

SEPTEMBER 6, 1995: BEFORE 7:00 P.M.

11.1 Inspector Carson Learns of Picnic Table Incident and Reports of Automatic Gunfire

When Inspector Carson arrived at the Forest Detachment after sleeping for a few hours at a nearby hotel, he learned about the picnic table incident and the reports of automatic gunfire from the previous night. Inspector Linton briefed John Carson, Mark Wright, and Stan Korosec at approximately 6:30 a.m.

Inspector Carson learned that officers at the checkpoint on Army Camp Road near the trailer park noticed a fire near the main gate to the park. When officers approached this area, “they were met with a barrage of rocks,” which damaged three cruisers. A number of picnic tables had been piled in the sandy parking lot at Army Camp Road and East Parkway Drive, blocking vehicles from accessing the area. The Incident Commander was also told officers heard “in the area of fifty to one hundred rounds of fire that appeared to be automatic gunfire” during the night. There was also activity in the park — First Nations occupiers operated a dump truck and a backhoe.

At no time was Inspector Carson told that an OPP officer had used his police cruiser to push the picnic tables stacked by the occupiers. Nor was the Incident Commander informed of the circumstances in which Constable Gransden discharged his pepper spray.

In preparation for the removal of the picnic tables from the sandy parking lot, Inspector Carson asked A/D/S/Sgt. Wright to visit the site and survey the situation. Sergeant Korosec was instructed to arrange for a helicopter to patrol the parking lot as the officers removed the picnic tables. Constable Evans, one of the officers assigned to the helicopter, was told to videotape “everything.”

A/D/S/Sgt. Wright drove with Detective Sergeant Richardson to the parking lot, counted the picnic tables, and drew a quick diagram of the area. They saw a pitched tent and a couple of First Nations people sitting around a tree.

Detective Constable Dew was responsible for compiling a list of the police vehicles damaged in the picnic table incident the previous evening. He reported that three cruisers operated by the following officers were damaged:

windshield, hood, front fenders — Officers Whelan and Japp

windshield — Officers Hall and Horzempa

windshield — Officers Bittner and Aitchison

Prior to contacting Superintendent Parkin to update him on previous night's events, Inspector Carson received a call from Ron Fox shortly after 7:15 a.m. Mr. Fox wanted current information on the Ipperwash occupation to update the office of the Solicitor General. Ron Fox would also be a participant at the Interministerial Committee (IMC) meeting that morning, which John Carson learned from Les Kobayashi was scheduled for 9:30 a.m.

Inspector Carson told Ron Fox that picnic tables had been piled outside the park and the occupiers had built fires adjacent to private property. There was a danger that the neighbouring cottages could be damaged if the picnic tables were set on fire. Inspector Carson planned to contact the Mayor of Bosanquet to inform him of the incident, and Chief Tom Bressette of the Kettle and Stony Point Band had made it clear "he wants something done." Inspector Carson told Ron Fox the OPP planned to "deal with this table block ASAP." He also expressed concern about officer safety.

Inspector Carson did not place any restrictions on the communication of this information by Ron Fox to government officials. However, Ron Fox considered the OPP's plan to remove the picnic tables operational information. In some cases, governments may need to receive information about police operations to determine if that information raises issues of policy for the responsible Minister and the elected government. At the same time, however, the receipt of such information can cause problems. It can lead to governmental direction of police operations or the appearance of such direction. I discuss the distinction between legitimate direction of the police with respect to policy matters and illegitimate direction with respect to operational matters in detail in the Part II report. For the purpose of this report, it is important to understand that, while the government, through the responsible Minister, can receive information about police operations and give the police broad policy direction, it should leave the implementation of that policy, including questions of timing, tactics, and the exercise of law enforcement direction in individual cases, to the expertise and discretion of the police.

Ron Fox believed the "situation was escalating." He assumed the OPP had made it clear to the occupiers that their activities should be confined to the park and not to the sandy parking lot. But in fact this message had not been clearly communicated to the First Nations occupiers.

