

## SEPTEMBER 5, 1995

### 10.1 September 5, 1995

A sunrise ceremony took place in Ipperwash Park on the morning of September 5. First Nations people engaged in prayer, formed a talking circle, and passed a feather around to people who had congregated in the park. The occupiers drank the water that was circulated, and the water was then offered to the Creator.

Stewart George was unaware that the provincial park had been occupied on the evening of September 4. After learning of the occupation, Stewart drove with Robert Isaac in the “OPP WHO” car the following morning from the army camp to the park.

Stewart George discerned a “sense of excitement,” a “positive feeling,” amongst the Aboriginal people at the park, who were relieved that they were now in a position to protect their burial grounds and that the graves would no longer be desecrated. Mr. George said at the hearings, the Aboriginal people were now “able to take care of them and offer them tobacco ... for the spirits to help carry our prayers to the Creator.” Stewart George offered tobacco into the sacred fire that had been built near the park store.

Marlin Simon was at the park on September 5 from about 6:00 a.m. or 7:00 a.m. and remained there for most of the day and night. He described the composition of the people — men and women, the young and the old — who spent the day at the park. Teenagers, young children, and infants, such as Carolyn George’s three-week-old granddaughter, as well as Elders such as Abraham George and Melva George, occupied the park on September 5. First Nations people stopped by and brought food and camping supplies to the occupiers. The Aboriginal people ate, some swam in the lake, and others walked around the park and socialized.

Other Aboriginal witnesses at the Inquiry also described the atmosphere on September 5 as “excited” and “kind of happy.” The occupiers thought “nothing was going to happen” because Ipperwash Park “was closed down for the year and there wasn’t [any] possibility of [an] altercation between campers or anything like that.”

Throughout the day, First Nations people arrived at the park to support the occupation. They included Stoney Point people living at the army camp, residents

of Kettle Point, and people from other reserves and communities such as Oneida, Walpole Island, and Chippewas of the Thames.

Larry French from the Chippewas of the Thames drove several men in his pickup truck from the Oneida Reserve to Ipperwash Park. They included Gabriel Doxtator, Isaac Doxtator (“Buck”), Al George, and Charles George (“Chuck”). Several of them had learned on the news that First Nations people had moved into Ipperwash Park and they travelled there to support the occupiers.

Both Larry French and Charles George were under the impression that the government had returned Ipperwash Provincial Park to the First Nations people and that the people were legally on the land. Charles George intended to go fishing at Stoney Point, and Larry French planned to stay in the park for the day. Mr. French was surprised to see police as they approached Highway 21 and the army camp:

I was shocked to see them. I had no idea that they were there when I came across 21 Highway ... I didn't know why they were there.

The police stopped Mr. French and his passengers at the police “roadblock” between Highway 21 and the main gate to the built-up area on Army Camp Road. Mr. French said there were “wall to wall” police cruisers. The OPP asked the Aboriginal men for their names and the purpose of their visit. Mr. French was asked to exit his pickup truck to enable the police to search his vehicle. When he asked the OPP to explain the questioning and the search, an officer responded that Aboriginal people were in the provincial park. Unhappy with the delay, Isaac Doxtator, Gabriel Doxtator, and the other passengers took their belongings and entered the army camp on foot while Mr. French’s vehicle was inspected. The police told them to stop, but they continued to walk toward the built-up area.

Mr. French could not understand the purpose of the police search. He did not have firearms with him, nor to his knowledge did any of the passengers with whom he was travelling.

As Isaac and Gabriel Doxtator and Al and Charles George entered the army camp on foot, they were surprised at how desolate the barracks appeared. They waited for Larry French to drive into the army camp, and they travelled in his pickup truck to the park. Police cars were stationed all along Army Camp Road toward the lake.

As the men entered Ipperwash Park, they saw about twenty to thirty people — men, women and children. They participated in a smudging ceremony with them. They met up with Glenn George who described the September 4 park occupation and the importance of protecting the burial grounds that had been

neglected and desecrated. Glenn George told the visitors it would be a peaceful demonstration and that there would be no firearms in the park.

In addition to the police surveillance along Army Camp Road, Gabriel Doxtator and his travelling companions noticed a police boat on Lake Huron. The occupiers noticed an increased number of police officers in the vicinity of the park throughout the day.

## **10.2 The OPP Command Post**

When A/D/S/Sgt. Wright arrived at the Forest OPP Detachment at 6:00 a.m. on September 5, the mobile command trailer was set up. It had been transported from London during the night. The forty-five-foot trailer was stationed beside the OPP Detachment near the garage area. This mobile trailer became the command post for the next two days of the occupation.

At the front of the command trailer was the communications area, with telephones, logger recording equipment, a desk, and a blackboard. A civilian radio operator and an OPP Sergeant worked in this area. Maps and charts of the Ipperwash area were posted to assist the operators.

A small meeting room with a telephone was at the rear of the trailer, separated by a wall and doorway from the communications area. Inspector Carson spent many hours in this meeting room discussing strategy with his senior officers, communicating with his superiors, and trying to obtain equipment such as armoured vehicles on September 5 and 6.

The Incident Commander decided the unit heads would meet with him on an hourly basis. Members of Inspector Carson's command team included A/D/S/Sgt. Wright, Sergeant Korosec, Sergeant Seltzer, Detective Sergeant Bell, Detective Sergeant Richardson, and Staff Sergeant Dennis.

Officers were briefed in the garage of the OPP Forest Detachment on both September 5 and 6. In the early morning of September 5, a poster was hung on the inside of the garage door to remind the officers of the Project Maple objective: "To contain and negotiate a peaceful resolution." Inspector Carson wanted "every officer" to "have a clear understanding and reminder of what the objective was." If officers were there "for a briefing, for supplies or simply to travel through into the building for other reasons ... every time they came and went" they were reminded of the overriding purpose of Project Maple.

ERT officers arrived from Districts 3 and 6 and were briefed by Inspector Carson at approximately 7:30 a.m. They were given an overview of the events of the park occupation. Inspector Carson instructed his officers to monitor and

control the area. He cautioned them not to get “ambushed.” He discussed the checkpoints and told the officers not to be alone as he was concerned about police safety. A/D/S/Sgt. Wright instructed the ERT officers to wear their grey uniforms. Inspector Carson told the officers to “plan on being here for a few days.”

### **10.3 Chief of Kettle and Stony Point Does Not Support Park Occupation**

Shortly after an 8:15 a.m. telephone call on the morning of September 5, it was evident to Inspector Carson that Chief Tom Bressette did not support the occupation of Ipperwash Park. Chief Bressette confirmed there was no land claim by the Kettle and Stony Point Band on Ipperwash Park. Chief Bressette understood that the province had purchased the park land in the 1930s from individual owners after the Kettle and Stony Point First Nation had surrendered it. Chief Bressette explained that an archaeologist had told the Aboriginal people occupying the park that a burial ground in the park had been desecrated when the park buildings were constructed. Chief Bressette cautioned Inspector Carson, “I think you are going to continue to have problems” with the occupiers “until somebody enforces a law against them.”

Inspector Carson made a clear distinction between the army camp property, which was in the control of the Department of National Defence, and the park, which was owned by the Province of Ontario. He told Chief Bressette that the park occupiers were considered to be trespassing, and that the Ministry of Natural Resources was seeking a court injunction.

Inspector Carson asked Chief Bressette to convene a Council meeting to inform his Band of the OPP’s intentions and to stress that the police did not plan to be “heavy-handed.” The Chief replied that the Council was “tired of these folks,” particularly people from outside the community who were “giving [them] a bad name and a bad reputation.” Les Jewell, he said, “seems to be causing all the trouble down there ... I don’t know why that guy’s allowed to go in and out of Ipperwash” because “he [doesn’t] have any business here.” He added, “[T]reating them with kid gloves isn’t something ... they understand.” Inspector Carson encouraged Chief Bressette to keep “communications open,” and not to hesitate to call the OPP. He said, “[W]e want to work through this thing together the best we can.”

Inspector Carson understood there was “certainly not a very harmonious relationship” between “the occupiers and the Kettle Point Band.” A/D/S/Sgt. Wright, Inspector Carson’s second in command, was also aware that there was “no

support from the Council of Kettle Point for the actions that had taken place at the provincial park” by the Stoney Point group. The position of Chief Bressette and the Band was “important” to A/D/S/Sgt. Wright because it “solidified the information ... that there was no issue with respect to ownership of Ipperwash Provincial Park.”

#### **10.4 Concerns of the Mayor and the Town of Bosanquet**

The Chief Administrative Officer of the Town of Bosanquet, Ken Williams, appeared at the OPP Forest Detachment before 9:00 a.m. on September 5 to meet with Inspector Carson. The purpose of his visit was to convey the Mayor’s concerns about the occupation and to obtain an update on the OPP activities and plans. He wanted information on access to Matheson Drive, and he wanted to know whether a trespass notice had been served on the occupiers. He also inquired about the purpose of the checkpoints.

Inspector Carson explained that preparations were being made for a court injunction for Ipperwash Park. Mr. Williams told Inspector Carson that Bosanquet Town Council would support an injunction for Matheson Drive. Inspector Carson explained that the OPP had established checkpoints to monitor people entering the park area. He assured Mr. Williams that residents and cottagers could access their homes and property, that “lots of officers” were monitoring the situation in the area, and public safety was of prime concern to the OPP.

Inspector Carson was not receptive to Mr. Williams’ suggestion that the municipality declare a “state of emergency.” The Town Administrator was “somewhat animated about the situation” at Ipperwash Park. Inspector Carson tried to assure Mr. Williams that the OPP “had the situation in hand and that it wasn’t necessary” to take such steps. Inspector Carson explained that the OPP Forest Detachment was now a command post and not an operational detachment. The Detachment in Grand Bend was handling the regular police service of the Forest Detachment.

Mr. Williams contacted Inspector Carson again later that morning to find out who was preparing the injunction. The Town wanted to discuss with these lawyers the possibility of an injunction on municipal property on Matheson Drive. Carson explained it was the Ministry of Natural Resources, not the OPP, who was making the court application.

As a result of his contact with Mr. Williams, Inspector Carson asked Sergeant Korosec to have ERT members “go door to door and make the public aware of their presence.” This included cottagers on East Parkway Drive, the Silver Birch

residents on Army Camp Road, and others affected by the checkpoint operations. Inspector Carson “felt it was important” to “make every effort to try to keep the community at large informed and reduce the anxiety level to the degree [they] possibly could.” It was evident to John Carson that Bosanquet’s municipal officials had a “heightened anxiety level.”

In my view, the press release issued by Mayor Fred Thomas and the Town of Bosanquet in the early afternoon of September 5 exacerbated rather than allayed the concerns of Ipperwash area residents. The language in this press release was aggressive, exaggerated, and hysterical. Entitled “Reign of Terror Continues,” the Mayor describes the First Nations occupiers as engaging in “terrorist” and “illegal activities.” He says residents are “terrified” and that there are “rumours that people are buying guns to protect themselves and their families.” Mayor Thomas was also critical of the OPP for not arresting these “Indians”:

*Reign of Terror Continues*

‘The current reign of terror in our community continues,’ Mayor Fred Thomas advised Council this afternoon, one day after a group of Indians illegally took over Ipperwash Provincial Park.

‘First, they kicked the Army out of the Army Camp and now they kicked the Province out of the Park. What’s next ...?’ Thomas wondered. ‘The Federal Government assured me that all these terrorist activities would be confined within the perimeter of the Army Camp, but this hasn’t happened.’

Members of Council stated: ‘Our residents are terrified. There have been sexual and physical assaults on the beach, shots fired at our workers and buildings burnt to the ground. To date, there have been no arrests and none planned as far as we know. This sends out a message that illegal activities in Canada today are rewarded rather than punished and that is wrong.’

‘I have heard rumours that people are buying guns to protect themselves and their families. Surely this is not a recipe for peace, order and good government,’ the Mayor stated.

The Town is demanding the Provincial and Federal Governments initiate appropriate action to remove the illegal occupiers from the land. ‘The laws of Canada and Ontario much be enforced equally for all Canadians. This reign of terror must stop,’ Thomas said.

In my opinion, this press release aggravated the situation and escalated the anxieties of local residents. The language in this public statement evoked fear and created further divisions between the First Nations people and the cottagers and residents in the Ipperwash area and the Town of Forest.

### **10.5 Request for a Private Line at the Command Post**

Superintendent Parkin called Inspector Carson about 9:45 a.m. on the morning of September 5 and learned the details of the previous evening's events when he first spoke with Sergeant Korosec. Stan Korosec described the confrontation and tension in the park. He explained that the OPP had evacuated the area for safety reasons, and that the First Nations occupiers had outnumbered the OPP:

We were down in the park when this thing hit the fan, and it was nose-to-nose for a while. And they outnumbered us at the one point there, so we had no choice but be safe.

Sergeant Korosec discussed the absence of a spokesperson for the occupiers: "The group inside ... are very divided. They have a different leader about every ten minutes." And, he added, "There's a few real jerks," before passing the phone to Inspector Carson.

It was decided in this call on the morning of September 5 that Inspector Carson would update Superintendent Parkin every two hours. When the OPP Superintendent began to ask questions on behalf of himself and Chief Superintendent Coles, Inspector Carson cautioned: "[A]ll this phone stuff is on recorder in the command post here." In a call later that morning, Superintendent Parkin wanted to know which telephone lines were recorded. Inspector Carson explained that his private line at the command post was taped, as were the other lines in the command trailer. However, the telephone lines in the OPP Forest Detachment were not recorded:

PARKIN: We're probably going to need a line at some point in time where we can talk to you.

CARSON: I can go into the detachment and call you and it won't be taped.

PARKIN: Okay.

CARSON: Okay.

PARKIN: We may have to do that off and on.

CARSON: Well, in fact I can just make a point of going into the Detachment when I call yah.

PARKIN: Yeah. Well, you know, it's just that —

CARSON: No, I understand.

PARKIN: — down the road, it may become an issue.

Despite the fact that Superintendent Parkin understood operational matters were to be recorded, he wanted an unrecorded line to discuss the Ipperwash occupation with the Incident Commander. He knew that for reasons of accountability, as well as to ensure accuracy of the record, operational discussions and decisions are taped. The OPP Superintendent acknowledged at the hearings that it was problematic, particularly in terms of perception, that he did not want a record of operational discussions between himself and the Incident Commander at Ipperwash.

It was important to Inspector John Carson that people spoke freely, frankly, and honestly, and that they were “comfortable” sharing information. This is precisely the reason Inspector Carson informed Superintendent Parkin that the telephone line was recorded. Superintendent Parkin suggested they communicate on unrecorded lines for future calls, and Inspector Carson agreed. Carson testified this would provide Chief Superintendent Coles and Superintendent Parkin with “unfettered access to me” for “frank and honest discussion.”

After his conversation with Superintendent Parkin, Inspector Carson instructed a technician to install a private line for him in the command post. Unbeknownst to Inspector Carson, this private designated line recorded his conversations with his superiors throughout the Ipperwash occupation.

As I discuss in the following chapters, it is fundamental, both for reasons of transparency and accountability in police decision making, to record telephone calls to and from the command post. Senior OPP officials should not have made the request for a private line at the command post during the Ipperwash operation. Recording of telephone communications is also important in post-event analysis of an operation by the OPP and other bodies that may review an incident.

## **10.6 OPP Surveillance and Protective Equipment**

On September 5, Inspector Carson focused his efforts on ensuring the police could monitor the occupiers from the air by helicopter, from Lake Huron by boat, and in the dark with night vision goggles. The Incident Commander also spent a significant amount of time trying to arrange for the transportation of armoured vehicles to the Ipperwash area.

### *10.6.1 Surveillance from the Air*

The purpose of OPP helicopter surveillance was to monitor the activities of the occupiers and to assess the number of Aboriginal people in the park. A/D/S/Sgt. Wright was charged with the responsibility of arranging for a helicopter to be sent to the Ipperwash area.

A/D/S/Sgt. Wright contacted Inspector Robertson at General Headquarters (in Orillia) on the morning of September 5. Inspector Robertson was responsible for obtaining helicopters and other emergency equipment. In this conversation, A/D/S/Sgt. Wright learned that the OPP Brampton helicopter was out of service for the next two weeks, and the police helicopter in Sault Ste. Marie only had seventeen hours available. Inspector Robertson offered to contact the RCMP regarding the availability of a “chopper.” Another avenue to be pursued was obtaining a helicopter from the Ministry of Natural Resources.

Inspector Robertson asked A/D/S/Sgt. Wright about the situation at Ipperwash in another call later that morning. Wright described the sighting of a rifle in the trunk of an Aboriginal person’s car in the confrontation with the police the previous afternoon, the occupation of Ipperwash Park, the damage to the OPP cruiser, and the police withdrawal from the park. Wright also mentioned the presence of four Emergency Response Teams (ERT) as well as the involvement of the Tactics and Rescue Unit (TRU) at Ipperwash. When Inspector Robertson asked if the situation was analogous to Serpent Mounds, Wright made it clear that there were no similarities: “There’s no doubt that we’ve had this researched, that park belongs to the Province of Ontario.” To Mark Wright, the status of the park was clear and he did not raise the claim by the Aboriginal people of the presence of sacred burial grounds in the park. The Ministry of Natural Resources (MNR) and other provincial Ministries are preparing an injunction, he told Inspector Robertson, because the OPP’s “intention is to go back in and take that park.” In fact, Mark Wright had not had any discussions with Inspector Carson at that time regarding the OPP’s intention to assume control of the park.

The arrival of a helicopter at Ipperwash as soon as possible was of great concern to A/D/S/Sgt. Wright. When Inspector Robertson said 3:00 or 4:00 p.m. was the earliest a RCMP helicopter could arrive, Mark Wright replied: “There’s real potential for one of our guys to get hit” and “we’d like to get in there earlier”:

What happens is, they start rocking and rolling around two, three, four o’clock and it gets busy for us, like really busy for us between four and two o’clock in the morning ’cause they’re out of the sack and they’re out to cause trouble. So what we’d like to do is we’d like to get our people back into the park prior to that, before they start moseying around and ... wandering back into the camp. And we’re really

uncomfortable sending our guys in there without somebody overhead ... The sooner the better is the best I can give you. And if it can't get here till four, then we're fucked till four. But if you can get here sooner, then the better off we are.

A/D/S/Sgt. Wright said he believed the OPP were still contemplating cohabitation in the park with the occupiers on September 5. He thought it was important for officer safety to have helicopter surveillance if the OPP re-entered the park. But the OPP's plan to cohabit had come to an end on the night of September 4 when the police decided to leave the park for reasons of police safety.

