP officers saw Roderick George swing his stick which “smashed the rear window” of the police cruiser; the “whole back window shattered out of the car,” denting the trunk. It was obvious to Sergeant Korosec, Constable Gransden, and the other officers that Roderick was “very upset about us being in the park ... hostile or angry that we were there, and he wanted us gone.” The police did not draw their weapons and the First Nations people did not have firearms.

Glenn George and Roderick George approached Detective Constable Speck in his police cruiser. Glenn George asked about the OPP warrant for him, and Speck explained it was for failing to appear in court. The Detective Constable was told “the Elders have a warrant” for him and First Nations people would “lock” him “up in their jail.” Constable Parks received a similar threat. Roderick

George continued to yell profanities and ordered Detective Constable Speck and the other officers to leave the park area.

Detective Constable Speck “didn’t make much” of that comment. He thought it was “just bravado ... although they did have a jail at their disposal on the base.”

The OPP officers decided not to arrest Roderick George as they thought it would heighten the tension between the First Nations occupiers and the police. Sergeant Korosec believed it would precipitate a “fight.” The officers knew the occupiers outnumbered them, and they did not want to compromise police safety.

Sergeant Korosec was “really concerned” that flares had been thrown at the officers and the back window of a police car had been “smashed.” Women and children were in the park, and there were more Aboriginal people than OPP officers — “it was not a good spot to be,” and Sergeant Korosec was “in charge.” Sergeant Korosec contacted Inspector Carson, described the situation, and suggested that the OPP officers withdraw from the park. Inspector Carson granted permission for the OPP to leave the park — “do what is safe.”

Sergeant Korosec instructed his officers to pull out because he did not want anyone to be hurt. The officers left Ipperwash Park in compliance with Sergeant Korosec’s orders shortly after 9:30 p.m. and returned to the OPP Detachment in Forest.

On September 5, Detective Constable Speck travelled to Sarnia to swear informations for Stewart George and Roderick George on charges of mischief over \$5,000, and for David George for possession of a weapon (a flare) for a purpose dangerous to public peace and for assault on a police officer.

At the hearings, David George adamantly denied that he had thrown flares at the OPP on the evening of September 4. Kevin Simon agreed:

I had seen, it was Wes. He was kind of standing behind Dave and I couldn’t understand why the police had thought it was Dave, and such a tall guy, a shorter guy standing behind him, throwing that firecracker, and it was rolling around there, you could see those guys were stepping on it. It didn’t really seem like a very big deal.

The charges against David George were ultimately withdrawn.

9.9 The Decision to Serve Notice of Trespass on the Occupiers

MNR Park Superintendent Les Kobayashi arrived at the OPP Forest Detachment after leaving Ipperwash Park and met with Inspector Carson and A/D/S/Sgt. Wright. It was clear at that time that the occupiers would not leave the park, that the OPP could not remain at the park site, and that cohabitation, that is, having

officers in the park with the occupiers, was not a “viable option.” Instead, the OPP would patrol the perimeter and other areas in the vicinity of the park.

At the meeting, Mr. Kobayashi discussed with Inspector Carson and A/D/S/Sgt. Wright the approximately 1,000 gallons of gasoline in a tank near the maintenance shed. Mr. Kobayashi was concerned the occupiers could use this flammable material for explosives.

There were also discussions about posting signs to the effect that the provincial park was closed for the season, and serving a trespass notice on the occupiers. Inspector Carson wanted to make it clear to the First Nations people that the camping season had ended, the park was now closed, and they were trespassing. It would be necessary for the Ministry of Natural Resources to seek an injunction if the occupiers received this notification and continued to refuse to leave the property. Inspector Carson’s “primary” concern was that he did not “want anybody to get hurt ... [B]asically we’re treading lightly as we go, because we [had] just had a confrontation with Korosec’s people and we didn’t want another confrontation of any sort.”

It was decided that the trespass notice would be served on the occupiers that evening. Inspector Carson also considered this an opportunity to enter into a dialogue with the First Nations people to learn their intentions:

I was trying to get a sense from the occupiers [of] what their intentions may or may not be, and basically I was trying to get a temperature on, you know, if they had anything to say or what they intended to do. If we get down there and have some dialogue, we might get some sense of what we could expect.