Shortly after this call, Inspector Carson described the First Nations "ambush" to Superintendent Parkin — the piling of picnic tables between the park fence

and the first cottage in the sandy parking lot, the fire on Army Camp Road, rocks thrown by militant occupants, and damage to windows of three police cruisers. The Ministry of Natural Resources (MNR) was arranging vehicles “to haul” away the picnic tables, and “we’ll put the helicopter up to provide the eye for cover,” explained Inspector Carson. The Emergency Response Team (ERT) night team would remain on standby to provide cover while the ERT day shift removed the picnic tables.

In this call, Superintendent Parkin raised again his concern about video and audio devices to monitor the activities of the occupiers. Inspector Carson replied that although only one video was functional, there was footage of the park and the occupiers “from the sky,” that is, from the chopper. The OPP Superintendent urged the Incident Commander to further “explore” the installation of monitoring equipment.

Superintendent Parkin also asked whether further negotiations with the occupiers had taken place. John Carson assured him “we’re going to push that a little bit today.”

At the conclusion of the call, Inspector Carson told the OPP Superintendent that Peter Sturdy from MNR was working on the affidavit for the injunction, and that Inspector Fox had been briefed on the night’s events.

11.2 Tactics and Rescue Unit (TRU) Leader Shares Information about Automatic Weapons with the TRU Team

When TRU Team Leader Acting Staff Sergeant Kent Skinner arrived at the Forest Command Post in the early morning of September 6, he was briefed on the picnic tables and the fire on Army Camp Road, the rock throwing at the police, and the fifty to one hundred rounds of automatic gunfire heard overnight. These events, in his view, “raised the threat level”:

... we now had an example of violence towards police officers, the throwing of rocks and the sound of a weapons fire ...

It was confirmation that it was a good thing we were there, and it was confirmation to me that there was now a higher potential for firearms present.

Acting Staff Sergeant Skinner believed the occupiers were prepared to use firearms as “intimidation” and in an aggressive way.

Kent Skinner conveyed this information to his TRU team, who remained on standby at Pinery Park. At about 7:30 a.m., Acting Staff Sergeant Skinner made

contact with Acting Sergeant Ken Deane (“Tex”). After describing the events, Kent Skinner said: “I think the automatic weapons fire changes things around here — probably.” He added, “[O]ther people here,” such as Mark Wright, “are wanting to do things but I don’t think that will happen.” Acting Staff Sergeant Skinner explained at the hearings that Mark Wright wanted to investigate the automatic gunfire and possibly make an arrest — that was his orientation. Acting Staff Sergeant Skinner considered Inspector John Carson to be “a little more steady.”

The two TRU officers also discussed the OPP decals that would be placed on the light armoured vehicles when they arrived in Ipperwash.

Acting Sergeant Deane raised the issue of the availability of ambulances on “nighttime coverage.” Ken Deane was informed by Acting Staff Sergeant Skinner that a St. John Ambulance was stationed at the Forest Command Post. But, in fact, this vehicle was not an ambulance. Acting Staff Sergeant Skinner was also not aware that a St. John Ambulance vehicle carried different equipment and required different personnel qualifications from its attendants than a Ministry of Health ambulance.

The TRU officers also discussed Ted Slomer, a medic associated with the OPP. Ted Slomer (“Doc”) was with the TRU team in Ipperwash. He was a registered nurse with paramedic training. Ted Slomer attended OPP occurrences when requested. He was a volunteer and was not sworn in as an auxiliary OPP officer until September 8 or 9, 1995.

Ambulance operators and staff did not generally attend unsecured environments — the “inner perimeter” — or other dangerous situations. But Ted Slomer was a tactical medic trained in TRU operations, which enabled him to work inside the perimeter. He was available to deal with trauma situations where individuals required immediate medical attention. As part of his preplanning, the OPP medic would search for the nearest local medical facilities to determine the quickest route to these hospitals.

At the request of the OPP, Ted Slomer arrived in the Ipperwash area on September 6. Constable Zupancic was asked to take the medic to the St. John Ambulance trailer at the MNR parking lot. Ted Slomer helped the officers set up the Tactical Operations Centre (TOC) — the antenna, and the extension cords to provide power to the St. John Ambulance vehicle. This St. John Ambulance trailer was not being used for medical purposes but rather for a police operation. I find it surprising that health care provider Ted Slomer did not have reservations or concerns when he testified at the Inquiry that a vehicle inscribed with the words “St. John Ambulance” had been used by the police as a command post in Ipperwash. As I discuss in the following chapters, the OPP should not have used

a St. John Ambulance trailer as a command post in its tactical operation. St. John Ambulance vehicles and equipment should not be used for purposes unrelated to St. John Ambulance's mandate and functions as an ambulance service.