A discussion ensued as to whether A/D/S/Sgt. Wright required "extra weaponry" at Ipperwash. During the call, Mark Wright asked ERT Leader Sergeant Korosec, who was in the room with him:

What about when we start bringing the Road Warriors down here? We going to have enough guns and everything for them? Do we need more guns down here?

At the hearings, A/D/S/Sgt. Wright explained that "Road Warriors" was police slang for police officers and was "not meant in any disrespectful way." Although Wright claimed there was "no sinister connotation to the term 'Road Warriors'" when he testified, he appreciated "how there could be that misunderstanding."

Chief Superintendent Coles was adamant that an RCMP helicopter not be used for aerial surveillance at Ipperwash. The reason was the "optics." The Ipperwash occupation was a "local issue," and bringing the RCMP into this situation, "assisting the OPP ... brought a focus to the event that [Chief Coles] didn't think was helpful at this particular time." The OPP made arrangements to use a helicopter from the Ministry of Natural Resources.

Inspector Carson appreciated that while an RCMP helicopter in Ipperwash was "simply a support piece of equipment," it could be perceived that the "level of involvement had been raised now from the Provincial Police to the RCMP." He also understood that with RCMP involvement, the Ipperwash occupation could be perceived by members of the public as having "some relationship to the activities going on at Gustafsen Lake."

At about noon, Inspector Robertson informed Inspector Carson that he would cancel the request for an RCMP chopper, and that 4:00 p.m. was the earliest the MNR helicopter could arrive in Ipperwash from Sudbury. Inspector Carson was anxious for the helicopter to arrive as soon as possible. He explained to Inspector

Robertson: “Before we do anything, I’d like to have an eye ... so we have some idea [of what] the movement is in there before we move people in any particular spot.” Inspector Carson wanted to ensure “we have an eye so that we don’t get ambushed.”

### ***10.6.2 Video Cameras***

Video cameras had been installed at the park kiosk and maintenance building prior to the occupation, but on September 5, these cameras had not yet been turned on. In a conversation with OPP Superintendent Parkin, Inspector Carson said he hoped that the video cameras would be operating before dark.

As Wayne Wawryk, the expert witness on police intelligence who testified at the Inquiry, said, “vision is paramount.” The ability of the police to see events and people is important in public order events. Video cameras are an important means of securing this vision.

From his telephone calls with the Incident Commander, it was evident that Superintendent Parkin considered video surveillance an important means of intelligence, and in his view it was taking too long. Both he and OPP Chief Superintendent Coles were concerned about the poor state of video surveillance in and around the park. As Superintendent Parkin said, the essence of effective video surveillance is that it is anticipatory in nature. The OPP knew the Aboriginal people were planning to occupy the park in early September. Superintendent Parkin was exasperated it was taking the “whole day” for the OPP officers to make the necessary connections with the equipment.

### ***10.6.3 Boat Surveillance***

Inspector Carson wanted an OPP boat to be transported from Grand Bend and stationed on Lake Huron facing Ipperwash beach. Staff Sergeant Bill Dennis was responsible for arranging boat patrol in the Ipperwash area.

The Grand Bend boat arrived by 12:30 p.m. on September 5 and OPP officers in this boat monitored the water and beach area during daylight hours. Officers on the *HH Graham*, a larger boat from Kincardine, were responsible for surveillance throughout the night and were on patrol the evening of September 5.

### ***10.6.4 Light Armoured Vehicles***

The Incident Commander continued his efforts to obtain light armoured vehicles (LAVs) on September 5. Inspector Carson tried to contact Deputy Chief Elgin Austin at the London Police Detachment. He was able to reach Cliff Logan

at GM Diesel, and they discussed the agreement between the London Police and GM Diesel. Inspector Carson suggested that London-trained police officers operate the armoured vehicles at Ipperwash. Mr. Logan agreed to pursue this possibility and to contact Carson later in the day.

Deputy Chief Austin made it clear to Inspector Carson in the early afternoon of September 5 that he was not anxious to send officers and armoured vehicles to Ipperwash. However, the London Deputy Chief would be prepared to assist with armoured vehicles operated by one of his officers if Inspector Carson's team were "under fire" in an emergency situation. Inspector Carson was not satisfied:

That puts us in a bit of a lurch, I guess, to be fairly blunt about it ... [A]fter we're under fire, it puts me in a spot where that's really not much help to me. Because by the time I could mobilize that piece of equipment after finding out we're in a jackpot, it's too late even to ask for it ... It doesn't really do much f[rom] a contingency point of view.

Although Inspector Carson "didn't expect ... to use" armoured vehicles, he "didn't want to have the resource hours and miles away, should that need come to play."

Inspector Carson learned that OPP Officer Rob Shaw was a member of the military and a tank commander. He instructed Sergeant Korosec to have Officer Shaw contact GM Diesel for training the following day in London. Inspector Carson was also informed that an officer who had joined the OPP in the past year had been in the infantry in Petawawa and was trained to operate armoured vehicles.

Tim Coffee, an official at General Motors Diesel Division in London, contacted Inspector Carson to discuss the purpose of the armoured vehicles in Ipperwash. Inspector Carson described the Aboriginal occupation of Ipperwash Park and said there is "some reason to believe there [are] weapons involved." Inspector Carson suggested two OPP officers with military experience travel to London to receive training at GM. Mr. Coffee explained that because no agreement currently existed between the OPP and General Motors, he did not know if "the bureaucracy" could deal with this in an expeditious manner. Mr. Coffee later confirmed that GM was not "in a position to release a vehicle under the current short notice."

At a command team briefing that afternoon, Inspector Carson informed A/D/S/Sgt. Wright, Sergeant Korosec, Les Kobayashi, and others that "talks with GM Diesel [are] off ... [I]f the risk [is] bad enough, we will go to the military" but "risk factors haven't escalated yet."

Pursuing his quest for light armoured vehicles, Inspector Carson spoke to the Department of National Defence (DND) shortly after 3:30 p.m. The military

official to whom he spoke made it clear that if DND provided armoured vehicles, the LAVs were to be represented as Ontario Provincial Police and not National Defence vehicles.

Chief Superintendent Coles was also “adamant” that any armoured vehicles used at the Ipperwash occupation have OPP decals on them and not military designations. Similar to his concerns about using RCMP helicopters, he thought it was essential that there be no perception that the military was assisting the OPP:

I was adamant that if an armoured personnel carrier was going to be used in any way, shape, or form by the Ontario Provincial Police, it would have an Ontario Provincial Police sign on it. I didn’t care if it came from the military. I would paint it and we would repaint it whatever they wished. But it was an Ontario Provincial Police resource vehicle. It was not a tank ...

I can assure you that I was adamant, and John knew that I was adamant ... I did not want to be seen to be assisted by the military. I was keeping that separation, and that was a separation that was very clear in my mind, and I know that I conveyed that to John Carson and Tony [Parkin]. They knew my position.

Inspector Carson assured Chief Superintendent Coles that magnetic overlays of OPP decals could be placed on the armoured vehicles.

Despite Inspector Carson’s significant efforts, he was not successful in obtaining armoured vehicles for the OPP in the Ipperwash occupation on either September 5 or 6.

### *10.6.5 Nomex Fire-Retardant Suits and Night Vision Glasses*

The OPP also spent time on September 5 trying to obtain Nomex fire-retardant suits for the officers at Ipperwash. Flares had been thrown at police the previous night, and Inspector Carson thought it was advisable to have these outfits as protection in the event that the occupiers threw another “incendiary device” at the police officers.

Inspector Carson also wanted officers patrolling the park perimeter and the vicinity of Outer Drive to wear night vision glasses on September 5 when it became dark to obtain information on the occupiers’ activities. Mayor Thomas and members of the community had expressed concerns about the Aboriginal occupation, and John Carson was “trying to be a little proactive ... to determine exactly what was going on” in and around the park. Inspector Robertson informed

Inspector Carson that five sets of night vision glasses would be sent from London to Forest.

## **10.7 Inspector Carson Informs His Command Team of “Political Heat”**

### ***10.7.1 Local MPP Marcel Beaubien Discusses Occupation with Staff Sergeant Lacroix***

MPP Marcel Beaubien was concerned when he learned of the park occupation. The provincial politician was aware of the rumours circulating prior to September 4 that First Nations people might seek control over Ipperwash Park. Mr. Beaubien had been assured by the OPP that officers were patrolling and monitoring the Ipperwash area, and he had conveyed this to his constituents. Yet Mr. Beaubien learned the police had left the provincial park on the night of September 4 because they were concerned for their safety. Mr. Beaubien had been reassuring his constituents that “people should feel safe because the proper level of policing is there.” But now that the police appeared to be “concerned about their safety,” it was going to be difficult for Mr. Beaubien to offer this rationalization.

It was important to MPP Beaubien that his constituents perceive him as being active and involved in the Ipperwash situation. Staff Sergeant Wade Lacroix was Mr. Beaubien’s first point of contact with the OPP after the September 4 park occupation. Mr. Beaubien had known Staff Sergeant Lacroix for fifteen to twenty years, had sold him house insurance, and described him as a good acquaintance. Upon arriving at his constituency office in Petrolia early on September 5, Marcel Beaubien called Staff Sergeant Lacroix to convey his concerns and to obtain information.

### ***10.7.2 Staff Sergeant Lacroix Informs Inspector Carson of Concerns of Provincial MPP***

Wade Lacroix, an OPP Staff Sergeant trained to lead the Crowd Management Unit (CMU),<sup>1</sup> called Inspector Carson just before 8:30 a.m. to update him on conversations he had had with local MPP Marcel Beaubien.

Staff Sergeant Lacroix made it clear at the beginning of the call that Mr. Beaubien was “quite irate.” Inspector Carson immediately cautioned Lacroix that they were “on recorded [telephone] lines.” Staff Sergeant Lacroix expressed

---

<sup>1</sup> The primary purpose of a CMU was to manage crowds in public order events. The CMU consisted of four squads: the contact squad, left cover, right cover, and the arrest squad.

no concern. He told Inspector Carson that Marcel Beaubien was going to call the Premier and say, “[T]his is ridiculous,” and that he wanted “something done.”

Inspector Carson discussed the four ERT teams at Ipperwash and stressed that the OPP had “adequate resources at this time to address all public concerns.” Staff Sergeant Lacroix asked Inspector Carson whether it was a “large formation,” because “for a large formation of ERT, there is supposed to be a Staff Sergeant.” Lacroix was trying to tell the Incident Commander that assembling two ERT teams for a crowd management problem required a CMU Staff Sergeant, and that he had such training. Inspector Carson explained that ERT was being used simply for perimeter security and not for crowd control operations. He assured Staff Sergeant Lacroix: “[N]o one in the community is in any danger of anything in our estimation,” and “we will maintain that level of service as long as it is required.” It was Lacroix’s understanding from this call that Inspector Carson did not intend to deploy the Crowd Management Unit to Ipperwash Park.

Inspector Carson suggested that Staff Sergeant Lacroix continue communicating with Mr. Beaubien because he himself was being inundated with calls from other politicians, such as Rose-Marie Ur, Member of Parliament for the federal riding of Lambton-Kent-Middlesex. Staff Sergeant Lacroix repeated that Mr. Beaubien was “calling the Premier” to say “[W]e’ve got to do something ... it’s now provincial.” At the end of the call, Inspector Carson asked Staff Sergeant Lacroix to keep him apprised of further communications with MPP Beaubien.

Staff Sergeant Lacroix called Mr. Beaubien to update him with information on the Ipperwash occupation. Inscribed in the MPP’s note is the following:

- 4 emergency response teams — 60 officers
- 2 teams on 24 hrs/day — no danger to individuals
- ... MNR going for court order.

Staff Sergeant Lacroix provided this information to Mr. Beaubien so that the MPP could inform his constituents that the OPP were taking the situation seriously, that there were additional police resources in the Ipperwash area, and that there was no need to panic. Wade Lacroix was hopeful the provincial politician could help the OPP to lessen the fear in the community.

### ***10.7.3 Inspector Carson Briefs His Command Team on Political Pressure at Queen’s Park***

At the 9:25 a.m. command post meeting, Inspector Carson informed his senior officers that Chief Bressette was supportive of the OPP’s position that the park

belonged to the province and that the Band did not have a land claim to the provincial park.

Inspector Carson also told his officers that the Town of Bosanquet was seeking legal advice regarding an injunction application for Matheson Drive, and that the Ministry of Natural Resources was trying to obtain an injunction for Ipperwash Park. It was Detective Sergeant Richardson’s understanding that the police would not enter the park without an injunction.

At the command team briefing, Inspector Carson advised his senior officers that Staff Sergeant Lacroix had been in contact with local MPP Beaubien. He reported that Marcel Beaubien was “updating the Premier on the situation.” Officers Mark Wright, Stan Korosec, Brad Seltzer, Trevor Richardson, Don Bell, and Bill Dennis attended this meeting. Inspector Carson explained at the hearings that he relayed this information to his officers because he “wanted them to understand this [wa]s a serious event,” as well as the “level of attention” the occupation “[wa]s getting.”

## **10.8 Ontario Government Officials Notified of Occupation of Ipperwash Park**

On the evening of September 4 or the morning of September 5, Premier Harris, Cabinet Ministers, and senior political staff became aware of the Aboriginal occupation of Ipperwash Park. Premier Harris learned of the occupation in a call from his Executive Assistant (EA) Deb Hutton, Solicitor General Runciman was informed by his EA Kathryn Hunt, and Attorney General Harnick became aware of the park occupation on the news.

The Minister of Natural Resources was at his family cottage when he learned of the occupation in a telephone call on September 4 from his Deputy Minister Ron Vrancart. Mr. Vrancart told Minister Hodgson that the occupiers of the army camp had assumed control of Ipperwash Park, that the park users had been evacuated, and that the camping season was over. They had minimized security risks to campers and to park staff. Mr. Vrancart explained the history of the army camp, and the frustration of the Aboriginal people at the federal government’s reluctance to return their land. The Deputy Minister said the OPP at Ipperwash were in charge of the situation on the ground.

Early on September 5, Peter Sturdy, MNR Zone Manager (Southwestern Ontario), sent a status report by e-mail to a distribution list based on the chronology of events Assistant Park Superintendent Don Matheson had sent to him that morning. It was MNR’s position that the occupation was illegal, that MNR had acquired the property from third parties, and that there were no “Native” land

claims to Ipperwash Park. The e-mail stated that a “priority” for MNR was to proceed with seeking a court injunction.

At 9:15 a.m., Dan Elliott (MNR Native Liaison Officer) wrote to Peter Sturdy to advise him that Chief Tom Bressette was in full support of the MNR and the OPP with respect to the park occupation. Dan Elliott also advised him that the Aboriginal people claimed that an ancestral burial ground existed in the park, but that archaeological studies conducted by the Ministry of Culture and Recreation in the early 1970s did not identify any burial grounds. It was only on the morning of September 5 that Peter Sturdy first learned that the claim that a burial ground existed in Ipperwash Park was an important reason for the Aboriginal occupation. Mr. Sturdy directed that research be conducted to determine the validity of the burial ground allegation. He asked Terry Crabe, who worked at Pinery Park but was at the London MNR office at the time, to review files and documents in London and at Pinery to ascertain the merit of the burial ground claim.

On September 5, Premier Harris attended the Canadian Open and was not available for most of the day. As he explained in his testimony, the Ipperwash Park occupation “was not viewed as an issue that was going to cause my involvement, otherwise I wouldn’t have gone off to try and hit the ball as far as Fred Couples. I think that was the day that I played [golf] with him at the Canadian Open.” In terms of his expectations on Tuesday, September 5, Mr. Harris said:

... I was not available throughout the day. So I guess the idea would be that ... by the time I came back Tuesday night, that it was all over and the occupiers left and they made their point, they — taking a long time for the federal government to give them their camp back, and we would probably support them in that.

## **10.9 The September 5 Interministerial Committee Meeting**

When Julie Jai, Chair of the Ontario Government Interministerial Committee (IMC), returned from vacation after Labour Day on September 5, she learned First Nations people had occupied Ipperwash Park. Ms. Jai convened an IMC meeting for 11:00 a.m. that morning to address this issue.

Attendees of the meeting consisted of political staff and bureaucrats from various Ministries, such as the Attorney General, Natural Resources, the Solicitor General, as well as the Premier’s Office. It was a much larger group than the August 2 IMC meeting, held after First Nations people took control of the army barracks at Camp Ipperwash. As Ms. Jai explained, the government on September 5 was dealing with a “real, not just an anticipated emergency.”

The September 5 meeting was held at the ONAS Boardroom on Bay Street in Toronto. Some of the political staff and civil servants at the meeting included:

Elizabeth Christie (Attorney General Civil — Crown Law Office)  
 Ron Fox ([Ministry of the] Solicitor General)  
 Eileen Hipfner (ONAS)  
 Dave Carson (ONAS)  
 Deb Hutton (EA to Premier Harris)  
 Dave Moran (EA to Attorney General Harnick)  
 Jeff Bangs (EA to Minister of Natural Resources Hodgson)  
 Kathryn Hunt (EA to Solicitor General Runciman)  
 Barry Jones (Legal Director at the Ministry of Natural Resources)  
 Shelley Spiegel (Cabinet Office)  
 Peter Allen (EA to Deputy Minister of Natural Resources Vrancart)  
 Anna Prodanou (ONAS, representing her Director Janina Korol)

Participating by conference call were Peter Sturdy, Ron Baldwin, and Dan Elliott from the Ministry of Natural Resources.

At the outset of the meeting, people identified themselves, their position, and the Ministry with which they were affiliated. Julie Jai, Acting Legal Director of ONAS, observed that several people at the September 5 meeting had “very little experience dealing with Aboriginal issues or Aboriginal emergencies.” Political staff such as Dave Moran acknowledged at the hearings that he was one of the people who had limited knowledge of First Nations issues. There were also people like Deb Hutton, Executive Assistant to Premier Harris, who were not aware of the mandate, guidelines, or powers of the Committee. This was the first time Deb Hutton had attended an Interministerial Committee meeting on Aboriginal Emergencies.

Participants at the meeting, such as Julie Jai, Eileen Hipfner, Anna Prodanou, and Elizabeth Christie, made detailed contemporaneous handwritten notes. Ms. Jai, described by people who worked with her as meticulous, had a reputation for taking accurate, copious transcriptions of comments at meetings. Anna Prodanou, a former journalist, said she also had a “compulsive habit of taking notes” that were fairly detailed. Julie Jai forwarded typed minutes of the meeting to attendees later that day.