Following the meeting with Inspector Carson, Les Kobayashi called Peter Sturdy to advise him of the situation.

Peter Sturdy had received phone calls at home earlier that evening to alert him to the park occupation. Mr. Sturdy assumed Mr. Kobayashi was at the OPP command post in Forest based on the meetings at OPP Headquarters on September 1. He thought MNR officials Les Kobayashi and Ed Vervoort would be working out of the OPP command post during the occupation.

When Mr. Sturdy received word of the occupation, his reaction was surprise and concern. He was surprised because he had hoped for a better outcome. The MNR contingency plan, drafted before September 4, was for the purpose of securing the park facilities and evacuating the park. It was not to deal specifically with the occupation, which was a police matter. Parts of the contingency plan had been implemented in late August and early September — assets were

moved off site, computer files were secured, and money was removed from the park. The MNR had established a critical incident team to act in conjunction with the OPP.

An important component of the contingency plan was to conduct an orderly evacuation of the provincial park if necessary. There was no need to implement that part of the plan on September 4 because the occupation of the park occurred after virtually all the campers had left the site. This was the last weekend in the summer and, because of children's commitments to school, campers usually left the public park during the day. Typically, on Labour Day afternoon, there might be a few day users or local people walking through the park.

At approximately 10:00 p.m., Mr. Kobayashi directed that Ipperwash Park was officially closed for the season.

Inspector Carson distributed Project Maple books to some of the senior officers shortly before 10:00 p.m., including A/D/S/Sgt. Wright and Detective Sergeant Richardson.

Some of the OPP officers believed it was possible they could gain control of the park kiosk as only one Aboriginal person, Roderick George, occupied it. However, Inspector Carson did not think this was a good idea. "Let's be careful," he said, as there had been previous confrontations that day between the OPP and Roderick George — "public safety" remained a concern for the Incident Commander. Inspector Carson thought that "while it would have been preferable to be able to cohabit, that didn't seem to be a very viable option." Roderick George's behaviour was "certainly a concern at this point in time," and Inspector Carson "wanted to make sure that Mark Wright, and anyone else involved, understand[oo]d that [they were] not going to sacrifice anybody's safety in order to move inside the park."

Sergeant Korosec arrived at the OPP Detachment to brief Inspector Carson on the night's events at approximately 10:30 p.m. They discussed the throwing of flares. Sergeant Korosec reported that the area was unsafe — "people" are "coming" to Ipperwash Park "from everywhere." He reminded Inspector Carson that an officer had seen a gun in the car of a First Nations person earlier that day. There was also Glenn George's threat that Ravenswood was next. The occupiers wanted a meeting with the OPP the following morning, "after other Natives have arrived." Inspector Carson did not think the First Nations people at the park would use guns in their interactions with the OPP.

Inspector Carson instructed Sergeant Korosec to continue "perimeter patrol" of the park throughout the night.

Inspector Carson wanted to know the identity of the spokesperson for the occupiers so the trespass notice could be served on that individual. Sergeant

Korosec suggested Bert Manning might be receptive to service of the documents. He was reluctant to suggest Roderick George, given his hostile and agitated conduct that day. A/D/S/Sgt. Wright spoke to Constable Vince George who agreed to accompany Les Kobayashi when he served the trespass notice on the occupiers. Inspector Carson assigned four police officers and two vehicles to accompany them. The Incident Commander stressed “safety is number 1,” and said, “[I]f problems are encountered, get out.” He did not want either the First Nations people or his officers to sustain any injury.

Inspector Carson contacted Chief Superintendent Coles to brief him on the events of that evening. He also told Chief Superintendent Coles that federal MP Rose-Marie Ur, who represented Lambton-Kent-Middlesex riding, had contacted the OPP Forest Detachment. Inspector Carson had assured her that the OPP had adequate resources and were working with MNR officials to address the issues surrounding the park occupation.

Ron Fox, the OPP officer seconded to the Ministry of the Solicitor General as Special Advisor, First Nations, received a call at home from Inspector Carson at about 10:15 p.m. He was told approximately “forty Natives” had occupied Ipperwash Provincial Park that evening, and problems had been encountered with First Nations people in the afternoon. Ron Fox also learned that there would be an attempt to serve the trespass notice that night.