11.3 Mayor of Bosanquet Visits OPP Command Post

At approximately 8:15 a.m., Mayor Fred Thomas appeared at the command post to speak with Inspector Carson. The purpose of the Mayor's visit was to convey the concerns of his community, to find out the status of the injunction, and to receive an update on events at Ipperwash Park.

Mayor Thomas wanted to ensure the OPP were patrolling Outer Drive. Inspector Carson reassured him that ERT teams were assigned to this area. He informed the Mayor that the occupiers had thrown rocks, "smash[ing] windows" out of three police cars. The community is "terrorized," said the Mayor. Inspector Carson reassured him that the "Premier and the Solicitor General wanted to deal with this," and that an IMC meeting would be held that morning. Mayor Thomas indicated that he had been in contact with MPP Marcel Beaubien.

Inspector Carson discussed the checkpoints and his preference that school buses not drive by the park at the intersection of Army Camp Road and East Parkway Drive. He said Chief Tom Bressette supported the OPP efforts to deal with the park occupiers.

Inspector Carson explained the differences between trespass and a court injunction. On an injunction application, the court would declare the ownership of the provincial park and make it clear to First Nations people that they had no legal authority to occupy the park. This "force of the court" would enable the OPP to charge the violators with a criminal offence if they refused to comply with the injunction. The Mayor wanted to be apprised of the status and outcome of the injunction application and he offered the Town of Bosanquet's assistance and equipment — "we will work with you." Inspector Carson assured the Mayor he would remain in contact.

Mayor Thomas was very concerned about his wife. He told Inspector Carson that they lived on Northville Road, that she was "home alone," "very upset," and did not want "officers talking to her." Inspector Carson undertook to provide patrols and to ensure police supervisors were aware of the location of the Mayor's residence. Constable Cossitt was one of the officers who periodically patrolled the Mayor's residence throughout the day.

Inspector John Carson did not consider the Mayor's appearance at the command post for a meeting to be inappropriate. On the contrary, he thought it was an important meeting from an informational perspective. "From a public

perspective,” John Carson said, it was “essential” for the Incident Commander to be aware of the local community’s anxieties and concerns.

In my view, Inspector Carson should not have permitted the Mayor or other politicians to meet with him in the command post in Forest. As I discuss in other sections of the report, although it is important for the Incident Commander to be aware of the local community’s anxieties and frustrations and for the police to keep the community informed, it is not appropriate for politicians and municipal officials to meet with the Incident Commander in the command post. Such meetings in the command post can distract Incident Commanders from their jobs. They also create the risk of actual or perceived improper political direction of the police.

It is my recommendation that the OPP appoint a buffer, a community liaison officer, to meet with local politicians and community representatives. This will ensure that the OPP Incident Commander receives important information from stakeholders, such as the concerns in the community and events taking place in the locality. In turn, the OPP can communicate information, reduce anxieties, dispel rumours, and prevent events from occurring that may exacerbate the tension and further fuel the protest. The appointment of an OPP community liaison officer has several advantages: it allows the Incident Commander to focus his or her attention on the police operation; it ensures the Incident Commander is not overburdened liaising with politicians and community representatives; and it avoids the perception, if not the reality, of political influence over operational decisions.

11.4 Removal of Picnic Tables

Dudley George and J.T. Cousins were sitting at a picnic table in the sandy parking lot drinking coffee in the early morning of September 6. The fourteen-year-old had stayed awake with Dudley George through the night.

At 8:40 a.m., OPP officers arrived at the sandy parking lot in their cruisers to remove the picnic tables. The officers had been briefed at 7:30 a.m. by Sergeant Korosec. ERT Team 1 carried shields as protection from rocks that might be thrown by the occupiers. The role of ERT Team 1 was to provide coverage, while ERT Team 2 physically removed the picnic tables from the sandy parking lot.

The purpose of involving ERTs was to ensure the police operation was carried out safely and efficiently. A large number of ERT officers were sent for two reasons: (1) to expedite the pace of the operation, namely the loading and removal of over twenty picnic tables; and (2) to reduce the probability that a problem would arise.