The stated purpose of the IMC meeting was “to gather information and develop recommendations regarding the Stoney Point Group’s occupation of Ipperwash Provincial Park.” Political staff such as Kathryn Hunt considered the IMC meeting to be an information-sharing session. She attended the meeting

“to observe and bring information back” to her Minister, Solicitor General Bob Runciman. Jeff Bangs, EA to Minister Hodgson, also described what he perceived to be the role of an Executive Assistant to a Minister at an IMC meeting. Although his primary function was to gather information, he would convey his Minister’s views to members of the Committee on various issues that were discussed. It was the understanding of civil servants such as Julie Jai that if an EA expressed an opinion, it reflected the view of his or her Minister.

ONAS staff began the meeting with background information. The park occupiers were described as a dissident group from the Kettle and Stony Point First Nation, not recognized as an independent band under the *Indian Act*. Members were reminded that at the time of the August 2 IMC meeting, there had been indications that “Stoney Pointers” might occupy Ipperwash Provincial Park.

ONAS lawyer Eileen Hipfner provided a synopsis of the August 18, 1995, decision of Killeen J. in *Chippewas of Kettle and Stony Point v. Attorney General of Canada*. The case involved an assertion by the Kettle and Stony Point Band that the 1927 surrender of the land was not valid. The Ontario Court General Division found the 1927 surrender, involving land originally part of the Kettle Point Reserve, to be valid. It is important to understand that this decision had no application to the land at Ipperwash Provincial Park, that is, to the 1928 surrender of land that had been part of the Stony Point Reserve. In fact, the minutes of the September 5 IMC meeting explicitly state that Killeen J.’s decision “did not deal with the park.”

Despite this statement, members of the IMC thought that the August 18, 1995 decision “increased the confidence that we had valid title to the park.” As Ms. Hipfner explained at the hearings, that assumption by government officials was incorrect.

Ron Fox, the OPP officer seconded to the Solicitor General’s Office (as Special Advisor, First Nations), provided the Interministerial Committee with an update of the situation at Ipperwash Park. In his view, his role was to represent the office of the Deputy Solicitor General and to “provide information from the field” — “what has occurred, what perhaps is occurring, and also what might occur for the purposes of the group coming together to make a determination.” Political staff such as MNR Executive Assistant Jeff Bangs and Ministry of the Attorney General (MAG) Executive Assistant Dave Moran understood that Mr. Fox was a liaison between the OPP and the Ministry of the Solicitor General.

IMC members were told that at about 7:30 p.m. on Labour Day (September 4), a group of “Stoney Pointers” consisting of thirty to forty men, women, and children had occupied the park. They were believed to be the same people who had assumed control of the army camp five weeks earlier at the end of July. The OPP,

Fox reported, had established a perimeter around the park. OPP and MNR had informed First Nations people they were trespassing, but the occupiers refused to leave the park. A command post had been set up by the OPP in Forest, and the situation was stable. It was evident to participants at the meeting that Mr. Fox did not consider the situation an urgent or pressing matter.

MNR followed with an update by telephone. As explained by Ms. Jai, it was typical to have people on the ground provide current information to the IMC in an emergency situation such as a protest or occupation. Peter Sturdy, MNR Zone Manager in Southwestern Ontario (which encompassed the Ipperwash area), considered that his role at the meeting was to provide “a sense of the events that were occurring at the field level.” His primary source of information was his MNR staff at the command post.

MNR officials took the position that the province held valid title to Ipperwash Park. The land had been surrendered by the Aboriginal people to the federal government in 1928, which was in turn sold to private citizens. The Ontario government subsequently purchased the property from the private landowners.

Peter Sturdy reported that First Nations people had instructed MNR staff to leave the park after the occupation. MNR had tried to serve a trespass notice pursuant to the *Trespass to Property Act*, but the occupiers had refused to accept service. There was no identified spokesperson or leader of the group. A decision had been made to officially close the park pursuant to the *Provincial Parks Act*. Although the park in the past was closed on Labour Day for overnight camping, use of the park and beach was permitted during the day. However, because of the occupation, the park had been completely closed to the public for all purposes.

There had been no communication with members of the Stoney Point group. Consequently, the demands of the First Nations occupiers were not known.

MNR also indicated that some occupiers had entered the maintenance building and inscribed the words “Stoney Point #43.” This was considered significant as “#43” was the number designated by the Department of Indian Affairs to the Stoney Point Reserve; in other words, the occupiers seemed to be asserting a claim to ownership of the park lands — this property was part of their reserve.

It was reported that there had been no violence, nor were there any indications that the occupiers were armed. However, MNR staff said Aboriginals had cut down trees, blockaded Matheson Drive, and may have stolen an OPP vehicle.

Ron Fox knew MNR staff had been present at OPP briefings. However, he was “surprised” that Mr. Sturdy or Mr. Baldwin was communicating what he considered to be operational information. Mr. Fox told the Committee it was

highly unlikely an OPP vehicle had been stolen, but that he would confirm this information. This was merely rumour, in Mr. Fox's view, and as he aptly said at the hearings, "[i]nformation that is received and not well sourced, in terms of validity, can be very problematic."

MNR officials confirmed that in the past, the province had permitted First Nations people to use Ipperwash Park for ceremonial purposes. The Supreme Court of Canada decision, *R. v. Sioui*, was discussed in the context of allowing Aboriginal people to perform traditional ceremonies in the provincial park if they were not incompatible with the use of the park.

The possible existence of a burial site in the park was raised as an explanation for the occupation by First Nations people. An Aboriginal occupier had reportedly said, "[T]he park's our[s] now, they'll be paying us now" — the rationale being the burial site.

Most of the political staff in the room were unaware of the significance of burial grounds to First Nations people. As Dave Moran, EA to Attorney General Harnick, said:

When the issue of the burial ground came up, I'm fairly certain that this is the first time that any of the political staff in the room, myself included, had been briefed on issues of burial grounds and the significance. And it was something that we discussed at the meeting in terms of the significance in the role because one of the questions that we had was valid title to the park. And when we discussed whether a burial ground was sufficient reason for the validity of the land claim, we were told, No, that that was not.

An MNR official commented that there might be new archaeological evidence regarding a burial ground that ought to be evaluated. It was also suggested that the government's obligations under the *Cemeteries Act* be examined. ONAS lawyer Dave Carson was subsequently charged with this responsibility. However, the IMC did not recommend that efforts be made to contact First Nations people in the Ipperwash area to determine if there was oral history to support the claim of a burial ground. Ron Fox testified that this was a mistake. In his view, the issue of colour of right should have been seriously considered by the IMC.

The Committee considered possible approaches of the government to the occupation. A civil injunction was suggested as a legal remedy to move the occupiers out of the provincial park. MPP Marcel Beaubien, the Committee learned, was urging the government to seek an injunction. MAG lawyer Elizabeth

Christie was surprised to hear this information: “I hadn’t ever seen that before ... I had never seen the local MPP becoming actively involved in that sort of thing.” Also, the Town of Bosanquet had indicated it was independently seeking an injunction for Matheson Drive, the road blocked by the occupiers.

Peter Allen, Executive Assistant to MNR Deputy Minister Vrancart, commented that First Nations people were simply occupying an empty park. He cautioned that “precipitous” action should not be taken. Nevertheless, his Deputy Minister thought it would be wise to prepare an injunction application in the event that it became necessary to seek this remedy. Jeff Bangs, Executive Assistant to Minister Hodgson, agreed: “[W]e can afford to wait.” Mr. Bangs was concerned that if an injunction was obtained from the Court, they would “be expected to move in,” which would “escalate” the situation.

Mr. Bangs had discussed this very issue with Minister Hodgson before the IMC meeting. There was concern that an injunction could lead to a confrontation with the occupiers. Mr. Bangs urged restraint and caution in dealing with this situation.

It was reiterated that public safety was not an issue at this time. It was suggested that the demands of the First Nations people and the reasons for the occupation be determined before an injunction was sought from the courts.

A concern was raised that Mohawk Warriors might join the occupiers at Ipperwash. As Ms. Christie explained, “the backdrop” is that “the Gustafsen Lake standoff is going on at the same time in British Columbia and the Mohawk Warriors had been sort of active in various areas.”

At this point in the meeting, there was a shift to a consideration of the political climate when the question was asked, “What is the tolerance level of the government if there is an escalation?”

Serpent Mounds was raised as an example of a recent occupation that had ended peacefully. However, the Ipperwash situation was perceived to be different because, in contrast to Serpent Mounds, the government was confident it had full legal title to all of the Ipperwash parkland. It was at this point that Deb Hutton, Executive Assistant to Premier Harris, interjected and questioned why the IMC had not met to discuss Serpent Mounds.

Speaking on behalf of the Premier, Ms. Hutton forcefully said, “[The] Premier is hawkish on this issue” and feels “we’re being tested.” It “will set the tone” for how the government will deal with these issues over the next four years. Most people in the room interpreted “hawkish” to mean aggressive. It was evident to members of the IMC that the government “wanted a proactive approach” in addressing the occupation at Ipperwash Park.

The atmosphere of the IMC meeting changed. ONAS lawyer Eileen Hipfner described the tension in the ONAS Boardroom:

*My recollection is that after Ms. Hutton made the statement about the Premier being hawkish on this issue, that marked a change in the tone ... of what had been to that point a fairly unremarkable meeting. And that after that, the focus ... became Ms. Hutton and sort of addressing Ms. Hutton's concerns. She has a very forceful way of presenting her ideas ... if I was anywhere but here, I might say that it could cut the tension with a knife. It was, to me, palpable ... there was a lot of tension in the room after that, and a lot of focus on Ms. Hutton and her comments and her needs ... [P]eople seemed to be directing their comments to her, seemed to be, as I said, responding to the things that she had said or was saying. (emphasis added)*

Ms. Hutton's demeanour was so forceful that Ms. Hunt thought she was the Chair of the IMC meeting: "My sense was that Deb Hutton was chairing the meeting," and she was "asking questions" and "she seemed to be the lead speaker at the meeting."

People in the room believed Ms. Hutton was speaking on behalf of Premier Harris. As Mr. Bangs, EA to Minister Hodgson, said: "When the Premier's [E]xecutive [A]ssistant attended a meeting, and not just these particular meetings ... our expectation as political staff was that when they spoke, they were speaking with the authority of the Premier ... unless they stated otherwise."

Other IMC members, such as Ron Fox, also thought Ms. Hutton "spoke as if she were the voice of the Premier. ... [T]he way she spoke, I can only assume that she had communication with the Premier because she was speaking in his voice, if you will." Ms. Hutton herself understood that when she spoke, members of the Committee considered her words significant, given her position in the Premier's Office. Ms. Hutton said she only committed the Premier to positions she had vetted with him, unless she had a "very high expectation that what [she] was saying was consistent with his views."

Jeff Bangs raised the application of the Statement of Political Relationship (SPR) developed by the previous government in 1992 which, in his view, was "still in existence and on the books." He thought that the "SPR [wa]s the bigger umbrella issue":

Even though it was signed by the previous government with First Nations, it was still an existing live document and I thought we needed to be mindful of it and perhaps follow some of the elements of it.

This framework delineated the manner in which the province would address Aboriginal issues. It recognized the right of First Nations people to self-government and discussed Aboriginal and Treaty rights under the Constitution. As the SPR

states, it is “intended as a resource for ministries to use to enable them to operate on a more consistent and informed basis as they develop Ontario’s relationship with First Nations.” As far as Ms. Hutton was concerned, the Statement of Political Relationship provided no assistance to the Harris Government in its approach to the Ipperwash Park occupation. Mr. Bangs’ point was not pursued. It became evident to Mr. Bangs that he and Ms. Hutton were at different ends of the spectrum of the “go-fast/go-slow” debate.

It was also mentioned that Chief Tom Bressette of the Kettle and Stony Point Band did not support the park occupation and could become frustrated if the government allowed the occupation to continue. The Chief, it was said, supported the OPP and MNR, and he did not want the government to act in such a way that would give legitimacy to the splinter group.

Ron Baldwin noted that although there were no public safety issues in the park, the government needed to be mindful of the residents in the adjacent cottages and homes.

Ron Fox confirmed that it was difficult for the police to secure the perimeter of the park because of the forest and beach access.

As the meeting progressed, tension between some of the political and civil servant staff escalated. As Anna Prodanou observed:

... there seemed to be more and more tension between the political staff and the government employees who were providing various forms of advice, efforts at trying to determine messaging, and ways in which the emergency could be addressed ... [T]here was an impatience on the part of the political staff, considerable impatience, to deal with this effectively and quickly.

Ms. Hutton acknowledged she was “slightly frustrated” during the latter half of the meeting: “I wasn’t getting the sense that we were sort of thinking outside the box or being creative in making sure that we had all potential options on the table for the government to then assess and analyze and make a decision about.”

Ms. Prodanou recalls that a “political member” of the IMC relied on a “Hell’s Angels” metaphor: “I remember ... in one instance someone use a metaphor to say, well ... if a group of Hell’s Angels landed on your front lawn and set up camp there, would you not be able to call the police and have them removed?”

Ron Fox and others also discerned a “dividing line” emerging on the approach to be recommended to the government. Several IMC participants subscribed to a patient, measured, careful and slow response to the park occupation, while others such as Ms. Hutton had a “sense of urgency” and thought they “should be doing more and doing it faster.” Julie Jai, Chair of the IMC meeting, described Deb

Hutton as “one of the people who was extremely frustrated at the kind of relaxed, slow approach that we were proceeding with at the meeting.” This was apparent from the “comments that she made at the meeting as well as even her body language and kind of the forceful way in which she made the statements.”

MAG lawyer Elizabeth Christie was asked to describe some of the legal options available to the government. She discussed: (1) *Criminal Code* provisions — mischief charges; (2) trespass offences under the *Trespass to Property Act*, the *Provincial Parks Act*, and the *Public Lands Act*; and (3) civil injunctions — ordinary and emergency. In her view, the *Criminal Code* provisions were not suitable for the complex situation of this Aboriginal occupation. It was also Ms. Christie’s view that the government might not be successful in obtaining an *ex parte* injunction from the courts. She estimated that if the province sought an ordinary injunction, the application would be heard in approximately two weeks.

Deb Hutton was not satisfied with these options. In her view, two main positions were put forward at the meeting — “sit back and wait, do nothing, see what happens,” and an injunction application that could be up to a two-week process. Neither of these options were satisfactory to Ms. Hutton, who thought it was important that the occupation quickly “come to an end.”

Deb Hutton made it clear that the government could not wait two weeks. As the IMC Chair inscribed in her notes: “Deb — wants an emergency injunction — doesn’t want to wait 2 weeks — attempts should be made to remove people — leave it up to OPP as to how to do this.”

Julie Jai, Eileen Hipfner, and other civil servants were not accustomed to the communication style of political staff such as Deb Hutton at the IMC meeting. Ms. Jai said:

I was unused to political staff taking such a dominant role at these meetings. Like in the past, political staff had come really to bring information back to their Ministers or to engage in sort of a dialogue rather than to give explicit direction as directly as she appeared to do.

Eileen Hipfner similarly agreed that Ms. Hutton did not limit her participation at the meeting to acquiring information to communicate to the Premier, but rather assertively put forth a perspective that she claimed reflected the views of the Premier. Ms. Hutton tried to convince IMC members that this was an urgent situation that required quick action. Ms. Hipfner described Ms. Hutton’s behaviour as “imperious.”

Ms. Hutton’s comments were no surprise to political staff who had previously worked for the Premier. As Mr. Moran said, “Mr. Harris wanted to deal with this in a strong manner,” and “for people that had worked for him in the

past ... it wasn't a surprise." Although he thought "The Premier's hawkish on this issue" was "a poor choice of words," Dave Moran "was not surprised by the comment." Mr. Harris was known as a "no nonsense kind of guy" who "usually felt a great deal of passion ... one way or the other" for most of the issues he addressed while in government.

The Committee decided that further legal work needed to be done to evaluate the risks, logistics, and timing of the various legal options put forth by Elizabeth Christie.

The IMC then developed a communications plan to be shown to politicians and senior bureaucrats for their approval. It was decided that the possible existence of a burial site in Ipperwash Park would not be mentioned in a public communications message. Ron Fox disagreed with the decision not to include the assertion of burial grounds in press releases or other communication messages the government would issue.

In a forceful manner, Deb Hutton said, "Strategic imperative — this government treats non-Aboriginal people and Aboriginal people the same." Ron Fox disagreed with this position and tried to explain to the Premier's Executive Assistant that this view was not accurate and it was simplistic.

MAG lawyer Elizabeth Christie was one of many others who was "startled" and unnerved by Ms. Hutton's comments. Ms. Hutton was perceived as the spokesperson for Premier Harris, and she spoke with his authority. Ms. Christie said that it

*... demonstrated to me an unnerving ignorance of constitutional law and the laws of Canada because, as a lawyer, my understanding ... was that based on the Constitution and the Charter and jurisprudence, that we don't necessarily treat Aboriginal and non-Aboriginal people the same. There are good reasons and laws that require that we do treat them differently in certain circumstances ...*

Part of my surprise at this comment was that I didn't expect the representative of the Premier to be demonstrating ... ignorance of constitutional law. So that certainly added to my surprise ... I wouldn't have thought that she ought to have had what I interpreted as a level of ignorance ... [N]o one had said anything that would make me believe at that moment that it was a matter of opposition of Aboriginal rights ... [A]s a lawyer and a public servant and a legal representative of the Crown, my particular concern ... was at the time sort of upholding the law and endeavouring in the way that I was able to ensure that the rule of law was upheld and that the constitution was upheld. (emphasis added)

Deb Hutton's comments also surprised ONAS lawyer Eileen Hipfner. This was her "first direct exposure to anybody representing that newly elected government ... We were just becoming acquainted with our new political masters. And they had made a distinct impression on me that day and one that did not leave me feeling very comfortable."

Deb Hutton's forceful tone and comments clearly indicated that Ms. Hutton was agitated with the manner in which the issues surrounding Ipperwash Park were discussed at the IMC meeting.

Ms. Hutton explained: "[T]his was the first time that a group of people, regardless of whom they were or where they were, were obviously attempting to make a point, get the government's attention, perhaps encourage the government to respond in a particular way. So it was a general concern ... that we didn't want to send the signal that it was okay." The Premier, she said, did not consider this an Aboriginal issue. She said at the hearings, "[W]e did need to make clear that we didn't condone this behaviour"; he considered it "illegal," and he wanted a response as soon as possible.