The purpose of Inspector Carson’s call was to inform Ron Fox of events at Ipperwash Park. This was because “as the MNR start[ed] to develop their steps to seek the injunction, he would be the go-to guy, so to speak, at the Ministry that could assist with police information.” “There would be some requirement of information in order to move on the injunction and by informing Ron Fox, he would have up-to-date or accurate information of what we had experienced so far [so] that he could help advise the people from the MNR as they develop[ed] the application.”

Mr. Fox received another call from Inspector Carson shortly after 11:00 p.m. He was told that the police had withdrawn from the park, that the area was quiet, and that the OPP would “hold the perimeters and wait for daylight.”

As I discuss in the following chapters, direct contact between Ron Fox and the Incident Commander was inappropriate. Mr. Fox, seconded to the Ministry of the Solicitor General, was outside the OPP chain of command and should not have been in direct contact with Inspector Carson. This is important to prevent both actual and perceived political interference in police operations.

Shortly after 11:00 p.m., Inspector Carson instructed A/D/S/Sgt. Wright to contact St. John Ambulance in London for the transfer of the mobile command unit to Forest.

9.10 Attempt by MNR/OPP to Serve Legal Documents on the Occupiers Fails

Park Superintendent Les Kobayashi and Constable Vince George walked down the dark road leading to the park kiosk shortly after 11:00 p.m. They were flanked by eight to ten ERT members. The officers walked on each side of the ditch and were concealed. Constable Poole, one of the officers, scanned the area with night vision equipment.

Constable George was asked to accompany the MNR Park Superintendent to Ipperwash Park beyond the cement barricades, to identify the occupiers' spokesperson, and to serve the trespass notice. It "seemed odd" to Constable George that documents were being served in the night. At no time that evening did he consider his role to be that of a negotiator.

Constable George had no anxieties about his safety as he walked toward the provincial park. He was "dealing with relatives" and did not have "much of a concern regarding going in." Les Kobayashi conveyed no anxiety to Vince George as they attempted to serve the First Nations people. Although the Park Superintendent felt secure with the OPP support and did not feel endangered, he was uncomfortable serving the document in the late night darkness. The trespass notice read:

September 4, 1995

To Whom It May Concern,

I[,] Les Kobayashi, Park Superintendent for Ipperwash and Pinery Provincial Parks and a representative of the Ministry of Natural Resources, the occupier of Ipperwash and Pinery Provincial Parks[,] do hereby order you to leave Ipperwash Provincial Park under the authority of section 3(1)(b) of the Trespass to Property Act, Chapter T.21 as amended. You are not permitted on the property known as Ipperwash Provincial Park. Effective 10:01 PM of today's date I have officially closed Ipperwash Provincial Park pursuant to my authority under Section 32(1) of Ontario Regulations 952, R.R.O. 1990, made under the Provincial Parks Act.

As the two men walked beyond the park gate, they heard a vehicle with a "loud exhaust" drive toward them. It was Bert Manning with two other men in a pickup truck. They asked Mr. Manning who the "spokesperson was for the people ... inside," as they wished to talk to the occupiers and serve a trespass notice. Mr. Manning replied that he would return to the built-up area and discuss the issue with the other occupiers.

Constable George and Mr. Kobayashi waited in the “stillness of the night.” Vehicles returned with First Nations people.

When Clayton and his brother David George arrived at the park gate, Constable George approached their vehicle and tried to engage them in conversation. Clayton George noticed Constable George had papers in his hand. He immediately instructed his brother David to put the car in reverse because he “didn’t want to take that f-ing paper from them.” Clayton George assumed the officer was trying to serve First Nations people with legal documents that challenged their continued occupation of the park. He believed the officers were likely taking the position that First Nations people were trespassing and were attempting to take measures to eject the occupiers from the park. Clayton was also worried the police officers would grab either him or David. David George immediately “pulled backwards away” in his car. The two brothers left the area and drove to the park store.