J.T. Cousins was frightened when he saw the ERT officers approach that morning. “All of a sudden,” testified J.T. Cousins, police arrived “real fast” from

both Army Camp Road and East Parkway Drive and moved toward the parking lot. They carried “assault rifles,” and “sniper guns with great big scopes.” The officers pointed their guns in the direction of the park:

I was scared and I was ... about ready to take off and head into the woods — bushes. Then Dudley told me, “Don’t be scared. They can’t do nothing. This is our land.”

The officers at the intersection of Army Camp Road and East Parkway Drive saw twenty-one picnic tables from Ipperwash Park arranged in a circle in the sandy parking lot around a fire. A tent was pitched near the fire. The picnic tables obstructed access to the beach. They saw two Aboriginal males seated on a picnic table, one of whom officers recognized as Dudley George, who was dressed in a blue shirt. The other Aboriginal person wore an MNR jacket. Some of the OPP officers thought this person was Stewart George (“Worm”) or David George but, in fact, it was J.T. Cousins.

Dudley George told J.T. to wake people in the army camp and ask them to come quickly to the park.

As Constable Parks and other ERT officers approached the picnic tables, Dudley George and J.T. Cousins ran toward the fence, deep inside the boundaries of Ipperwash Park.

The fourteen-year-old jumped onto Marlin Simon’s four-wheeler and rode to the maintenance shed and woke Russell Jewell. With Mr. Jewell, he went to the barracks to recruit fellow occupiers.

Isaac Doxtator, asleep in the built-up area, heard the door slam at the opposite end of the long, narrow barracks building and then someone’s steps running toward him. J.T. told Isaac Doxtator to go to the park as Dudley was alone and the police were threatening him. At about the same time, Robert Isaac pounded on the door of Roderick George’s home and conveyed a similar message. Roderick’s wife, Gina, testified at the hearings that only a couple of “our” people had been at the picnic table area “that night.” They had been “sitting around the fire and kind of keeping a vigil.”

Constable Sam Poole, one of the officers whose role was to provide “cover,” stood with his “Mini Ruger” gun drawn at the edge of the provincial park, “scanning ... for any potential threats.” ERT Leader Rob Huntley had instructed some officers to carry their .223 calibre Mini Ruger rifles.

In the cottage next to the sandy parking lot, Fran Hannahson saw through her window an OPP officer “with his rifle posed.”

I understand that three OPP cars had been damaged by rocks thrown by the occupiers the previous day. But in my view, drawing their guns and scanning the

area with their weapons was unnecessary. Dudley George and a fourteen-year-old boy were simply drinking coffee when the police arrived to remove the picnic tables. They did not have any weapons, and they ran into the park as soon as they saw the police approach. The OPP did not encounter any resistance to the removal of the picnic tables. The manner in which the police carried out this operation undoubtedly contributed to the tension and escalated events at Ipperwash Park.

The ERT officers, assisted by MNR staff, proceeded to load the picnic tables onto an MNR trailer. A helicopter hovered over the area. Sergeant Korosec, on Inspector Carson's instructions, had arranged for a helicopter to patrol and "keep an eye" on the removal of picnic tables. Detective Constable Mark Dew was one of the officers who took off in a helicopter stationed near the OPP detachment with an MNR pilot. A video was taken.

First Nations people did not enter the sandy parking lot during the removal of the picnic tables, which were then transported to the MNR parking lot off East Parkway Drive. The picnic table removal was uneventful and complete by 9:05 a.m.

By the time First Nations men such as Roderick George, Gabriel Doxtator, David George, and Marlin Simon arrived at the park, the police had left and the picnic tables were gone. Dudley George told David George the OPP had chased him into the park. David George testified that Dudley recognized some of the police officers and mentioned that "the same cop that threatened him the day before ... told him again," words to the effect of "You're dead, Dudley." Gabriel Doxtator also testified that Dudley George told him that the OPP had threatened that Dudley "was going to get it" — the police "just didn't like him." Isaac Doxtator similarly testified that Dudley George also conveyed such comments to him.