It was evident to Shelley Spiegel from Deb Hutton's comments that the new Conservative Government had a different approach than the predecessor NDP Government to Aboriginal issues. The Harris Government clearly considered the occupation illegal and sought a quick resolution to this matter. Ms. Hutton "conveyed an urgency that it should be done quickly, that they didn't want a long process." Ms. Spiegel realized

[t]here was going to be a change with the new government in their approach to dealing with these issues. And that there was not going to be a negotiation around the removal of blockade or occupation, whatever the incident was. And that it was going to be viewed as an illegal trespass on Crown land, on public property ...

I understood that it would be a change in direction. It wouldn't have been moving ... on the continuum that we had seen in the last ten years to recognizing Aboriginal rights and resolving any of the outstanding issues. That it was going to be a shift. That there had been a steady progression and progress being made in ten years and that that was going to change.

It was also evident to Shelley Spiegel that Ms. Hutton was speaking on behalf of the Premier: "It was just clear that she had the voice of the Premier, the ear of the Premier, constant contact with the Premier, and knew what his view was on having to resolve the issue."

Ron Fox openly disagreed with the opinions expressed by Ms. Hutton at the meeting. By contrast to the Premier's EA, the liaison officer advocated a slow, measured, cautious approach, and he encouraged ongoing communication with the First Nations occupiers in order to defuse the situation.

Mr. Moran tried to explain at the hearings why the Conservative Government was focused on quickly ending the occupation. The new government, sworn in about ten weeks earlier, wanted to focus their efforts on their 1995 campaign promises and did not want to be diverted by such issues as a First Nations park occupation:

... The general message was that the Premier didn't want – the general idea was that we were a new government that came in with a very ambitious agenda and we wanted to focus our efforts on implementing the campaign promises that we had made to the people of Ontario. And so that was our primary focus. And so in terms of the issue that was going on there, we were very conscious of trying to contain it and ... we didn't want that situation to derail the larger agenda and, as I said, the larger agenda was jobs and the economy.

The government also wanted to convey to the public the message that it was addressing the occupation in a quick, strong manner:

... The government wanted to act quickly in terms of trying to contain it to the local area and at the same time be seen ... to be dealing with this in a strong manner and that we didn't want to give anyone the impression that if they took over a provincial park, then the province would just readily negotiate away the park ...

Mr. Moran acknowledged that he did not understand the complexity of the issues and, like several other political staff, viewed it simply as a "law-enforcement issue." He stated, "I don't think ... I understood at the time that there were more issues involved" — such as the colour of right or that Ipperwash Park had originally been Treaty reserve land. He agreed that it would have been useful for IMC members, such as himself, to have such information in order to understand the motives of the Aboriginal people occupying the land at the park.

At the conclusion of the IMC meeting, the Minister of Natural Resources, Chris Hodgson, was designated as the spokesperson for the short term. This direction came from Deb Hutton of the Premier's Office. MNR was instructed to inform the public that (1) the Province has valid title to Ipperwash Park; (2) the occupiers have been told they are trespassing and have been asked to leave; and (3) the Province will take steps to remove the occupiers as soon as possible.

Jeff Bangs, Executive Assistant to Mr. Hodgson, did not think it was appropriate for the Minister of Natural Resources to be the lead spokesperson on the park occupation. MNR had been repeatedly told over the summer that the OPP was the lead in the Ipperwash matter. In Mr. Bangs' view, "[i]t just happened to be taking place in a [p]rovincial [p]ark, but it had much broader consequences, potentially."

"Next Steps" specified at the meeting included an analysis to be undertaken by lawyers at MAG, ONAS, and MNR of the legal options to be presented to the IMC meeting the following day. Also each Ministry representative at the meeting was to brief his or her respective Minister on matters discussed at the meeting.

The OPP, according to the IMC minutes, would have "the discretion as to how to proceed with removing the Stoney Pointers from the Park." The IMC meeting was scheduled for the next morning at 9:30 a.m.

### **10.10 Why Was a Facilitator/Negotiator Not Appointed by the IMC?**

The Guidelines for Responding to Aboriginal Emergencies (Blockades) explicitly state that "[a]ll efforts will be made to ensure a timely lifting of any blockades through a negotiated resolution." As previously mentioned, the IMC had discretionary powers to appoint a facilitator/negotiator, make decisions on third-party intervention, agree to a negotiating agenda with all parties, and to involve the Indian Commission of Ontario.

Despite the fact that several IMC members were aware the Committee had the power to appoint a facilitator or negotiator, this was not discussed at the meeting. Several individuals, such as Ron Fox and Julie Jai, clearly understood the virtues of attempting to address the occupation with a third party. This was consistent with a "go-slow," measured approach to the occupation advocated by several IMC members, and it would improve the opportunities for a peaceful or non-violent resolution of the situation. However, it was not consistent with the law and order approach of political staff, such as Ms. Hutton.

Julie Jai and Elizabeth Christie believed the two main reasons why the IMC was unable to turn its attention to the prospect of appointing a facilitator/negotiator were: (1) Deb Hutton's comments that the Premier wanted immediate action and desired the occupiers out of the park in a day or two; and (2) the Premier did not consider the park occupation an Aboriginal issue.

MAG lawyer Elizabeth Christie "personally" felt that the "right approach" in this situation was for the Committee to appoint a facilitator. The general approach of the previous government to blockades or occupations was not to negotiate the

underlying issue or grievance, but rather to negotiate the removal of the blockade or occupation and develop a process for addressing the underlying grievance.

It would also take time, said Ms. Jai, for the IMC to find a facilitator and for that person to travel to the Ipperwash area. She recommended that the government compile a list of possible facilitators/negotiators to expedite the availability of such persons in the event of an Aboriginal emergency:

... [O]ne of the things that would be useful would be for government to have a list of people, like a roster of people who could be available in these types of situations who were trained facilitator/negotiators and who were well-regarded by the Aboriginal community ... That's something that we did not have in place at the time that I think would be useful.

In my view, the compilation by ONAS of a list of available negotiators and facilitators would assist the government in its attempts to quickly and peacefully resolve Aboriginal issues that emerge.

### **10.11 Inadequate Understanding by Political Staff of Colour of Right**

The IMC, in my view, did not devote adequate time to a discussion of colour of right of the Aboriginal people, that is, the claim that the park was their land. This concept should have been fully explained to give all Committee members an understanding of the possible justification First Nations people believed they had to be in the park. Mr. Moran, EA to the Attorney General, said, “[I]t was our understanding leaving the meeting that there were no Native issues really surrounding the park,” He added, “[T]he focus of the discussion was all on law enforcement ... or ownership ... matters”:

And so the impression that we were given was that this was strictly a law enforcement issue and that other than the fact that the people who had taken over the park were Natives, that's just basically where the Native issues ended ... It was strictly a law enforcement issue.

Ministry representatives at the IMC meeting were asked if they had information related to a possible burial site in the park. At this time, both the federal and provincial governments had documents that indicated First Nations people, as early as 1937, had asserted that burial grounds existed in the park and that

they required protection. Yet political staff and civil servants at the meeting were not aware of this information before the tragic events of September 6. They became aware of these documents a week after the death of Dudley George. Clearly it was important for the IMC to have this information in deliberating their recommendations to the government on how to handle the occupation. It would have also been advisable for federal representatives to have been present in early September 1995. Jeff Bangs, EA to Natural Resources Minister Hodgson, agreed that had the IMC members known of this information, this was a further argument to “go slow” in dealing with the occupiers at Ipperwash Park.

### **10.12 Briefing of the Minister of Natural Resources Post-IMC Meeting and MNR Press Conference**

Minister of Natural Resources Chris Hodgson arrived at his office in Toronto after 2:00 p.m. and met with his Deputy Minister Vrancart, his Executive Assistant Jeff Bangs, and Peter Allen, Executive Assistant to Deputy Minister Vrancart. They briefed the Minister on the IMC meeting. They told him that a decision had been made at the IMC meeting that Minister Hodgson would be the government spokesperson on the Ipperwash Park occupation. Minister Hodgson did not react well:

I said that it hadn't been our issue all of August, that ONAS was in charge of First Nation relations, the OPP were monitoring the situation on the ground and were in charge there, that I didn't feel that it was my responsibility to be the government spokesperson on issues that we had no control over or say on ... particularly around injunctions. I didn't feel ... I still don't feel that I know enough about injunctions to go out and convey to the public what the ramifications are around that.

Minister Hodgson did not consider the Ipperwash Park occupation an MNR issue. Both Mr. Vrancart and Mr. Bangs agreed that it was inappropriate for the Minister of Natural Resources to be lead spokesperson.

Mr. Vrancart continued to advise Minister Hodgson on September 5 to stay out of the spotlight on the Ipperwash Park occupation. MNR's main concern was the preservation of the park's assets through the winter, and that could wait a few months, at least until November. The Minister of Natural Resources and his senior staff believed that an illegal occupation was taking place and that the OPP were in charge of the situation on the ground; it was a complicated file involving First Nations issues, and ONAS, as the head of the Interministerial Committee,

was “in charge.” They did not think there was an immediate threat to either the park or to public safety. It was their understanding that the Premier wanted the situation dealt with quickly.

Minister Hodgson was given a briefing note to review before he spoke with the press. In consultation with ONAS, the Attorney General’s office, and the Ministry of the Solicitor General, MNR staff crafted a suggested message note for the MNR Minister. It is noteworthy that the briefing note did not refer to the possibility of a burial ground in Ipperwash Park as an explanation for the occupation.

The press appeared at Minister Hodgson’s office in Whitney Block for a scrum. Minister Hodgson delivered the key messages, approved by the IMC, at this press conference. He emphasized that “a splinter group” from Kettle and Stony Point First Nation was occupying Ipperwash Park, that the province acquired the land legally and was not aware of any First Nation claim to the land, and that the occupiers in the park were illegally trespassing. In response to questions, Minister Hodgson said that an injunction might be sought, that the government intended to act quickly, that public safety was at the forefront of the government’s decisions, that campers had been vacated from the park, and that the Ipperwash Park occupation was related to the occupation of the army camp.

Both Solicitor General Runciman and Attorney General Harnick were also briefed by their staff after the IMC meeting. Kathryn Hunt, Executive Assistant to Solicitor General Runciman, who had said little at the IMC meeting, considered the Ipperwash occupation simply a watching brief for her Ministry. MNR was the owner of the park, MAG would be responsible for preparing an injunction, and she was cognizant of the division between the Ministry of the Solicitor General and the operational functions of the police. As far as Ms. Hunt was concerned, there was very little for either her or Mr. Runciman to do on the Ipperwash Park file.

### **10.13 MPP Beaubien Informs Bill King of the Premier’s Office of His Plans to Issue a Press Release**

At about 1:00 p.m., MPP Beaubien faxed a proposed press release to Bill King of the Premier’s Office. Bill King was an Executive Assistant to the Premier responsible for Conservative caucus MPP liaison, a position created by Premier Harris after the June 1995 election. This position was a vehicle by which MPPs could communicate constituency or other concerns to the Premier’s Office. In turn, the Premier’s Office would share information with Conservative MPPs about issues pertaining to the Premier and the Ontario government.

Marcel Beaubien faxed the press release to Bill King because the MPP was frustrated that he had been communicating information to Queen’s Park but had

not received a response. The press release was his attempt to attract the attention of the Premier or the Premier's Office:

... [B]asically I'm giving him a heads-up that here's a press release that's going to go out ... [W]hen you give somewhat of an ... "ultimatum" to somebody in the Premier's office, they may not like it. But I felt that, hey, I got to get some attention here. I'm on a deserted island here by myself, and I need some help.

Mr. Beaubien wrote to Mr. King that he was planning to issue a memo to the press "at 3:00 p.m. today unless I hear from Queen's Park." The press release stated:

A councillor from the Kettle and Stony Point Band stated in a local newspaper recently, 'The army camp Indians have strained relations between Kettle and Stony Point and the surrounding communities. We all do not act like the army camp Indians, so please do not think that that all Chippewas act this way.'

This councillor is right. We are not dealing with your decent native citizen, we are dealing with thugs. Are we to assume as law abiding and tax paying citizens, that we have a legal system, in this province and this country, that is two-tiered[?] Do we have a double standard with enforcement of the law?

Enough is enough. Where is the leadership from not only the provincial officials, but the federal officials and from the First Nations itself[?] How can we negotiate with irresponsible, law breaking dissidents[?] We must come to our senses and take back control before something irreparable happens. As citizens of this country, we have a responsibility to be law abiding, reasonable people. This should apply to all who live here.

Mr. Beaubien claimed that it was his intention to publicly communicate what he was hearing from his constituents. He was frustrated that no one in the provincial government was prepared to take responsibility for the situation at Ipperwash Park.

After receiving Mr. Beaubien's press release, Mr. King contacted Paul Rhodes, the Premier's Senior Media Advisor, to seek advice. Mr. King did not speak to the Premier about the press release. Both Mr. King and Mr. Rhodes thought the press release would not be constructive.

Prior to 3:00 p.m., Bill King contacted Marcel Beaubien. Mr. Beaubien conveyed his constituents' frustrations. He mentioned that he had been in contact with the local OPP at Ipperwash. Mr. King thinks he may have told Mr. Beaubien the Premier was following the situation closely, although he did not, in fact, know whether this was the case. Mr. King's practice was to tell MPPs that the Premier "cared very much" about their issues and was "right" on top of them. Mr. King advised Mr. Beaubien not to issue the press release because it was not constructive in terms of the government's desire to end the occupation quickly and peacefully.

Mr. Beaubien did not issue the press release.

Minister Hodgson received a request from Bill King that he speak to Mr. Beaubien. The MNR Minister relayed back through his EA Jeff Bangs that Ipperwash Park was a police matter and that politicians should not comment. Minister Hodgson did not communicate with MPP Beaubien.

#### **10.14 Telephone Conversation between Ron Fox and Inspector Carson after the IMC Meeting**

Within an hour of the IMC meeting, Ron Fox and OPP Inspector John Carson spoke by telephone about the meeting and the progress of the injunction application. Mr. Fox was upset by some of the discussion at the IMC and he shared his frustration with Inspector Carson.

Mr. Fox related that the Premier, through his EA Deb Hutton, had "made it clear ... there [would] be no different treatment of the people in this situation, in other words Native as opposed to Non-Native." The "bottom line," Fox said, was that the Premier "wants them out."

Mr. Fox said he had openly disagreed with comments made by political staff at the IMC meeting. He told Inspector Carson that when he was asked what the police would do in a similar situation where Aboriginal people were not involved, he replied, "[Y]ou can't compare apples and oranges." He had tried to explain to the IMC the complexities of the situation — the issue of colour of right, Aboriginal land claims, and "treaties that go back to pre-Confederation days." Mr. Fox had urged the government to take a carefully planned and measured response to the occupation, and to proceed slowly. It was clear to John Carson that Ron Fox was trying to tell IMC members that "there may be more than meets the eye."

It was also evident to Inspector Carson that the Premier was not interested in differential treatment or the special rights of Aboriginal people. The occupiers were to be considered simply as trespassers whom the Premier wanted out of the park,

and soon. Inspector Carson thought it “unusual” he was privy to this information: “I’m not normally, as Incident Commander, aware of any of the Premier’s views in regards to our day-to-day operations.”

Mr. Fox told the IMC, Inspector Carson learned, that there were thirty-five to forty occupiers, including women and children. He told John Carson: “So I thought I wouldn’t have to explain anymore.” Ron Fox thought this was an important fact to be seriously considered in both government and police responses. Mr. Fox’s frustration was apparent:

I’ll tell you, this whole fucking group is on some sort of testosterone or testasterine high ... I finally had to get right out and say look, I mean here’s the strategy those folk will employ. The women and children will be at the forefront ... That’s what the police are going to be faced with ... I said, “[Y]ou’ve got to understand that the provincial police will never shirk the responsibility, but read their hands will get dirty, read so will the government’s.”

Mr. Fox explained that because the OPP are “part of the government of Ontario,” the public would perceive actions taken by the police “in that same light.”

Mr. Fox agreed his language in this conversation was inappropriate and that some people at the IMC meeting did, in fact, speak with moderation: “I was venting at the time, my personal frustration.” Mr. Fox also agreed it was unnecessary to convey this information to Inspector Carson, and importantly, not to share these thoughts with the OPP Incident Commander would have been consistent with the principle of separation of government from police operations.

The injunction application was also discussed. Mr. Fox reported that in an earlier conversation, Chief Superintendent Coles had expressed no reservation about Inspector Carson providing information for the affidavit of the police perspective of the Aboriginal occupation.

When Mr. Fox asked whether the Inspector knew the demands of the occupiers, Inspector Carson replied, “They have none ... it’s their terminology burial grounds ... so there are no demands other than it’s their property and for us to stay the hell off.” There were warrants, he said, for the arrest of Roderick George, Stewart George, and David George for mischief. David George had been charged for possession of a weapon, a flare, for a dangerous purpose, as well as for assault of a police officer.

Mr. Fox asked Inspector Carson to confirm the accuracy of information conveyed by MNR official Ron Baldwin at the IMC meeting, namely, that the occupiers had seized an OPP car. Inspector Carson responded with laughter. As

discussed, Mr. Fox was surprised that MNR staff, who attended OPP briefings, were transmitting what he considered both operational and unverified information to civil servants and political staff at the IMC meetings. However, Ron Fox did not directly raise this issue with Inspector Carson in this telephone call.

Inspector Carson made it clear he was “hesitant at getting too excited about moving on the park until we have some court injunction.” He added, “[W]e have to have the force of the law behind us to provide some recognition by a court in this land.” Mr. Fox confirmed that the government was planning to apply for an injunction, likely in the “emergent form.”

Mr. Fox raised the issue of negotiations with the occupiers. Inspector Carson said the Stoney Point people had agreed to speak with police the following day after a meeting with their Elders. Inspector Carson added, “I think they are pretty disorganized,” and “pretty nervous” because “they don’t know what we’re going to do.”

This was not the only time Mr. Fox conveyed the Premier’s views to the OPP Incident Commander. As I discuss in the following chapters, Mr. Fox again contacted Inspector Carson on September 6 after he attended the “dining room” meeting with the Premier, Cabinet Ministers, and political staff.