One of the other Aboriginal men ordered Constable George and Mr. Kobayashi to “get off their land,” and said, “[W]e don’t do business at night.” Bert Manning, who had returned, also refused to accept service of the documents. Mr. Manning said the occupiers had not yet appointed the Elders, but that the First Nations people were prepared to meet with the OPP at noon the following day.

The OPP officer and the MNR Park Superintendent were ordered out of the park beyond the kiosk or main gate, and they complied.

At the roadside, Constable George and Les Kobayashi discussed with Sergeant Korosec the prospect of trying to take control of the park. Because “there wasn’t anybody in the park,” Vince George thought “maybe there was a window of opportunity there to take it back.” Vince George and Les Kobayashi returned to the OPP Forest Detachment to discuss this with Inspector Carson.

When Constable George and MNR Park Superintendent Les Kobayashi arrived at the OPP Detachment, Inspector Carson made it clear he did not want to make a second attempt at service that evening: “I don’t want anyone going in and getting ambushed.” Nor did he want the OPP to try to regain control of the park. Inspector Carson decided to establish checkpoints and “hold tight tonight.”

A/D/S/Sgt. Mark Wright briefed ERT (Teams 1 and 2) in the presence of Inspector Carson. The officers were instructed to set up checkpoints in accordance with the Project Maple plan. All vehicles were to be stopped at each checkpoint. It was Constable Dougan’s understanding that driver and passenger identification were to be requested and recorded on the police log sheets. Then all persons and cars were to be permitted access beyond the checkpoint. Inspector Carson told the officers to refrain from discussing the Ipperwash occupation in public, such as in coffee shops. He did not want members of the community to become unduly anxious about the First Nations protest.

Before midnight, the OPP had requested the St. John Ambulance trailer be transported to Forest. In the early hours of September 5, the St. John Ambulance trailer arrived in Forest. It was stationed in the MNR parking lot on East Parkway Drive.

At a briefing at approximately 1:30 a.m., Constable Parks was asked to accompany the St. John Ambulance vehicle to East Parkway Drive and set up the Tactical Operations Centre (TOC). Constable Parks was introduced to Paul Harding and other personnel of the St. John Ambulance, and vehicles were brought to the TOC site. Officers Dougan, Dellemonache, Japp, Whelan, Gransden, Jacklin, and Parks set up VICTRIX (a portable tower used to improve communications) and the TOC. They remained at this site throughout the night until ERT officers (Teams 3 and 6) relieved them.

9.11 Loss of Containment of the Provincial Park

OPP officers had been instructed to withdraw from the provincial park on the night of September 4 to ensure the safety of the police, MNR personnel, and the First Nations occupiers. As Chief Superintendent Coles explained, the purpose of containment is not only to prevent people from entering the occupied area, it is also to keep the situation from becoming volatile. The OPP had lost containment of the park. In Inspector Carson's view, it "made no sense" for the police to try to contain that area, given the geography — "109 acres of property that is literally pine trees" — and the events that had occurred that day and evening.

Prior to the decision to evacuate, there had been an altercation with the First Nations people in the afternoon, flares were later thrown at the OPP, and a police cruiser had been damaged.

In Inspector Carson's conversation with Superintendent Parkin the next morning, it was clear that Tony Parkin was disappointed the OPP had relinquished control of the park and lost containment. Superintendent Parkin said:

I'm only going to ask this question because I'm sure that the Chief is probably going to ask it. How did we, given the fact we have people there when all this happened, how did we lose containment?

Superintendent Parkin made it clear that OPP Chief Superintendent Coles wanted an explanation. After Inspector Carson explained the events of September 4 and that the prime reason for leaving the park was officer safety, Superintendent Parkin commented that it was "unfortunate we couldn't maintain the park."

When Inspector Carson said the OPP was outnumbered in the park, Superintendent Parkin replied, "They're going to say that, well, we knew this

was going to happen.” As Inspector Carson explained to Inspector Linton in a conversation shortly after this call, “We only had eight there, so we just didn’t have the horses to do it ... We got, more or less [for] lack of a better term, run out before somebody got hurt.”