The Aboriginal occupiers considered the OPP's actions in removing the picnic tables from the sandy parking lot on the morning of September 6, as well as the perceived increase in police presence in Ipperwash later that day, an escalation of events.

A warrant for Dudley George's arrest was issued after the removal of the picnic tables. He was charged with possession of stolen property (the picnic tables) and mischief. Mr. George's name was entered on CPIC, the national police information system.

Inspector Carson considered the sandy parking lot "a very different issue" than the provincial park. The park was "under the ownership of the Ministry of Natural Resources," which was in the process of obtaining an injunction. It was the OPP's position that the sandy parking lot was "township or county property ... a separate issue altogether." The OPP had taken "steps to remove the picnic tables" "with the intention or hope of sending the message that activity out there, and particularly blocking that area off, would be addressed" by the police. Inspector

Carson believed the OPP had made it clear to First Nations people that they were to remain in the park and not engage in activity in the sandy parking lot:

... The [OPP] view was, as long as the occupiers stayed in the park, the process would be proceed with the injunction, stay the course, just maintain the security in the area and, for lack of a better term, it's kind of business as usual.

The parking lot was a separate issue. I believe we made the point in regards to the picnic tables earlier in the day, that we weren't prepared to allow activity, criminal activity in particular ... It would [be] an untenable situation, [given] its proximity to the cottages and the information we had received up to that point about the cottages being next.

Inspector Carson believed the OPP's actions in removing the picnic tables from the parking lot on the morning of September 6 indicated to the First Nations occupiers that the police would not enter the provincial park. But in fact this important message had not been clearly communicated to the occupiers.

Roderick George and other occupiers were unaware of any "rule" that, as long as First Nations people remained behind the fence within the park boundaries, there would be no confrontation with the police.

Inspector Carson and the other OPP officers did not think about using a bullhorn that morning to communicate this message. Nor did they resort to any other methods to impart this critical message to the First Nations occupiers. Removing the tables in the sandy parking lot was a very subtle, indirect, and ineffective way of informing the occupiers not to move beyond the park boundaries. Also, the Aboriginal people were not told the OPP had no intentions of entering the provincial park. I do not agree with Inspector Carson that the OPP conveyed these important messages to the occupiers. This was clearly a failure in communication, and it undoubtedly contributed to the tension.

Sergeant Huntley was one of the officers involved in the removal of the picnic tables. Shortly after the OPP completed this assignment, Fran Hannahson, who had been in her cottage with her grandson, approached this OPP officer. She was concerned about the park occupation and their safety. She had also seen First Nations people throw rocks at the police the previous evening.

As a result of this discussion, Sergeant Huntley decided to move Checkpoint "A" (Alpha) to the corner of Army Camp Road and East Parkway Drive. This checkpoint was now essentially located at the base of Mrs. Hannahson's driveway.

Later that morning, Sergeant Korosec was instructed to find out whether the officers involved in the picnic table removal drew their guns. In a call with Lima

2 at TOC, he learned that about ten ERT officers were “keeping an eye with the long guns” drawn while the picnic tables were loaded onto the MNR trailer. It was explained this was for the protection of the officers. Sergeant Korosec made it clear to Lima 2, “where guns are drawn that you hear about, give us a call here and let us know.”

A regulation pursuant to the *Police Services Act* stipulates that officers must file a use of force report when they draw a handgun, regardless of whether a shot is fired. I find it surprising that there is no similar requirement for OPP officers to file a use of force report for long guns (rifles). In my view, there should be the same requirement for long guns. When OPP Commissioner Gwen Boniface testified at the Inquiry, she was receptive to the proposal that use of force reports be required for long guns. She agreed this would help monitor the appropriate use of rifles and other long guns by members of the police force.

11.5 Continued Attempts to Obtain Armoured Vehicles and Other Equipment

Inspector Carson continued his efforts to obtain military vehicles for the safety of his officers on September 6. Shortly after he came on duty that morning, he instructed Acting Staff Sergeant Kent Skinner to obtain police decals for the light armoured vehicles (LAVs) “if and when they arrive.” Kent Skinner spent “a fair bit of time on the phone” hunting for decals when he was at the command post that morning. On both September 5 and 6, a significant and, in my view, an inordinate amount of time and effort was spent by the Incident Commander and other OPP officers on these military vehicles, weapons, and other equipment. The Incident Commander himself spent too much time on logistical matters, which took valuable time away from important issues such as speaking to a negotiator who offered to assist in the occupation, determining ways in which the OPP could communicate their intention to the First Nations people, and focusing on intelligence to ensure that information received was verified before critical decisions were made by the Incident Commander.