At the hearings, Inspector Carson maintained that the Premier’s interest in and views of the Ipperwash occupation did not alter the way in which he dealt with the First Nations protest. Inspector Carson questioned the appropriateness of Mr. Fox communicating the comments of Premier Harris and political staff to him. But the OPP Incident Commander did not keep this information to himself. Inspector Carson decided to share with his Ipperwash command team some of the information imparted by Ron Fox, including the “political heat” and the Premier’s desire to get the Aboriginal people out of the park. Inspector Dale Linton, A/D/S/Sgt. Mark Wright, and Sergeant Stan Korosec were among the recipients of this information. Not only did Inspector Carson decide to share this information with his officers, but the Incident Commander did not caution his command team not to be influenced by the Premier’s opinions when he conveyed this information to his officers.

### **10.15 Incident Commander Shares with OPP Officers Call from Fox Post-IMC Meeting and the Views of Politicians**

After Inspector Carson’s call with Ron Fox, he met with his command team. At the 3:00 p.m. meeting, Inspector Carson explained that Ron Fox was a member of the Interministerial Committee and it appeared that the government was seeking an interim injunction. He said the Premier had made it clear the Aboriginal

occupiers should receive “no different treatment from anybody else.” Sergeant Korosec, A/D/S/Sgt. Wright, Staff Sergeant Dennis, and MNR Park Superintendent Les Kobayashi were at this meeting.

Inspector Carson explained at the hearings that he was simply “passing information on” from Ron Fox to his senior officers. However, he agreed that it was “unusual” for an Incident Commander to be aware of the “Premier’s views in regards to our day-to-day operations,” and that it was very unusual for a Premier to take direct interest in such a situation. Yet Inspector Carson decided to convey the Premier’s views of the occupation to his command team, officers who had leading roles in the police operations at Ipperwash.

Commissioner O’Grady testified that the Premier’s views were of no relevance to the Incident Commander. Although the OPP Commissioner believes that Inspector Carson was “not influenced” to change his approach to the occupation as a result of his knowledge of Premier Harris’ views, the danger that arises is a possible perception that the Incident Commander was influenced by the political pressure.

In another call to Inspector Carson at about 4:30 p.m., Staff Sergeant Lacroix said that from his discussion with Marcel Beaubien, it was clear Premier Harris had “involved himself” in the Ipperwash occupation and was “quite uptight about it.” Marcel Beaubien, he said, was being briefed and it was evident the government did not consider the occupation an “Indian issue” but rather an “MNR issue and a provincial issue.” It appeared they would “end up evicting,” which Inspector Carson interpreted as removal of the protesters through the injunction process. Inspector Carson was told Marcel Beaubien had been in contact with Chief Superintendent Coles.

Inspector Carson did not consider the park occupation solely an MNR issue in which the province had clear title to Ipperwash Park. In his view, it was also an Aboriginal issue.

Staff Sergeant Lacroix had never been involved in a police incident in which the Premier was directly and personally involved. He was of the view that “Harris has involved himself.” He also thought that if the court application for the injunction was successful, the Premier would pressure the police to evict the Aboriginal occupiers.

At the OPP command post briefing at 4:45 p.m. on September 5, Inspector Carson again told his officers that Mr. Beaubien “has contacted the Premier,” and that the Ontario government considered it an “MNR” issue, “not an Indian issue.”

Commissioner O’Grady was aware that OPP officers met with politicians such as MPP Beaubien. He approved of dialogue and communication between the

OPP and community representatives. However, the Commissioner agreed that the Incident Commander and CMU Commander Lacroix should have refrained from discussing with police officers the Premier’s views on issues on which the police made operational decisions. As I discuss in Chapter 11, Marcel Beaubien had a meeting the following day at the command post with Inspector Carson.

When Inspector Carson checked in with Superintendent Parkin that afternoon, they discussed some of the government’s deliberations at the IMC meeting — in particular, the status of the injunction and whether the occupiers should be notified of the court application. Superintendent Parkin said, “[P]eople from the government are saying ... why don’t we treat them just like a bunch of bikers?” Inspector Carson replied, “[I]f they’re prepared for that,” then the government should “get the emergency injunction and get on with life ... [I]f that’s their feeling about it ... let’s have the appropriate support in law and deal with it.”

Superintendent Parkin said at the hearings that it “isn’t unusual” for police to be aware of political pressure but, he cautioned, “it’s what you do under the pressure.” It is fundamental, he stressed, that “political pressure ... doesn’t affect your decision making.”

Inspector Carson continued to discuss with members of his command team the opinions of the politicians, particularly the Premier’s view of the occupation. Shortly after 6:00 p.m., Inspector Carson announced that Acting Staff Sergeant Skinner, the TRU Team Leader, would be part of the command team. He told his officers that there was “heat from political side,” and that “strong comments” had been made “in the House.”<sup>2</sup> Carson testified at the hearings that “political heat” referred to the IMC’s discussions as conveyed to him by Inspector Fox — that the Premier wanted the occupiers out of the park and did not want differential treatment for First Nations people. It also referred to MPP Beaubien’s comments to Staff Sergeant Lacroix, as well as statements made by Mayor Thomas and Chief Administrative Officer Ken Williams of the Town of Bosanquet. As Inspector Carson said, many “people at the various areas of responsibility” voiced concerns “so it [was] ... coming from all angles.” He did not caution his officers not to be influenced by the views of the Premier or other politicians. OPP officers present at this meeting included A/D/S/Sgt. Wright, Sergeant Korosec, Detective Sergeant Bell, and Staff Sergeant Dennis. Inspector Linton was on the night shift on September 5 and also attended this meeting.

Despite receiving these comments from MPP Beaubien, municipal officials, and other politicians, Inspector Carson considered it “business as usual,” and

---

2 Note that the House was not sitting at that time.

maintained his approach to “continue to pursue our injunction process.” The OPP Inspector did not intend to deviate from his plans because of comments made by provincial or municipal politicians.

In hindsight, Inspector Carson thinks he “probably erred on sharing far too much information” with his officers. John Carson explained:

... My approach to this was to try and keep the team informed of what was going on to the best of my ability, and being open with them around what was happening in the background, so they understood what I was dealing with and so they could have some appreciation in regards to time lines and all the logistics that goes with an operation like this ... Quite frankly in hindsight, do they need to know all of that? They didn't need to know all of that. And I shared it with them and that's the fact.

In my view, the Incident Commander should not have shared with his officers at Ipperwash the discussions he had had with staff Sergeant Lacroix and Inspector Fox about political pressures from Queen's Park or from local politicians such as Marcel Beaubien.

It created the risk or the perception of risk that his officers would be influenced in their actions by the exasperation of Mr. Beaubien that the OPP were not taking sufficient action to end the occupation, or the view of the Premier and other political staff that the occupation should end as quickly as possible. Imparting this information to his officers could compromise the approach of the OPP to the First Nations protest, which was to take a measured response to the occupation. It could also frustrate the objectives of Project Maple, which were to negotiate and resolve peacefully the occupation of Ipperwash Park by the Aboriginal people.

## **10.16 MNR Park Superintendent Invited to Command Post Meetings**

It was at the 9:25 a.m. command post meeting of Inspector Carson and his command team that Mark Wright suggested that “an MNR representative,” Park Superintendent Les Kobayashi, attend their hourly meetings. A/D/S/Sgt. Wright explained that because the province was the lawful owner of Ipperwash Park and the “complainant” was the Ministry of Natural Resources, Les Kobayashi, the MNR “man at the scene” would be helpful in conveying information to the police, such as the status of the civil injunction. Inspector Carson thought this was a good idea. Mr. Kobayashi would be apprised of events at the park and could keep

his MNR “superiors informed as to the status of the ongoing occupation.” It would also enable Mr. Kobayashi to provide input to the police. From this point forward, MNR Park Superintendent Kobayashi regularly attended meetings at the command post.

As I discuss in the forthcoming chapters, both Inspector Carson and A/D/S/Sgt. Wright realized in hindsight that this was not an “appropriate decision.” Mr. Kobayashi should not have been a regular attendee at the command post meetings. The OPP should have communicated with and obtained relevant information from the MNR Park Superintendent, but Mr. Kobayashi should not have been privy to command post discussions regarding intelligence or the OPP’s plans, deliberations, or strategies. Mark Wright conceded that there was “some confusion as far as information leaving that command post and going to places where it perhaps shouldn’t have,” such as to civil servants at the Interministerial Committee meetings and to politicians at Queen’s Park.

Les Kobayashi was at the command post for most of September 5 and 6, and remained at this site throughout the night of September 5. Mr. Kobayashi provided regular reports to his MNR superior Peter Sturdy, and the command post police briefings were the primary source of the information he relayed. As Mr. Kobayashi said, “99 percent of it was from the briefings” at the command post. Mr. Kobayashi knew that Mr. Sturdy would convey this information to other government officials.

Both Inspectors Carson and Linton conducted these command post briefings and knew the MNR Park Superintendent was transmitting this information to Mr. Sturdy. However, they never asked Mr. Kobayashi to leave any command post briefing, nor did they place any restrictions on the information that could be conveyed to Mr. Sturdy. Mr. Kobayashi considered it his “role ... to move information forward,” and he was not concerned about its accuracy or reliability. Throughout the occupation on September 5 and 6, Mr. Sturdy received reports by telephone and e-mail from his staff.

Mr. Kobayashi was not the only MNR official at the command post briefings. Ed Vervoort (MNR Enforcement Specialist in Aylmer District) also participated in and received police information at the September 5 and 6 OPP command post meetings.

Mr. Sturdy was a participant at the September 5 and 6 IMC meetings where he shared Mr. Kobayashi’s unverified information of automatic gunfire by First Nations people and the presence of weapons with civil servants and political officials. Peter Sturdy did not take measures to verify the information he received from Mr. Kobayashi or Mr. Vervoort at Ipperwash. The MNR Zone Manager (Southwestern Ontario) simply assumed the information from the OPP command

post briefings was accurate, and that he was not prohibited from passing it on to others. Mr. Sturdy considered it his “role” to “collect this information” from Mr. Kobayashi and Mr. Vervoort, and “to pass up that information to senior management within the Ministry of Natural Resources.” Mr. Sturdy had no hesitation in sharing this information with other bureaucrats and political staff in the Ontario government.

Inspector Carson conceded that Les Kobayashi had “access to pretty much all of the police information, which probably wasn’t totally appropriate,” and which placed the MNR Park Superintendent in an “awkward spot.” Inspector Carson said, “[W]e had no appreciation of the context that could be put to certain information, and that was probably the problem that presented itself” as the information moved up the chain on the Ministry of Natural Resources side.

If Inspector Carson had to do it over again, he would have brought Mr. Kobayashi “into the meetings where it was necessary to discuss issues that he needed to participate in, and share with him the information that was essential for his ministry.” However, he would preclude him from participating in all aspects of the meeting. In retrospect, he should have limited the participation of the MNR representatives in discussions with his command team. I discuss this in greater detail in the forthcoming chapters.

As I discuss in the next chapters, MNR officials should not have participated in command post briefings with the Incident Commander and other OPP officers. The MNR Park Superintendent should not have been present at command post discussions about OPP strategies and intelligence, nor should he have been a recipient of information of unconfirmed reports by the OPP.

## **10.17 Purpose of Police Checkpoints**

Setting up checkpoints was part of Project Maple. On Inspector Carson’s instructions, police checkpoints were set up early on September 5. There were several purposes for the checkpoints:

1. to collect information on the people entering the area;
2. to establish a police presence and provide a sense of security to calm residents; and
3. to contain the area if necessary.

The checkpoints were not used to restrict traffic until the evening of September 6.

The ERT officers were instructed on their role at the checkpoints. Officers were to stop all cars and ask each driver to produce his/her licence, and ask

passengers for some identification. Police were only permitted to conduct searches of the vehicles on consent. The visible presence of officers in the vicinity of Ipperwash Park was important to the OPP.

On the morning of September 5, Inspector Carson gave Sergeant Korosec a kit with “checkpoint cards” for officers at the checkpoints to record details of suspicious individuals and vehicles. This information would be relayed to intelligence officers in Forest.

The OPP set up the following checkpoints in the early morning hours of September 5:

Checkpoint “A” (Alpha) — East Parkway Drive near Army Camp Road

Checkpoint “B” (Bravo) — East Parkway Drive at Ipperwash Road

Checkpoint “C” (Charlie) — Army Camp Road at Sunnydale Trailer Park

Checkpoint “D” (Delta) — Army Camp Road near Highway 21

Beginning on September 5, the OPP stopped vehicles at the checkpoints and asked for identification. Some First Nations people publicly complained about being compelled to produce identification and questioned the authority of the police to request these documents.

In fact, Superintendent Parkin asked Inspector Carson under what authority the OPP officers were acting. Inspector Carson did not know. He replied, “I’d have to check with the crime guys, but I’m not really sure right off the top of my head, without trying to string you a line here.” Superintendent Parkin wanted to know if OPP officers were searching the vehicles. Inspector Carson said this was not being done. Inspector Carson knew the police could ask drivers for identification, but he did not know if this extended to the passengers. He was aware the OPP did not have authority to search vehicles at the checkpoints.

Shortly after his call with Superintendent Parkin, Inspector Carson asked Detective Sergeant Richardson about the “vehicle checks” at a command post briefing. Richardson consulted with lawyers at the Crown Law Office, who confirmed the police had the authority under the *Highway Traffic Act* to stop cars and ask for identification.

Constable Larry Parks was assigned to Checkpoint “C” at Army Camp Road at Sunnydale Trailer Park on September 5. He understood his task was to collect names and determine if “outsiders” or “agitators” from outside the area were entering Ipperwash. He considered this an intelligence-gathering function. During his shift, he stopped each vehicle that approached the checkpoint and asked the

driver for his or her license. He could not recall if he asked passengers for their names and identification. Vehicles were not prevented from travelling beyond the checkpoints toward the park.

Constable Denis LeBlanc was also on duty at Checkpoint “C” on the morning of September 5. He understood the purposes of the police checkpoints were to create a visible police presence and to advise people as to what was going on at the park if they were driving in that direction.

Sergeant George Hebblethwaite considered it his role to provide “enhanced police presence” in the area. He was assigned to roam the Ipperwash area and check in with his officers at the checkpoints and provide them with any support required.

The police presence was evident by the early morning hours of September 5. As A/D/S/Sgt. Wright said, by daylight there were “checkpoints and patrols” and “an overwhelming police presence.”

## **10.18 Reaction of the Aboriginal People to the Increased Police Presence**

It was clear to the Stoney Point occupiers, to Kettle Point residents, and to Aboriginal people from other communities who were visiting the park on September 5, that there was a noticeable increase throughout the day in the number of OPP cruisers and police surveillance. The First Nations people observed police checkpoints at the various locations. Glen Bressette saw police stationed between the main gate of the barracks on Army Camp Road and Highway 21 and noticed they were not wearing their conventional uniforms. OPP officers asked Glen Bressette to produce his licence before allowing him access to the army camp.

Other occupiers saw police officers at the corner of East Parkway Drive and Army Camp Road. Nicholas Cottrelle also noticed the police were wearing grey uniforms and black bulletproof vests. David George saw police cruisers and officers at Matheson Drive. Gina George saw police stationed at Ravenswood Road. As David George said, there were “all kinds of police driving up and down the roads ... they were all over the place.”

The park occupiers also noticed unusual boat activity on Lake Huron. A boat was anchored north of the park and remained in this location throughout the day and into the night. With binoculars, Aboriginal occupiers such as David George saw “OPP” inscribed on the side of the boat. J.T. Cousins saw another police boat relieve the officers who then travelled on Lake Huron in the direction of Grand Bend.

The increased presence of the OPP in Forest and in the area surrounding Camp Ipperwash was also apparent to Cecil Bernard George. As he drove toward Grand Bend, an OPP officer instructed him to stop at Highway 21 and Outer Drive. Mr. George explained:

A cruiser ... was sitting on the corner there watching me go by and I guess as soon as he noticed that I was Native, the lights came on and [he] pulled me over.

The police officer did not give Cecil Bernard George an explanation for stopping him and for asking him for his name and identification. Mr. George thinks he may have mentioned he was an elected Council member. The officer told Mr. George he was free to go.

The increased number of OPP officers patrolling the area was also evident to Gerald George. At the OPP Forest Detachment on Townsend Line, Gerald George saw an unusual number of police cars as well as a trailer that had arrived after the park occupation on September 4. This trailer was serving as the OPP command post.

Helicopter surveillance was another method the police used to patrol Ipperwash Park. Many Aboriginal witnesses were upset at the low altitude at which these helicopters flew. Glen Bressette said the helicopter was “low to the ground, just above the tree tops. ... it was blowing up all the leaves, making the dust fly.” He saw a man hang outside the helicopter photographing the occupiers with a large camera. Mr. Bressette tried to hide behind a tree but the helicopter followed him.

Carolyn George and other Aboriginal people in the park became agitated with the police helicopter activity; it was “irritating” and “harassing” and “they were flying around, coming down real low, blowing up a lot of dust.” Tina George also had an encounter with a hovering helicopter at the maintenance building on September 5. She spent the day transporting her belongings from her residence in Thedford to Ipperwash Park, unpacking her daughters and herself, and cleaning the maintenance building that they had moved into. Upon returning with her children from the candy store on Army Camp Road, a helicopter flew at a low altitude near the maintenance building, stirring up debris and frightening Tina George’s younger daughter. She told her daughters to go into the maintenance building. Ms. George screamed at the pilot and passengers in the helicopter:

... I was yelling at them, and it made me mad because I [had] just got done cleaning, and there was about at least an inch of dust inside, on the floor, on top of desks.

Had she had a rock at her disposal, she would have thrown it at the helicopter. In exasperation, Tina George decided to “moon” the helicopter:

They were so low that if I had a rock, I would have liked to have thrown it, but I didn't. The only thing I [could] think of to do was turn around and shoot them the moon.

The helicopter left the area.

Tina George did not know that the OPP had installed a video camera in the maintenance building to monitor the occupiers' activities. It was not until eight years later, in September 2003, that Ms. George learned the police had videotaped her in September 1995. Tina George was “stunned ... surprised,” and “shocked” when she learned of this invasion of her privacy. She said it was “like somebody standing out in the dark looking in your windows at night.”