Superintendent Parkin was concerned that more Aboriginal people could enter the park, the number of occupiers would increase, and this could present obstacles to the resolution of the occupation. He was also concerned that the inability to control access to the park could create safety issues for the OPP, as the police would not know the number of people in the park or whether the occupiers had weapons. The OPP Superintendent was further concerned with the perception of residents in the community; namely, that the OPP had “dropped the ball” in losing the park.

Nonetheless, both OPP Commissioner O’Grady and Chief Superintendent Coles testified at the hearings that they supported Inspector Carson’s decision to relinquish control of the park. In Chief Superintendent Coles’ opinion, there were more occupiers than officers in the park, and it was the “right decision ... to leave” Ipperwash Park:

I think they made the right decision to move. No one was hurt on either side, and there was a plan in place to go and seek an injunction. And, as far as I was concerned, that was the path that I wanted in any event because of the ambiguities that surround some of these issues.

Commissioner O’Grady agreed. In circumstances where police officers are in a provincial park with First Nations occupiers, and altercations ensue, and “without any solid authority to resist the occupiers” such as “a court order,” the “correct decision” is for the OPP to withdraw. Commission O’Grady explained: “[W]e may cause injury to the people, we may cause injury to our own officers.” He added that the First Nations occupiers may in fact have a legitimate claim:

The occupiers may be basing their claims on what they feel to be a very, very legitimate claim or what, in fact, may be a legitimate claim. I just don’t see how the police could know that and, therefore, the correct decision was to withdraw.

After withdrawing from Ipperwash Park the night of September 4, the OPP did not enter the provincial park. The plan to cohabit was at an end.

Inspector Carson went off duty shortly after 2:00 a.m. Sergeant Steve Reid assumed his responsibilities throughout the night until 7:00 a.m. when Carson returned to the OPP Detachment after catching a few hours of sleep at a nearby Forest hotel.

Mr. Kobayashi remained in the OPP Forest Command Post throughout the night.

9.12 Occupiers at the Park on the Night of September 4

Many people, including women, children, and the Elders, congregated around the fire that had been built at the park store. Aboriginal witnesses described the mood on the first night as “happy” and “kind of a celebration.”

In the late evening of September 4 or early morning of September 5, David George and fourteen-year-old Leland White dismantled signs in the park. They engaged in this activity to make it clear that the land was no longer a park, and that this property belonged to First Nations people. As David George said at the hearings:

It wasn't a park no more ...

After they took our land, they put up those signs, and then they lied about giving it back. They never did, so down came the signs.

... the land was basically stolen.

David George criticized the Indian Agents for not protecting the interests of the Aboriginal people. In his words, the “Indian [A]gents came along and messed everything up. They were selling everything off.”

The Aboriginal people did not have firearms at the park, nor did they hear gunshots on the evening of September 4. They also claimed that they did not light firecrackers that evening. Echoing the testimony of many occupiers, Glen Bressette said that other than the flares ignited earlier by Wesley George, no other flares, strobe lights, or firecrackers were lit by the people in the park on the night of Monday, September 4.

Tina George would not have brought her two young daughters to the park if she had thought the situation was potentially dangerous. As she said at the hearings, “it was supposed to be a peaceful occupation.” This was confirmed by Marlin Simon who said that, prior to the occupation, it was decided “it would be a bad idea to bring guns” into the park:

Everybody knew that this was going to be a peaceful thing, that we weren't doing an armed occupation ... If we brought guns in, then it would give the OPP reason just to come in and take us right out and move us out.

Several occupiers, such as Glen Bressette and Roderick George, returned to the barracks in the built-up area to sleep. Others, particularly the younger men, stayed the night by the fire near the park store. Aboriginal people remained at this site into the early hours of September 5 “to help out,” “to be there to hold down the fort,” and to provide “support.” Dudley George, Leland White, J.T. Cousins, David George, and others told stories, drank coffee, and smoked cigarettes near the bonfire.

Kevin Simon described the mood in the park on the first night of the occupation:

It was kind of a celebration — a bit nervous. It seemed kind of odd the way it had taken place, that the police had actually left and ... gave it up to us ... and we were occupying it and we told them it was our land ... [I]t had basically gone so smoothly, I guess. It was pretty tense there for a bit, but ... all in all, it went fairly smoothly and people were glad.