Inspector Carson discussed with members of his command team on the morning of September 6 the availability of equipment for the protection of his officers. He asked Acting Staff Sergeant Skinner whether the TRU had large canisters of pepper spray. Acting Sergeant Deane reported later that morning that TRU had five pepper spray “foggers.” Kent Skinner instructed one “fogger” be given to the ERT team.

Inspector Carson also wanted ASP batons for all his officers. The OPP at that time was transitioning from a 26-inch wooden baton to a collapsible metal ASP baton of the same length. The new baton collapsed to 6 or 7 inches and was

easier to carry on an officer's belt. The wooden batons were "cumbersome," and as a result were often left in police vehicles instead of being worn on the officer's belt. John Carson explained:

... [W]hen you're trying to get in and out of vehicles, it's getting caught and it's hanging down the side of your leg and it's just a real aggravation to carry. So what we had done in our patrol vehicles is we had placed baton holders on the inside of both front doors. And unfortunately what ends up happening is most of the time ..., when they [officers] need the baton, it's in the holder in the front door and not on their belt where it's needed.

Inspector Carson wanted the sixty ERT officers to carry the ASP batons on their belts at all times. This was new equipment, and training for some of the officers was required on how to open, close, and carry the metal baton. The ASP batons were distributed to the officers that evening.

Additional rifles and shotguns were also sent to Forest by Inspector Robertson from General Headquarters in Orillia.

Helicopter surveillance was also important to Inspector Carson. He wanted the "choppers" surveying the park and aerial videos of the entrance to each park building and possible barricade locations.

Inspector Carson wanted OPP officers patrolling the beach area in all-terrain vehicles (ATVs). It was announced at the command team briefing at about 10:20 a.m. that ATVs would be arriving in Forest and that Sergeant Korosec would arrange patrols of the beach. The canine unit was on its way and would be stationed at the bunkhouse in Pinery Park with the TRU team. Maps demarcating Mayor Thomas's residence were circulated to the command team and to the Grand Bend Detachment to ensure officers patrolled his home.

Listening devices were not activated before September 6. The OPP were only able to establish a connection to the telephone in the maintenance shack.

A topic repeatedly raised by Superintendent Parkin with Incident Commanders Carson and Linton was the importance of video surveillance. The operation and effectiveness of this important means of intelligence was a subject of discussion by the OPP Superintendent leading up to the critical incident on the night of September 6. As Superintendent Parkin testified: "There was enough discussion and rumour around that it might take place on the Labour Day weekend." And "with that information in our minds, it was [incumbent] on us as a police agency to do everything that we could to show that we were prepared if in fact it took place":

There was probably nothing better that we could have had than video at strategic locations to allow us to know on a timely basis what was

taking place. It would assist us in our planning as far as trying to resolve this issue and for the safety of everyone involved.

Chief Superintendent Coles was also concerned. When he drove to the Ipperwash area on September 6 with Superintendent Parkin, he was worried about the lack of power and “clearly ... wanted more video.” As Superintendent Parkin said in his testimony, “this became a little bit of an issue as time went by into getting it done on a[s] timely [a] basis as we had hoped for.” “It was something that we felt hadn’t been done quickly enough.”

Inspector Carson’s superiors had hoped the technology issues would have been resolved before September 4, and that there would be more extensive video surveillance in different locations in and around Ipperwash Provincial Park.

11.6 Is the Telephone Line Recorded?

By 9:45 a.m., Inspector Carson assumed that his telephone line at the command post was unrecorded. In a call to the OPP West Region Headquarters, Inspector Carson explained that he “had one line deprogrammed so” he “could talk freely ... [b]ecause anything in the Command Post goes through the logger.” Inspector Carson assured Superintendent Parkin in a call a few minutes later that “this line I call you on now has been changed” — “it’s no longer recorded ... so we don’t have to worry about that.” But, unbeknownst to these senior OPP officers, their telephone conversations continued to be recorded on this line.