Some Aboriginal people travelling in and out of Ipperwash Park and the army camp on September 5 became impatient with the number of times the OPP required them to stop and produce identification. Carolyn George was at the park that day with her daughter and her three-week-old granddaughter, eating, drinking soda, and socializing with the occupiers. Gina George, who was scheduled to work a midnight shift at her job that evening, decided to do a “trial run” to determine the amount of time it would take to get through the police checkpoints. At each checkpoint, she was asked her name, the purpose of her journey, and to produce her driver's licence. She asked one of the officers: “Why can't you just ask the guy at the previous checkpoint? Why can't you radio and ask him? ... I've already showed this several times.” She said at the hearings:

So I've actually gone through a number of checkpoints and at every one I had taken several minutes ... [It] seemed very unusual because if you're checked at the first one, why do you have to go through every single one when it's just a couple [of] hundred yards down the road?

In the afternoon of September 5, some children in the park used mirrors to shine sunlight into the faces of police officers and members of the media who had congregated in the sandy parking lot and at the intersection of East Parkway Drive and Army Camp Road. The children had taken the mirrors from the park washrooms, and they tried to irritate the OPP and the reporters. Stephanie Cottrelle, who was about seven or eight years old, her ten-year-old sister Amanda, and fourteen-year-old Leland White were among those who participated in this activity.

The occupiers also engaged in mock police chases on September 5. Marlin Simon was “chased” by the “OPP WHO” car. Robert Isaac's car was painted

with the words “OPP WHO,” intended to mock the provincial police. The mock chase took place on the interior road that runs parallel to Army Camp Road and into Ipperwash Park. The installed siren of the “OPP WHO” car was turned on. Marlin Simon said, “I took off like we were having a police chase and went flying by ... [a] couple of road blocks. And then we went down to the park and did like a little donut around here and had like our little mock police chase.”

People from the media stood at the intersection of East Parkway Drive and Army Camp Road and at the sandy parking lot. Some occupiers “did donuts,” driving in circles in front of the cameras. While several police officers were visibly displeased, others were amused by the car chase, said Marlin Simon.

## **10.19 Plans to Initiate Dialogue with the Occupiers**

### ***10.19.1 Who Should Negotiate with the Aboriginal People?***

In the OPP Superintendent’s calls with Inspector Carson on the morning of September 5, Tony Parkin wanted to know the status of negotiations with the occupiers. Superintendent Parkin was well aware that Project Maple’s objective was a negotiated solution, and that one of Inspector Carson’s “first requirements” was “to try and open up some communication” with the occupiers. Superintendent Parkin was told that it had been difficult to enter into meaningful negotiations on the evening of September 4 because some of the occupiers had consumed alcohol. The OPP had been told by the Aboriginal people to return at noon on September 5, at which time the police were hopeful they could enter into a dialogue with the occupiers.

Inspector Carson had made it clear at the briefing of his command team at 9:25 a.m. that he wanted a meeting arranged with the occupiers. In attendance were A/D/S/Sgt. Wright, Sergeant Seltzer, Detective Sergeant Bell, Detective Sergeant Richardson, and Staff Sergeant Dennis. Carson was anxious to initiate a dialogue with the park occupiers to discuss their concerns in the hope that issues could be resolved. He designated Sergeant Seltzer, who had training and experience in crisis negotiations, as the OPP negotiator. It was also suggested that Lorne Smith, a retired OPP officer who had a long-standing relationship with people at Kettle Point, be contacted to see if he was available to be part of a negotiation team.

Inspector Carson agreed with Sergeant Seltzer that the negotiator should remain consistent and the same person should communicate with the First Nations occupiers. As lead negotiator, Sergeant Seltzer thought it was important that he receive continuous updates about events at Ipperwash Park.

Brad Seltzer had set up the negotiation room earlier that morning in the OPP Forest Detachment. He tested the equipment to ensure everything was in working order. Sergeant Seltzer had no formal First Nations training.

Sergeant Seltzer contacted Lorne Smith and learned that Mr. Smith was uncomfortable in the role of negotiator as a result of past experiences, including repercussions to his family. Lorne Smith had been a Staff Sergeant at the Forest Detachment and lived in the community. He ultimately agreed to accompany Brad Seltzer to speak to the Aboriginal people at Kettle Point.

Later that morning, Sergeant Seltzer discussed the prospect of using a First Nations negotiator. Inspector Carson suggested Constable Vince George but was concerned the OPP officer might suffer adverse consequences in the Kettle and Stony Point community after the occupation ended. Inspector Carson knew there was “already some strain in the community, particularly with Miles Bressette” (Chief of Police at Kettle and Stony Point), who was not receptive to “Vince George and Luke George coming and going on Kettle Point.” Inspector Carson “didn’t want to aggravate” the “tenuous relationships that already exist[ed].” It was decided that Sergeant Seltzer would discuss this issue with Vince George.

It was also suggested that Sergeant Marg Eve be involved with the negotiating team on the following day, September 6. Sergeant Eve was a trained negotiator who had experience policing First Nations territories, but she had never negotiated group disputes such as an occupation. There was no discussion of seeking a First Nations negotiator outside of the community. First Nations negotiators, such as Bruce Elijah, Bob Antone, or National Chief Mercredi might have been of great assistance in opening up a dialogue with the Aboriginal occupiers.

According to Sergeant Seltzer’s notes, he made contact with Constable Vince George at 6:00 p.m. that evening. He noted that Constable George wanted time to reflect on whether he wished to act as a negotiator on behalf of the OPP because he had to work in this community “after all is done.”

Constable George had no recollection of contact with Brad Seltzer regarding his role as a negotiator in the September 1995 Ipperwash occupation. Vince George had no negotiation skills or negotiation training. Although he would have been prepared to initiate dialogue with the occupiers, he would not have participated in the negotiations. At no time on September 5 or 6 did Constable George serve as a negotiator or attempt to introduce a negotiator to the Aboriginal occupiers at Ipperwash Park.

In my view, OPP officers whose responsibility is to open up a dialogue with the Aboriginal occupiers should have knowledge of the Aboriginal community, their history, and issues of concern to them. Without such information, it is

difficult to establish meaningful communication and achieve the objective of de-escalating the Aboriginal protest. The police should have tried to find an appropriate person, such as an Elder or other respected person, to meet with the protesters and to act as a mediator. To peacefully resolve Aboriginal protests, it is critical to involve First Nations officers and police services.

Inspector Carson did not seek the assistance of National Chief Mercredi who had offered to mediate the July 29, 1995, army camp occupation. The Incident Commander did not contact the Assembly of First Nations, the Chiefs of Ontario, or the Union of Ontario Indians. Nor did he ask Chief Tom Bressette if anyone on the Band Council could help initiate negotiations with the occupiers. John Carson did not think Chief Mercredi, Chief Bressette, or Kettle Point Band Councillors would be “welcome at the park or at Camp Ipperwash.” Given Miles Bressette’s past dealings with the OPP, Inspector Carson did not think the First Nations police at Kettle Point would be receptive to assisting the OPP in the park occupation.

Inspector Carson did not seek the assistance of the OPP’s First Nations police branch to open up communication with the Aboriginal occupiers. He did not know if any of these officers had a relationship with this Aboriginal community. Inspector Carson decided to approach local OPP officers, such as Constable Vince George, to enter into a dialogue with the occupiers. Yet, as mentioned, Constable George did not have negotiation skills, and Inspector Carson had concerns about repercussions to Vince George if he performed this role. Vince George did not act as a negotiator or attempt to enter a dialogue with the occupiers on either September 5 or 6.

Inspector Carson knew Bruce Elijah and Robert Antone had acted as mediators/negotiators at Captain Smith’s request when the army camp was occupied on July 29, 1995. He also knew these two Aboriginal men had conducted a cultural awareness program for the military. Yet John Carson did not consider using the services of either Mr. Elijah or Mr. Antone to assist in communicating or negotiating with the park occupiers. Inspector Carson could not offer an explanation at the hearings for not drawing upon these important resources.

Bruce Elijah said he would have assisted in the park occupation had he been asked by the OPP, the Kettle and Stony Point Band, or the Stony Point group. He said at the hearings that his role is “to avoid bloodshed ... and that’s any side, whether it’s our side or the other side.”

As I discuss in the next chapters, Cyndy Elder from the Manitoulin area called the OPP on September 6 to offer her assistance. Inspector Carson did not return her call. In fact, Ms. Elder had contacted John Carson in August after the army camp occupation to offer her assistance as a negotiator/mediator with an organization called “Approaches Mediation.” Inspector Carson explained at the

hearings that he was too busy to return her call, and that he wanted someone “local” who could do something “imminently.”

Chief Superintendent Coles thought perhaps an important opportunity was missed in not having a person from the Aboriginal community communicate with the occupiers to discuss their issues and concerns. He agreed that such a person might have been instrumental in de-escalating the situation. He also agreed that the presence of a third party is important because the OPP could misconstrue the occupiers’ concerns and intentions, and conversely the First Nations occupiers could misinterpret the OPP’s intentions.

As I discuss in the chapters dealing with the events of September 6, 1995, this is precisely what occurred — the conduct of both the provincial police and the Aboriginal occupiers created misconceptions. Outside resources, such as Chief Mercredi, Cyndy Elder, or other First Nations negotiators, were not part of the operational plan. In my view, this should have been an important component of Project Maple. Aboriginal negotiators from outside the community had been used in the past to de-escalate volatile situations at Ipperwash. When the military camp was occupied at the end of July 1995, the military asked Bob Antone and Bruce Elijah to help defuse the situation, assist in the resolution of the issues, and help ensure that people’s safety was not placed in jeopardy.

OPP Chief Superintendent Coles believes there is a need for “on call” conflict resolution teams consisting of Aboriginal and non-Aboriginal negotiators who can be dispatched to communities to assist in the resolution of protests, blockades, and occupations.

### *10.19.2 Attempts to Communicate with the Occupiers Fail*

Shortly after noon, A/D/S/Sgt. Wright, Sergeant Seltzer, and MNR Park Superintendent Kobayashi returned to Ipperwash Park in accordance with Bert Manning’s instructions the previous night. Their purpose was twofold: to initiate dialogue with the occupiers, and to serve the trespass notice.

They drove to the sandy parking lot and stood at the fence in an attempt to get the attention of the Aboriginal people in the park. The occupiers exchanged some words but refused to engage in substantive discussion. A/D/S/Sgt. Wright’s goal was to try to introduce Sergeant Seltzer, the negotiator, but they “never got to that.” There was some conversation with people congregated at the park store, but there was no “meaningful” dialogue. Mr. Kobayashi was unable to formally serve the trespass notice to the occupiers.

A/D/S/Sgt. Wright was dressed in civilian clothes when he approached the park fence. Both he and Mr. Kobayashi wore bulletproof vests. Sergeant Seltzer

wore a full police uniform. After this encounter with the occupiers, it was decided that Sergeant Seltzer should dress in civilian clothes rather than police attire, particularly in his role as negotiator.

A significant number of media representatives were at the sandy parking lot at that time. Sergeant Seltzer did not think it would be difficult to open up a dialogue with the occupiers at Ipperwash Park if the media were present and overheard their conversation. In my view, particularly given the difficulty the OPP were experiencing initiating dialogue with the Aboriginal occupiers, it would have been better for the police to try and communicate with the occupiers without the presence of the media.

A/D/S/Sgt. Wright, accompanied by Sergeant Seltzer and Les Kobayashi, decided to try again at the gate to CFB Ipperwash. Bert Manning appeared and told A/D/S/Sgt. Wright he was “happy that his people had their ancient burial ground.” Wright explained that he wanted to discuss the park occupation. Mr. Manning replied that he would speak to the Elders. Bert Manning asked that the police blockades be removed, but Mark Wright made it clear the police would not do so. The request to remove the roadblocks was declined because the OPP wanted to have control over the people entering the park. A/D/S/Sgt. Wright informed Mr. Manning that the Aboriginal people were unlawfully in the park, that an injunction was being sought, and that the occupiers would have the opportunity to explain to the court their presence in Ipperwash Park. Bert Manning suggested that Mark Wright return the following day at 3:00 p.m.

The Aboriginal occupiers explained their reluctance to communicate with the OPP: (1) they were fearful they would be targeted by the police and that criminal charges would be laid; and (2) the occupiers did not believe that speaking to the police would advance their objective, namely, the return of the land.

Gina George testified that when she was in the park with her daughters on September 5, she noticed some officers who approached the fence line from the sandy parking lot. She recognized one of the officers as Mark Wright. They asked to speak to one of the “leaders” of the occupiers. People in the park ignored the OPP. Gina George described her brief exchange with the police:

And my daughters and I were actually along some trees there, and I noticed that there were some officers who had come up to ... the sandy parking area outside of the park fence line. And they were calling to people who were riding by ... “Hey, we want to talk to one of your leaders,” and they kept saying that to people. And people just weren’t paying attention to them. They would just ride by and just disregard what they were saying ... I think they noticed me standing there with

the girls, so then they hollered at me ... “We want to talk to one of your leaders.”

Pointing to her children, Ms. George said, “[T]hese are our future leaders, so you can speak to one of them if you like.” The police ignored her comments.

Gina George explained why the occupiers refused to speak with the OPP. She said their dispute was with the government, not the police who had no power to resolve the issues confronting the Stoney Point people. The occupiers felt nothing beneficial would materialize from a dialogue with the OPP, who simply wanted the Aboriginal people to leave the park:

Q: Can you tell us at all why there was no one from inside of the park that was willing to speak to the police?

A: ... [W]hy would they want to speak to the police? Because this didn't have anything to do with the police. It had to do with the government taking and selling those park lands, and why wasn't the government there to talk to these people? That was the faction that they should be talking to, not the police. What were the police going to do? They weren't going to resolve it. So it was kind of pointless to talk to them.

Q: That was the sentiment inside the park, was it?

A: Yes.

Q: Okay. Do you know whether there was anybody from government that was prepared to come to or in fact came to speak to the people inside the park?

A: I don't think there was anybody from the government that came there or was willing to come and speak to the people there.

Q: When you say “the government,” is there anybody in particular that you refer to? Or —

A: Well, I think because Indian Affairs was involved in that, they should have come there and intervened. Somebody should have come and talked.

Nicholas Cottrelle also saw A/D/S/Sgt. Mark Wright and MNR Park Superintendent Les Kobayashi standing outside the park near the fence line, attempting to attract the occupiers' attention. Mark Wright was doing all the talking. He asked Nicholas Cottrelle to identify the leader of the park occupation.

Mr. Cottrelle replied that there was no leader. Mark Wright then asked if there was any occupier with whom he could talk, and Mr. Cottrelle replied that that was unlikely. A/D/S/Sgt. Wright asked Nicholas Cottrelle to convey this request to the Aboriginal people in the park.

Marlin Simon also gave evidence that the OPP tried to establish contact on September 5, but that the occupiers kept their distance from the police. He recognized OPP officer Mark Wright. Mr. Simon reiterated that “nobody wanted to be seen as a leader of the occupation.” The Aboriginal people were fearful they would be targeted and criminally prosecuted if they engaged in discussions with the police.

Mark Wright subsequently reported to Inspector Carson his failed attempt to initiate dialogue at the park. The occupiers, he said, were “very disorganized” and “very uncomfortable.” He also conveyed Bert Manning’s comment that “they are happy to have [their] burial ground.” Mark Wright suggested that if the police wished to enter the park, “tactically, it is easy to get in the park at the canteen area” — the park store. A/D/S/Sgt. Wright made his suggestion in the event the Incident Commander decided to cohabit with the occupiers.

The OPP were clearly having difficulty initiating communication with the Aboriginal occupiers. They considered the absence of an identified leader to be a significant impediment. But Inspector Carson said:

We were prepared to talk with anybody. It didn’t have to be someone who was a self-appointed or elected leader, so to speak. We were prepared to discuss with anyone who would open some discussion. But we were met at every turn with no ability to strike up that dialogue ... My perception was there was every effort to avoid it.

The occupiers had been verbally informed they were trespassing. The OPP were waiting for the government’s application to the court for an injunction.

## **10.20 Work Done by Ontario Government Officials after the IMC Meeting**

After the September 5 IMC meeting, it became clear that one of the reasons for the park occupation was the claim of the existence of a burial ground. Julie Jai asked Dave Carson to research the government’s obligations regarding Aboriginal burial grounds, including requirements under the Ontario *Cemeteries Act*.

At about 3:00 p.m., a legal sub-group, consisting of Julie Jai and MAG lawyers Tim McCabe and Elizabeth Christie, met to discuss the various issues surrounding the injunction in order to determine the government’s legal options.

Scott Hutchison (a MAG lawyer at the Crown Law Office — Criminal) was asked to draft the section relating to *Criminal Code* charges. The purpose of the memo was discuss the advantages and disadvantages of the available legal options.

Tim McCabe and Elizabeth Christie worked in the law library at 720 Bay Street on the evening of September 5. Mr. McCabe considered this a good case for an ordinary injunction, not an *ex parte* injunction. If the Ontario government chose to proceed under the *ex parte* rules, Mr. McCabe thought a judge would either dismiss the application on the basis that it was inappropriate, or would adjourn the matter so that documents could be served on the Aboriginal occupiers. In the senior litigator's opinion, proceeding under the *ex parte* rule would take more rather than less time.

A briefing document entitled "Criminal and Civil Proceedings to Terminate the Occupation of Ipperwash Provincial Park by the 'Stoney Pointers'" was prepared as a result of the legal sub-group meeting, with different authors writing the various sections. From a legal perspective, they advised the Crown to seek a regular injunction on an expedited basis, not an *ex parte* injunction.

### **10.21 The TRU Team Arrives on the Evening of September 5**

Before noon on September 5, Inspector Carson had a discussion with Acting Staff Sergeant Skinner regarding the role of the TRU team. The Incident Commander asked Kent Skinner to have TRU report to Pinery Park at 7:00 p.m. Inspector Carson made it clear that TRU was for "backup." He directed Acting Staff Sergeant Skinner to keep the gun vehicles out of sight. Inspector Carson did not want the large "white cube vans ... travelling around the community ... raising the anxiety level."

The TRU team arrived at Pinery Park on the evening of September 5. Because the Incident Commander did not want the TRU team driving through town, Acting Staff Sergeant Skinner instructed his officers to take the back roads up to Pinery Park. The ten TRU officers, including Kent Skinner, arrived at Pinery Park in three cube trucks, two Suburbans, and one van. The team was briefed and Acting Staff Sergeant Skinner distributed copies of Project Maple and binders containing information on the Ipperwash occupiers.

### **10.22 Altercation with Police: The Picnic Table Incident**

It was dark on the evening of September 5 when the occupiers decided to move picnic tables from inside Ipperwash Park to the sandy parking lot. They carried about ten to twelve tables over the fence into the sandy parking lot, which was at Army Camp Road and East Parkway Drive.