In my view, it is important that communications from and to the command post be recorded during a police operation. As I discuss in this report, recording of telephone calls and other communications at the command post ensures transparency and accountability in police decision making. It also provides valuable information to the OPP in its post-incident analysis of the police operation as well as for other bodies that may be involved in reviewing the incident. The request for an unrecorded line should not have been made at Ipperwash. The OPP should take measures to ensure that all telephone lines in the command post are recorded and stored permanently. Recording helps ensure transparency and accountability, which, as discussed in detail in the Part II report, are core values that should inform police operations and police–government relations.

11.7 Contact with Inspector Hutchinson in Gustafsen Lake

John Carson also had contact with OPP Inspector Hutchinson in British Columbia that morning. The call was at approximately 10:44 a.m. The two OPP inspectors shared information on equipment and events in the respective First Nations protests.

Inspector Carson described the “ambush” in the sandy parking lot during the picnic table incident — ERT officers were bombarded with rocks and boulders, and three police cars were damaged. He explained that when thirty officers and cruisers rolled into the sandy parking lot, the two Aboriginal people who were there ran over the fence into the park, and the OPP “scooped” the picnic tables — “so we kind of made a point that there is a line in the sand here.”

As mentioned, Inspector Carson believed that, by removing the tables from the sandy parking lot, the police had conveyed the message to the First Nations people that they must remain in the park, and if they complied, the OPP would not bother them. But no such words were in fact communicated to the occupiers. I do not frankly understand how the First Nations people could understand this message simply by the “scooping” of picnic tables by the OPP in the sandy parking lot. This was clearly a failure in communication by the police. And although the OPP had several opportunities during the day to rectify the situation, the police failed to directly communicate this essential message either orally, in writing, or by some other effective means. A series of misunderstandings ensued that culminated that night in a police confrontation with the First Nations occupiers.

The Incident Commander explained to Inspector Hutchinson that he was trying to arrange for the transportation of “two military Bisons” (LAVs) as well as training on these vehicles at Meaford for four of his officers. These vehicles were being used in the First Nations dispute at Gustafsen Lake, British Columbia. Inspector Carson made it clear that the LAVs would be identified as police vehicles; the OPP wanted to “distance” itself from the military.

In a call to Inspector Hutchinson that afternoon, Inspector Carson made it clear the LAVs would be used only in an emergency situation to rescue OPP officers, not to patrol the Ipperwash area. They discussed the obstacles in obtaining and using the military vehicles. Inspector Carson also alerted Inspector Hutchinson to the political pressures in Ontario: “we’ve had some alligators” — “some political pressures.” He also mentioned the MNR injunction application scheduled for the following morning in Sarnia.

Inspector Carson was concerned that there was a connection between Gustafsen Lake and events at Ipperwash. Both were land claim issues, but the First Nations people in British Columbia had arms. At no time did the OPP see firearms of any kind in the possession of the occupiers at Ipperwash Park. The Aboriginal people in southwestern Ontario were engaging in a peaceful occupation.

11.8 Missed Opportunities in Intelligence Gathering

When Detective Sergeant Richardson returned to the OPP Forest Detachment that morning at 6:45 a.m., Detective Constable Dew advised him that four

police cruisers had been damaged by rocks the previous evening, automatic gunfire had been heard in the camp, and that picnic tables were stacked in the sandy parking lot at the curve of Army Camp Road and East Parkway Drive.

Detective Sergeant Richardson considered these incidents to be significant. The damaged police cruisers constituted mischief. Automatic weapons, he said, are not used for hunting; they are “prohibited weapons” — “there’s really only one use for those type of weapons and that’s to hurt people.” And the stacked picnic tables prevented people from accessing public property, posed a possible traffic hazard, and also constituted mischief to property. Despite these concerns, Detective Sergeant Richardson did not ask any members of his team to investigate these incidents, and, in particular, the report of automatic gunfire.

When Detective Sergeant Don Bell, who was a member of the intelligence team, arrived at the Forest Detachment early that morning, Detective Sergeant Richardson briefed him on the automatic gunfire heard overnight on the base, and the damage to windows of four police vehicles caused by rocks thrown by the occupiers. Detective Sergeant Bell was not instructed to verify the report of automatic gunfire.