There were two main reasons for this decision: the occupiers wanted to establish that the sandy parking lot was part of their territory, and they wanted to control access to this area. Clayton George, one of the Aboriginal men who carried the picnic tables into the sandy parking lot, responded to the following questions posed at the hearings:

Q: ... [Y]ou're out in the sandy parking lot for a couple of reasons; weren't you? The first reason is that, as far as you were concerned, that sandy parking lot belonged to you and your peoples and you were perfectly entitled to occupy it; right?

A: Yes.

Q: And that was one of the points that was being made by being out there, that we are occupying the sandy parking lot, not just the interior of the park; right?

A: Yes.

Q: Right. And the other point that was being made is that if you barricaded the sandy parking lot, then that would prevent non-occupiers from using that area to gain access to the park. That was the other reason for doing it; right?

A: Yes.

Q: ... [T]he other reason ... that you brought out all of these picnic tables and created a barricade in the sandy parking lot area was because you and the others who were occupying could then have some ability to control the access along Army Camp Road and East Parkway Drive. Am I right?

A: Yes.

Stewart George was involved in the picnic table incident and shared the occupiers' view that the sandy parking lot was "our land ... we believed that it was ours."

Kevin Simon explained that one of the reasons they wanted to prevent access to the beach was to separate themselves from residents in the community who had previously caused problems. These people had made derogatory and racist remarks and challenged the occupiers' land claims. Mr. Simon said they were trying to avoid these "verbal and physical confrontations." Kevin Simon further commented:

... We had been through a lot of problems with people coming on to the property in behind us along the beach area ... especially before we had taken over the park ...

... [P]eople's cars would be vandalized, trailers, tents, [and] people would be jumped ... different people ... were attacked along the beach in different areas. So when we had gone into that park, we had talked about closing that off completely so that people wouldn't be able to continue doing ... what they had been doing to us. And we didn't really feel that it was that big of a deal because it was part of our land, too, we felt. And it was just access to the park basically, and the beach on the park.

His brother Marlin Simon similarly testified:

... [I]f there was any, let's say, rednecks or whatever wanting to start trouble, they'd probably pull up in that area and start yelling obscenities or whatever. So we'd just close it off so that that kind of stuff wouldn't happen.

The picnic tables were placed in a circle in the sandy parking lot to prevent access to the beach from the paved road at Army Camp Road and East Parkway Drive. Aboriginal witnesses referred to it as a "blockade" or a "barricade." Some of the "old beat-up" picnic tables were used as firewood for the campfire. Kevin Simon and other occupiers roasted hotdogs.

Several Aboriginal people, including Stewart George, Clayton George, David George, Dudley George, Leland White, Gabriel Doxtator, Isaac Doxtator, Nicholas Cottrelle, Kevin Simon, Marlin Simon, Larry French, J.T. Cousins, Charles George, and Wesley George, were in the sandy parking lot when the OPP approached after 10:00 p.m.

It was at 10:15 p.m. when Constable Whelan and his partner Constable Japp saw several First Nations people carry picnic tables outside Ipperwash Park. They appeared to be erecting a barricade across the sandy parking lot. The constables radioed for assistance to remove the picnic tables.

Constable Whelan recorded in his notes at that time: "Several natives carrying picnic tables onto the roadway at Army Camp Road and East Parkway to build a barricade across the roadway." Marlin Simon said that police activity visibly increased after the OPP patrolling the area noticed the occupiers had moved picnic tables into the sandy parking lot.

Constables Gransden and Dougan heard a radio request for assistance by officers at the intersection of Army Camp Road and East Parkway Drive. They were stationed at Checkpoint “A” on East Parkway Drive at the Tactical Operations Centre (TOC) at the time.

Officers in about three OPP cars drove toward the picnic tables. David George did not think the police had any intention of making contact with the picnic tables. Some occupiers, such as J.T. Cousins and Isaac Doxtator, were sitting on one of the picnic tables at that time. One police cruiser deliberately rammed into the picnic table on which the Aboriginal people sat. Isaac Doxtator yelled at J.T. Cousins and others on the table to move their legs. Isaac Doxtator described the confrontation:

An officer ... told us we were trespassing and asked us to leave. Nobody moved so he got back in his car ... a vehicle came driving down at us. I was sitting right on a picnic table ... and J.T. was sitting beside me. The police officer came down and smashed right into the table right here. And ... there was another police car on each side of them on the back. Three vehicles pulled down and they pushed the table. And I told the guys, “Watch your legs,” and J.T. got on the table and the police car almost got stuck ... I think he dropped it in low gear and he just floored it and pushed the table again. And I told the guys, “Jump on here.” So we’re trying to hold the table down.

The table began to break from the impact of the cruiser. J.T. Cousins leapt off the table, and along with other young Aboriginal men, ran to the fence and into the park.

With the push bars on the front of his police cruiser, Constable Whelan had “edged up to this pile of tables” and “pushed them to one side so there was an opening, so we could get through.” In response, Isaac Doxtator, who had been sitting on a picnic table, and other occupiers tried to hold the table down against the force of the cruiser. Some of the occupiers started “pushing back with the picnic table.” The front end of the cruiser went under the bench of the picnic table, at which point Aboriginal people, including Isaac Doxtator, Marlin Simon and Larry French, lifted the picnic table and flipped it onto the hood and windshield of the OPP car. Isaac Doxtator said that they “had no choice.” David George testified, “[W]e’ve got to defend ourselves if the cops are coming in ramming picnic tables.”

Yelling and commotion ensued. Some of the occupiers, such as David George, Wesley George, and Isaac Doxtator, threw rocks in the direction of the OPP

cruisers. Marlin Simon explained that they were trying to “get the police to take off and leave us alone.” Larry French heard an OPP officer swear at the police officer who had rammed the picnic table and “told him to get out of there.” The Aboriginal men ran toward the fence and into the park, fearful they would be arrested.

After hearing the radio transmission, Constables Gransden and Dougan drove to the site. They parked on East Parkway Drive and walked toward the picnic tables piled two tables high across the entrance to the parking lot, blocking access to the beach. Constable Gransden saw the “front push bumper” of Constable Whelan’s car “resting against one of the picnic tables that was stacked in the pile ... [T]he cruiser [had] pushed the picnic tables” back, creating an opening in the barricade.

The officers tried to remove the stack of picnic tables. As the police walked toward the First Nations people, the occupiers retreated into the park. A flurry of rock throwing ensued, breaking the windshield on Constable Whelan’s cruiser and narrowly missing him. Three police cruisers were damaged by the rocks.

Kevin Simon agreed that the only time the police officers took issue with the location of the occupiers on September 5 was when they were in the sandy parking lot. However, Mr. Simon was critical of the OPP’s response. As he said at the hearings, “[I]t’s quite a way to take issue ... to drive into a table somebody’s sitting on.” At no time that night did the police tell the occupiers they would be safe if they stayed inside the park behind the fence. Aboriginal witnesses described the police conduct as inappropriate, aggressive, and intimidating. In their view the police, not the occupiers, had initiated this confrontation.

There were inconsistencies between the evidence of Constable Whelan and other police officers, as well as between Constable Whelan’s testimony and his notes. According to Constable Whelan’s police notes, the “Natives” threw a picnic table onto his car, denting the hood and right side of the cruiser. Constable Whelan also said the picnic tables were “stacked” about four tables high. When Constable Whelan testified at the Inquiry, he said that as he pushed the tables with his cruiser, a picnic table fell onto the hood of his car. Significantly, both Constable Whelan’s incident report and police notes fail to state that he pushed the picnic tables with his cruiser.

Constables Gransden and Dougan walked into the sandy parking lot. Constable Gransden had his wooden baton in his hands. All the officers wore grey tactical uniforms and caps. About eight OPP officers were at the site.

Constable Gransden stood near the fence line, talking to some Aboriginal people. Constable Gransden told the occupiers the parking lot was not part of the provincial park, and he warned them that they were committing the crime of mischief by erecting barricades in the sandy parking lot.

The First Nations people yelled profanities and told the officers “to leave” the site. Aboriginal people were screaming at the officers and the officers were yelling back.

### **10.23 Police Make Threatening Remarks to Dudley George**

The officers were separated from the occupiers by the fence. According to the Aboriginal witnesses, an officer hit the fence post with his baton and said, “[W]e want to try these out.”

According to the Aboriginal witnesses, the police were taunting the occupiers and encouraging them to climb over the fence. Marlin Simon said, “[T]hey wanted us to come on the other side of the fence so that ... maybe they could arrest us or ... lay a [beating] on us. They wanted to pick a fight right away.”

Aboriginal witnesses testified that several OPP officers made racist comments, including “wagon burners” and “wahoos.” As Kevin Simon said at the hearings, the police made “degrading references to our ancestry.” He believed the OPP were there for a fight: “They came there bashing their clubs and calling names.” Other Aboriginal men, such as David George, Charles George, and Isaac Doxtator, also believed the police were instigating a physical confrontation with the occupiers. They felt threatened by the police officers’ gestures and comments.

One officer, according to the occupiers, did most of the talking. He had light hair, light-coloured eyes, was stocky, relatively short, and had facial hair. This officer said, “Welcome to Canada.” David George said:

... [H]e was basically telling me that I’m not a Canadian ... but I don’t like saying I’m a Canadian anyways, because of what Canada’s done to our people. And so he was just taking a stab at us ... [H]e was trying to tell me, “That’s Canada on that side of the line and this is Aazhoodena.” ... And he wanted me to step outside the line so he can give me a Canadian beating ...

David George said this officer looked over the crowd of people and, pointing right at Dudley, said, “Come on out, Dudley. You’re going to be first.”

Marlin Simon immediately picked up sand from the ground and threw it in the officer’s face. An OPP officer beside him pulled out a can of pepper spray and sprayed it at the First Nations people behind the fence. Several occupiers responded by throwing rocks at the officers, and the OPP left the area.

Constable Gransden testified that “someone in the darkness ... threw a handful of sand and gravel directly” at him. Constable Gransden used his pepper spray and thinks it made contact with a First Nations person.

The OPP moved away from the fence and backed out of the sandy parking lot. As the officers began to dismantle the barricade of picnic tables, they were “pelted with rocks.” The officers decided to leave the area and returned to their cruisers.

As Constable Grandsen stood on the passenger side of his car, a rock hit his cruiser and shattered the windshield. The size of the rock and the force with which it was thrown caused Constable Grandsen and other officers to be concerned for their safety. Constable Grandsen and his partner Mike Dougan returned to Checkpoint “A” a few minutes before 11:00 p.m.

Constable Grandsen denied making the statement “Welcome to Canada” to the First Nations people. He also claimed that he did not hear any officer make a threat to the effect of “Come on here, Dudley. You’re going to be the first.” Constable Whelan insisted he did not say, “Welcome to Canada” to the occupiers, nor did he hear any officer threaten “Dudley, you’ll be first.”

Constable Grandsen maintained he was justified in discharging his pepper spray as he had been assaulted in the face by sand and gravel. While he claimed he did not use the pepper spray in retaliation, he agreed it was not necessary for him to use the pepper spray to retreat or move away from the First Nations people.

Dudley George told his sister Carolyn after the incident that he had been singled out by a police officer who told him they would “get him first.” Carolyn George testified:

He told me the police said they were gonna get him first ... but he said it kind of jokingly, like he didn’t want to take it serious. He didn’t want to believe that ...

Carolyn George said that although Dudley “was kind of sad ... he tried to make light of it.” While Carolyn did not believe the police would carry out their threat, she thought the officer’s words were meant “to harass us, and intimidate ... and scare him.” Her brother Dudley hoped they were “just joking around.”

Kevin Simon was very disturbed by the OPP’s comments to Dudley George. He said that from the time Dudley had moved onto the military ranges in 1993, he had been subjected to harassment by the military police. Late at night, the police would drive to Dudley’s trailer, shine spotlights, turn on their siren, and make derogatory remarks. Kevin Simon had been in Dudley’s trailer and witnessed some of these events. Given this history, it worried Kevin Simon on the night on September 5 that the police had targeted and threatened Dudley George. Kevin Simon said:

... [I]t had disturbed me what they had said to Dudley, and knowing that they had pointed that out before when we were living on the ranges. He was subject to a lot of harassment from the police driving by with their spotlights and sirens ... And the Army MPs ... always recognize[d] him, called him by name. So when these police had marched up the way they did, banging their clubs and pointing him out specifically amongst all of these other people in the dark, it worried me.

Kevin Simon stayed up late, thinking about the altercations with the police that evening. He was anxious and he decided not to go to work the following day.

The evening's events had an impact on other occupiers at Ipperwash Park. Marlin Simon was "angry and kind of shocked" that the police would "come right up and threaten us and Dudley like that." As Marlin Simon said, "it was mostly that evening that everything happened and everybody was kind of getting ... worried."

Inspector Linton was on duty when the picnic table incident occurred. Inspector Carson and A/D/S/Sgt. Wright had left the command post by this time.

As discussed in Chapter 11, when Inspector Carson returned to duty the following morning, he was told that officers at the checkpoint at the trailer park on Army Camp Road saw a fire on the roadway at the entrance to the park and went to check it out. Inspector Carson knew pepper spray had been used at this incident, but he did not know an officer had used his police cruiser to push a picnic table toward the park until he began to prepare his testimony for the Inquiry. As mentioned, this information was noticeably absent from Constable Whelan's incident report and the general occurrence report, and the Incident Commander was consequently unaware in September 1995 of Constable Whelan's actions.

## **10.24 Aggressive and Culturally Insensitive Remarks by OPP Officers**

Sergeant Korosec was sleeping at a hotel in Forest when his pager went off at about 11:30 p.m. He contacted the command post and Constable Jacklin informed him that the Aboriginal occupiers had thrown rocks at the OPP and damaged the windshields and hoods of police cruisers. Constable Jacklin explained that OPP officers had noticed a fire near the main gate of the park, and they "got pelted" when they went to "check it out." The following exchange took place between Sergeant Korosec and Constable Jacklin:

KOROSEC: Yeah. *They were baited.*

JACKLIN: Yup.

KOROSEC: Well, live and learn, live and learn. This — *their day will fucking come.*

JACKLIN: Yeah.

KOROSEC: *I was talking to Mark Wright tonight.*

JACKLIN: Hm-mmm.

KOROSEC: *We want to amass a fucking army.*

JACKLIN: Hm-mmm.

KOROSEC: *A real fucking army and do this — do these fuckers big time. But I don't want to talk about it because I'll get all hyped up.*

JACKLIN: And you won't be able to sleep.

KOROSEC: *And I won't be able to sleep. Okay.* What time is it? Quarter to twelve. Okay.

JACKLIN: Back to bed.

KOROSEC: Steady up.

JACKLIN: Okay.

KOROSEC: Fine.

Jacklin: Have a good night. (emphasis added)

Mark Wright claimed he had no recollection of speaking to Sergeant Korosec before he went off duty that evening. Sergeant Korosec also said that he did not remember discussing “amassing an army” to deal with the occupiers, or to “do these fuckers big time” with A/D/S/Sgt. Wright. Sergeant Korosec explained that he was awakened at the hotel in Forest, he was exhausted and grumpy from having had very little sleep over the previous two days, and he was upset to learn that fellow officers had been “assaulted with boulders with enough force or size that broke windshields. I was thinking, what [would have] happened if it hit one of them in the head?” As was the case with Inspector Carson, Sergeant Korosec was not told Constable Whelan had pushed the picnic tables with his police cruiser until the Inquiry ten years later.

Sergeant Korosec knew his remarks were inappropriate and that his language was aggressive and confrontational: “It bothers me to hear this tape ... even though it's my voice, it's not me,” he said at the Inquiry. Although Mark Wright claimed he had no recollection of discussing with Sergeant Korosec “amassing an army” to move on the occupiers, Wright testified that some of the language used by Sergeant Korosec was “an unfortunate use of terminology.”

Sergeant Korosec had made other questionable remarks earlier that evening when he gave instructions to Constable Burch regarding the police boat, the *HH Graham*. When Constable Burch asked what kind of armaments the occupiers had, Sergeant Korosec replied, “They’re Natives. They all got long guns.” He continued:

There’s some intelligence or some — I shouldn’t even say intelligence — some word they got AK-47s or whatnot, rifles and everything. Hasn’t been confirmed at all ... In fact, we’ve never ... even yesterday when it hit the fan, been confronted by a Native holding a long gun. And he’d probably be a dead Native by now.

When asked to explain these comments at the Inquiry, Sergeant Korosec replied that Aboriginal people are hunters and have rifles. He said “dead Native” referred to the incident on the beach on the afternoon of September 4 with Roderick George when Constable Whelan said he saw the butt of a long gun in the car trunk of an Aboriginal person. Sergeant Korosec agreed that the statement “They all got long guns” was a “generalization” and not reflective of what all the occupiers had in the army camp.

Stan Korosec was an OPP Sergeant with responsibility for coordinating the ERT teams. He was in the command post with Incident Commander Carson during the September 5 and 6 Ipperwash occupation. He was a role model for the ERT officers. Yet the language he used was insensitive and aggressive. It reinforced negative stereotypes of Aboriginal people, and certainly was not respectful of the First Nations people. This clearly was not an appropriate role model for OPP Constables and other officers involved in the Ipperwash occupation. It was not conducive to establishing a trust relationship between the police and the First Nations people. Nor did it foster the objectives of Project Maple, which were to resolve the occupation through negotiation and by peaceful means.

Sergeant Huntley also made inappropriate and culturally insensitive remarks in conversations on September 5. While speaking to the police sergeant responsible for the OPP’s Marine Unit, Sergeant Huntley discussed his accumulated overtime hours. When asked what he was going to do with all this money, Sergeant Huntley replied, “[G]ive it to the government ... so that they can give the Indians more stuff. Like you know, all this stuff we keep giving them doesn’t come cheap. Somebody’s got to pay for it.”

When asked about the Ipperwash situation in a later call with OPP Dispatch, Sergeant Rob Huntley said:

RH: ... I'm in the Command Post. I'm in the dark here.

L: Oh, I just thought it was kind of straightforward. They'd get the stuff back. We'd have to give it to them. The buildings and everything.

RH: *And we just pay more taxes so that we could afford to build houses on it for them.*

L: Oh, come on ... Now we're going to give to them with houses?

RH: *Yeah. Don't you think that's right? Because you and I stole that land from them?* (emphasis added)

Sergeant Huntley claimed he did not recall either of these conversations and was "quite shocked it was me saying it." He acknowledged that his statements were "unfair" and "unprofessional."

Sergeant Huntley made sarcastic and derogatory remarks about First Nations people. Again an OPP Sergeant's comments promoted negative stereotyping of Aboriginal people, a clear barrier to initiating respectful dialogue and to resolving the occupation by peaceful means.

Another culturally insensitive, racist, and egregious conversation took place between Detective Constable Whitehead and Detective Constable Dyke on September 5, 1995, at approximately 1:43 p.m. John Carson identified Speaker 1 as Dyke and Speaker 2 as Whitehead:

SPEAKER 1: No, there's no one down there. *Just a big, fat fuck Indian.*

SPEAKER 2: The camera's rolling.

SPEAKER 1: *Yeah. We had this plan, you know. We thought if we could ... five or six cases of Labatt's 50, we could bait them.*

SPEAKER 2: Yeah.

SPEAKER 1: *And we'd have this big net at a pit.*

SPEAKER 2: *Creative thinking.*

SPEAKER 1: *Works in the south with watermelon.* (emphasis added)

These comments were made regarding the Aboriginal people who were under surveillance by these officers, as well as people of colour.

Inspector Carson described the comments as "inappropriate," "unacceptable," and "not to be tolerated." He considered the statements to be racist.

A recording of comments by Detective Constable Whitehead and Detective Constable Dyke came to the OPP's attention after the events occurred at Ipperwash in September 1995.<sup>3</sup> The recording was made while the officers were working undercover on September 5, 1995. Detective Sergeant Bell had assigned these officers the task of photographing the people occupying the park.

Detective Constable Whitehead was disciplined for his failure to respond and to report Constable Dyke's comments. This is discussed in Chapter 20. Detective Constable Dyke was retired at the time of the complaint and was not disciplined.

Jim Dyke and Darryl Whitehead were members of the Project Maple intelligence team. It is fundamental that police officers who are involved in intelligence are impartial and free of bias as they process and filter sensitive and critical information.

Detective Sergeant Bell testified that he was surprised an officer made these derogatory remarks. He agreed that in order to do proper analysis, it is "imperative" that police officers involved in intelligence approach their jobs without any bias. He agreed that racism is one of the most serious forms of bias that undermines the credibility of intelligence functions.

Detective Sergeant Bell agreed that the statements made by Officers Dyke and Whitehead were completely inconsistent with their role as intelligence officers. Attitudes such as these could affect the information analyzed and processed between September 4 and 6, 1995, by intelligence officers at Ipperwash and transmitted to the Incident Commander. Such comments confirmed that the police officers did not respect First Nations people. These types of statements did not promote a trust relationship between the Aboriginal occupiers and the police. Such attitudes and comments had a detrimental effect on the ability of the police to communicate with the occupiers and to negotiate a peaceful solution in accordance with the objective of Project Maple.

## 10.25 Reports of Gunfire

About an hour after the picnic table incident, Constable Larry Parks was on duty at Checkpoint "C" on Army Camp Road. Suddenly, at about 11:40 p.m., the stillness of the night was interrupted by "bursts" of "gunfire" from the direction of the beach at the army camp, about a kilometre from the checkpoint. Constable Parks heard a "large amount of gunfire," perhaps fifty to one hundred rounds, which he thought was fired from one weapon. He immediately contacted the

---

3 Detective Constable Dew and Detective Sergeant Richardson discovered the comments while copying the tape pursuant to a Freedom of Information request.

Tactical Operations Centre (Lima 2) at the MNR parking lot and reported: “We’re hearing large amounts of automatic gunfire way back in the army base.”

A second radio transmission occurred four minutes later. On Inspector Linton’s instructions, Constable Wayde Jacklin (Lima 1 at the command post) asked Constable Parks to confirm his report of “automatic” gunfire:

WJ: Yeah. Larry, the weapon fire you’re hearing is it — does it sound like a rifle, automatic fire?

LP: That’s 10-4.

WJ: Is that shotgun, automatic, or semi-automatic?

LP: It sounded fully automatic.

WJ: How many rounds would you figure you heard?

LP: 50 to 100 anyhow. It’s stopped now.

WJ: Sound just like one firearm going off?

LP: That’s 10-4.

WJ: Yeah. 10-4.

Constable Jacklin was assigned to Incident Commander Linton at the command post throughout the night of September 5. His role was to collect and convey information at the direction of the Incident Commander through radio and telephone communications. He remained in the command trailer in the Forest Detachment parking lot with Inspector Linton and a scribe. Sergeant Korosec was the ERT Team Leader at Ipperwash and Wayde Jacklin was the second in command.

Constable Jacklin relayed Constable Parks’ information of the fifty to one hundred rounds of automatic gunfire to Inspector Linton. This large amount of automatic gunfire concerned Constable Jacklin. With both his military and police background, Jacklin assumed the weapon was “belt-fed or drum-fed or there had to have been more than one weapon being fired.”

Constable Parks was convinced it was automatic gunfire. From his ERT training and working near the army camp for twenty years, he recognized the “sharp, crisp sound” and the “uniform” “repetition” of automatic gunfire. Although he had no particular training in automatic weapons, he had fired automatic weapons in the late 1970s at an OPP demonstration at the army camp.

Constable Parks had not observed an automatic weapon in 1993 when the occupiers moved into the military range, or in the summer of 1995 when the

Aboriginal people assumed control of the army camp and then Ipperwash Park. Following the September 4, 1995, occupation, no officer had communicated to Constable Parks that they had seen an automatic weapon in the army camp or in the park.

As I discuss in the next chapter, when Inspector Carson returned to duty the following morning, Inspector Linton briefed him on the gunfire. The two OPP Inspectors were unable to determine if the shots had been fired from a semi-automatic or an automatic weapon. However, Inspector Carson did not attach great significance to the fact that an automatic weapon may have been discharged:

I'm hard-pressed to understand why anyone would be any more concerned about an automatic weapon than they are about a semi-automatic weapon because ... in the hands of the inappropriate person, they're both simply dangerous.

The civil servants and political staff who on September 6 received the information of automatic gunfire discharged on the night of September 5 attached great importance to it. It undoubtedly heightened the anxiety level amongst officials at Queen's Park. MNR park officials at Ipperwash conveyed this unverified information to their superiors.

In the next chapters, I discuss the transmission of unreliable and unauthenticated information to Ontario government bureaucrats and politicians.

Aboriginal witnesses at the Inquiry were asked whether gunshots were fired on the evening of September 5. They were asked whether they saw firearms that night or explosives of any kind, including firecrackers.

The First Nations witnesses repeatedly stressed the understanding amongst the occupiers that no guns would be brought into Ipperwash Park. Clayton George categorically stated that he did not see any firearms in the park, nor did he hear multiple rounds of gunfire on the night of September 5. Clayton George remained in the park throughout the night. Leland White, who also stayed in the park overnight, testified that he did not hear gunshots from the park or army camp.

There was similar testimony from other Aboriginal witnesses. Stewart George was in the park late on the evening of September 5 before he retired to the barracks. He did not hear gunshots that night, or anything that sounded like rounds of automatic gunfire or firecrackers. Kevin Simon was also awake until late that night. He did not see any weapons in the park or hear gunshots.

Marlin Simon was another witness who testified that there were no plans to bring guns into the park, nor were any guns stored or concealed in the park. Isaac Doxtator, who had travelled from the Oneida Reserve that day with Larry French

and others, confirmed this. Carolyn George was another person who did not hear or see firearms at the park or army camp on September 5, either during the day or night.

Clayton George testified that in September 1995, the First Nations people had guns in the army camp, which they used to hunt game and food. Nicholas Cottrelle added it was unlikely that any First Nations person was hunting in the vicinity of the park at that time as it was not hunting season.

Marlin Simon said he heard firecrackers during the evening of September 5. He explained that people had firecrackers that came in packages of fifty or one hundred from the store on Army Camp Road. It is possible, he said, to light the end of the package so that the firecrackers go off sequentially, like small quick explosives. Mr. Simon said that from a distance, it is possible to mistake the sound of the firecrackers for automatic gunfire.

Tina George initially testified that she heard gunshots either on the evening of September 4 or 5 at about midnight as she was making her way to the inland lakes. Her daughter Julie was with her. She said both Russell Jewell and Marlin Simon had been firing a gun, a “long barrel” rifle, as they were target practising. Tina gave Marlin Simon a ride to the built-up area after the target practise.

But on her second day of testimony at the Inquiry, Tina George retracted her earlier evidence and said her statements regarding gunshots fired in early September 1995 were incorrect. She was adamant that the target practise did not occur on September 4 or 5, 1995. Her recollection was poor, she said, as ten years had passed since these events. Tina George said:

I am positive that it did not happen on Monday, September 4, 1995.  
I am positive that it did not happen on Tuesday, September 5 of 1995,  
and I am positive that it did not happen on Wednesday ... and that  
it possibly happened some time after the fact when Dudley George  
was shot ... I'm certain that I did not see guns before Dudley George  
was shot.

## 10.26 Intelligence at Ipperwash

On the morning of September 5, A/D/S/Sgt. Wright suggested the intelligence logs be maintained, and Inspector Carson agreed. Despite the Incident Commander's decision, the intelligence logs were not maintained.

Because helicopter surveillance was not possible early on September 5, and because the video cameras that had been installed at the park kiosk and maintenance building prior to the occupation were not operational until the evening, it

was decided that Detective Sergeant Bell and Detective Constable Dyke would conduct surveillance of the park area. The two officers tried to determine the number of occupiers. At about 10:45 a.m., Detective Sergeant Bell reported that nine First Nations people were in the park — men, women, and children — as well as some vehicles. There was a campfire. He also saw an ATV, a black Oldsmobile, a pickup truck, and the “OPP WHO” vehicle. Three men were at the front gate, and one of them was cutting down a pine tree. Detective Constable Dyke took photographs of these individuals to add to the biographical binder.

Most of Detective Sergeant Bell’s time on September 5 was allocated to identifying the park occupiers, the visitors to the park area, and working on the biographical binder. He agreed that OPP officers with less formal intelligence training and experience could have performed this task.

Detective Sergeant Bell did not have team meetings with Officers Dyke, Whitehead, and Richardson to coordinate their information-gathering efforts over the course of September 1 to 6.

According to the Project Maple plan, Detective Constable Dyke was designated as an analyst, but he was an analyst in title only.

In a standard operation, an Incident Commander relies on his or her intelligence team to provide a finished product in the form of raw data that has gone through the intelligence cycle. Detective Sergeant Bell agreed that under a traditional model of intelligence, all raw data flows through the intelligence unit to the Incident Commander.

In the Ipperwash operation however, raw data flowed from officers outside the intelligence unit to Inspector Carson, bypassing Detective Sergeants Richardson and Bell. As Don Bell said, there was no single filter for all raw data intelligence, and Inspector Carson was the “central repository.” Reports were generally verbal, not written.

A number of “tentacles” of information went directly to the Incident Commander and were not subject to the analysis available with one collection site. Prior to the events on the evening of September 6, Detective Sergeant Bell’s reports to the Incident Commander were generally verbal.

Between September 1 and 6, 1995, the biographical binder was the primary report from the intelligence unit.

Later in the morning on September 5, Detective Sergeant Bell compiled the binder in the OPP Forest Detachment. He also received information for his book from officers at the checkpoints.

At approximately 7:30 p.m., Detective Sergeant Richardson instructed Detective Constable Martin to travel to the Grand Bend Detachment for 9:00 p.m. to monitor the cameras that had been installed at the maintenance shed and at

the gate kiosk at the park, and to record any activities. There were technical difficulties with the telephone lines that connected the cameras to the monitors at the Grand Bend Detachment. At times, these lines were interrupted, which resulted in no signal at all and an inability to monitor those areas. Detective Constable Martin maintained an entry log of activities recorded on the tapes.

For the balance of his shift that evening, Detective Sergeant Bell continued his work on the biographical binder. He left the OPP Forest Detachment at about 10:30 p.m.

Inspector Linton led the command post meeting shortly after 9:00 p.m., which was attended by Acting Staff Sergeant Skinner, Sergeant Cousineau, Constable Jacklin, and Detective Constable Dew. Detective Constable Dew was asked to prepare folders that identified the occupiers' vulnerable points or accessibility to the park from Matheson Drive and Army Camp Road. Detective Constable Dew considered this "a task that [he] was not qualified to do." He told Inspector Linton he did not have the requisite skills to perform this work, but he was told "to go ahead anyway."

Detective Constable Dew enlisted the assistance of TRU Constable Zupancic to identify points of weakness and accessibility to the park. Mark Dew, who was "not trained in tactics ... couldn't understand why" he had been given this assignment.

Constable Zupancic prepared stills from a video, and Dew identified the gates along the boundaries to the park. He described it as a "pointless" exercise. This work was performed throughout the night of September 5 and into the early morning hours of September 6. Detective Constable Dew handed the folders with the photographs to A/D/S/Sgt. Wright and Detective Sergeant Richardson before he went off duty. Detective Constable Dew did not see these folders again, nor was he asked to engage in similar tasks.

### **10.27 Call Between Superintendent Parkin and Inspector Linton**

Inspector Linton was on night duty at the command post when he called Superintendent Parkin at his home shortly before 10:00 p.m. to provide an update. Inspector Linton said he heard "the Minister of Natural Resources was on the local news here at six o'clock saying that they wouldn't tolerate this." Inspector Linton reported that "everything's quiet" at Ipperwash. Twenty-six ERT officers (Teams 1 and 2) were on the ground, and there were four checkpoints. Linton reported that OPP officers continued to collect information on vehicles at the police checkpoints. Inspector Linton also confirmed that the MNR helicopter had arrived from Sudbury, and that Detective Constable Speck and Constable

Paul Evans had flown over Ipperwash Park. Paul Evans filmed the Ipperwash area from the helicopter. Inspector Linton also discussed Inspector Carson's attempts to obtain armoured vehicles from GM Diesel through the London Police and from the military.

Superintendent Parkin wanted to know if the videos at the kiosk and the maintenance shed were being monitored. Inspector Linton said he thought they were.

Inspector Linton also discussed his call earlier that day with Chief Bressette, who was "pretty pissed off," and had said, "this is a provincial issue now" so "you can't be hiding behind the army." Inspector Linton added, "Tom Bressette has never supported any land claim on Ipperwash Provincial Park." He also conveyed the "rumour" heard by Chief Bressette that the occupiers would "take ... over" the cottages at the end of Outer Drive either "soon or after they're finished with the park." The next target was Pinery Park.

### **10.28 Extent of the Occupation — Intentions of the Occupiers**

Aboriginal witnesses were asked at the hearings whether it was their intention in early September 1995 to assume control over areas beyond the park and the sandy parking lot. Clearly the OPP was concerned, as were municipal officials, that the First Nations people would extend the boundaries of the occupation to encompass cottage properties west of the sandy parking lot on East Parkway Drive.

Some occupiers, such as Roderick George, did not consider the cottage properties along Lake Huron on East Parkway Drive to be part of the Aboriginal land. He claimed there was no plan to take control of this area or to extend the occupation to Port Franks.

Other Aboriginal witnesses, such as Clayton George and Kevin Simon, believed the land west of the parking lot on which cottages were built rightfully belonged to the Aboriginal people. However, Mr. Simon made it clear at the hearings that it was not the occupiers' intention in September 1995 to assert control over this land. He did not feel it was just to inflict on the cottagers what his community had sustained when the government took their land:

... [O]n the map, there's a section of the Reserve where there's cottages. I heard talk go out, people saying that the police were there to protect the cottagers. We had no intention, at least, I didn't, that I know of, to harm those people. But I know a lot of our Elders, they knew what it was like to have their homes taken and weren't about to inflict that on others. We knew that that land was legally taken

[from] us, but the people that were living there, it wasn't their fault. They had paid good money for their lands too, so we wouldn't want to inflict on them what was inflicted on us.

It was Mr. Simon's view that the cottage properties were part of the Stoney Point Reserve that had been illegally sold by the government to these individuals who lived west of the sandy parking lot. However, he stated, "[O]ur issue wasn't with them, it was with the [g]overnment." He reiterated that it was not the intent of the Aboriginal people to move the occupation west of the sandy parking lot.

Kevin Simon explained that asserting control over the cottage properties would also frustrate the objectives of the occupiers in early September 1995, namely, to enter into meaningful negotiations with the government:

... I wasn't the only one that felt that we didn't want to inflict that kind of thing on other people, and we also knew that it would be a whole different situation we would be in. We wouldn't be dealing with the government ... [W]e were pushing for some sort of meaningful, I don't know, negotiation — some sort of start to reclaiming our land, and going into peoples' cottages wasn't going to do it.

Kevin Simon said, "[W]e weren't about to get into [a] personal fight with each individual landowner or homeowner ... they weren't the ones our fight was with. Our fight was with the government."

Mr. Simon said there was some discussion amongst the occupiers about recovering the cottage properties at some time in the future, but there was no plan to do so in September 1995 when the Aboriginal people occupied Ipperwash Park.

## **10.29 Reaction of Government Officials on the Night of September 5**

When politicians and senior government staff left work on September 5, they did not feel any urgency with respect to the Ipperwash Park occupation. For example, Deputy Solicitor General Todres did not think there was any urgency regarding the park occupation. From her briefings on September 5, it appeared the approach was "slow ... steady negotiations," and the Deputy Solicitor General "simply didn't think beyond that. [She] was very comfortable that that was the direction that was being taken." The Deputy Solicitor General did not have "unusual concerns about Ipperwash. So [she] left the office on the 5th as [she] would any

other day with the Solicitor General.” Similarly, the risk assessment of the Minister of Natural Resources was that the park occupation had stabilized, winterization could wait for a couple of months, and there was no risk to campers because they had been evacuated.

Premier Harris thinks he received a telephone briefing on the evening of September 5 from Deb Hutton. He was informed of the discussions that had transpired at the IMC meeting. He thought that an injunction should be sought in an expeditious manner. On the evening of September 5, the Premier was of the view that the occupation should end as soon as possible. The Premier assumed the occupation of Ipperwash Park was an escalation of events to draw attention to the frustration of the Aboriginal people who sought the return of the army camp — their former reserve — by the federal government. The Premier considered the occupation a law and order issue, not an Aboriginal issue. Premier Harris believed that the manner in which the government reacted to the Ipperwash occupation would set the tone of how the Ontario government would deal with these issues for the next four years.