Instead, Detective Sergeant Bell, who was on duty from 7:00 a.m., resumed his work on the profile books, identifying First Nations people from photographs. The purpose of compiling these books was to identify occupiers in the park, and to provide officers who might arrest these individuals with information such as whether these people had previously been involved in assaults and/or resisted arrest. Don Bell did not spend time in the September 4 to 6 period on strategic intelligence, that is, providing information to the Incident Commander on possible future actions of the occupiers. Nor did the intelligence officers spend adequate time verifying reports of information on the activities of the occupiers. This becomes very apparent as the day progresses. And as I discuss in detail, the Incident Commanders and other OPP officers made important decisions at Ipperwash that evening based on incorrect and unverified information.

Don Bell participated in a command post briefing at about 10:15 a.m. He relayed information that some violent people might be involved in the park occupation. Inspector Carson instructed Detective Sergeant Bell to continue collecting information on people passing through the checkpoints.

After this meeting, Vince George told Detective Sergeants Bell and Richardson that individuals from Muncey First Nation and from the U.S. were involved in the Ipperwash Park occupation. Constable George reported that Les and Russ Jewell “were stirring up everybody,” that Russ Jewell and Tina George were living in the maintenance shed, and that a vehicle from Moraviantown First Nations Territory was in the area, driven by a man thought to be involved in Oka. Detective Sergeant

Richardson considered the information that people had travelled from other areas to Ipperwash significant.

Detective Sergeant Bell followed up on this information with the OPP Windsor Intelligence Unit, and Canada Customs. It appeared to the Detective Sergeant that the Jewell brothers were “calling the shots.” Buck Doxtator and Robert Isaac, from outside the Kettle and Stony Point community, were also of concern.

Detective Sergeant Bell also spoke to Major Karl Heck at the Department of National Defence. He told him that the previous night, four police cruisers had been damaged and four arrest warrants had been issued, but no arrests had been made. Don Bell identified an individual from Walpole Island who was violent. He also informed Major Heck that the road to the beach had been blocked with picnic tables that morning, but that the occupiers had fled when the OPP approached the area. Major Heck informed Don Bell that Captain Doug Smith would be travelling to the Ipperwash area.

At a briefing at the command post led by A/D/S/Sgt. Wright at about 2:30 p.m., Detective Sergeant Bell reported that OPP Windsor Intelligence was unable to obtain information on the Jewells, such as their place of residence and whether they had criminal records. Don Bell did not provide any intelligence on the reliability of the information on automatic gunfire heard from the army base the previous night. As Don Bell testified, the “reliability” of the information about weapons “was still up in the air.” Although officers had reported hearing this gunfire on September 5, the OPP had “also heard from a source” believed “to be reliable that there weren’t any weapons in there.” Detective Sergeant Richardson also reported at the meeting that Elders at Kettle Point had stated there were no burial grounds at the park. Clearly, there was uncertainty and conflicting information regarding the report of automatic gunfire. Yet like other important information received by the police, there was no verification or authentication of this information by police intelligence officers at Ipperwash.

There was also discussion about placing cameras outside the park to monitor activity. Detective Sergeant Bell agreed to look into this. After the meeting, he and Detective Sergeant Randy Parent from the Chatham Crime Unit drove to Army Camp Road to look for power sources for surveillance cameras and monitoring equipment. The OPP wanted surveillance of both the army camp and the park. Unfortunately cameras were not installed in the sandy parking lot or other areas outside the park on September 6. Visual intelligence was inadequate in the OPP operation at Ipperwash.

Detective Sergeant Bell testified that the traditional method of collecting intelligence was not used by the OPP in the September 1995 park occupation. Verbal rather than written reports were made. Information received by the Incident

Commander was distorted by the person-to-person transmission. Detective Sergeant Bell agreed there were a number of tentacles of information coming directly to the Incident Commander that were not subject to the screening that would otherwise be available from one collection site. OPP Commissioner Gwen Boniface agreed. This continued into the evening of September 6. And as I discuss in the following chapters, the Incident Commander made critical decisions based on this inaccurate and unverified information.

At approximately 4:45 p.m., Detective Sergeants Richardson and Bell investigated a report that the “OPP WHO” vehicle had been driven erratically and was stuck in the sand at the beach at Port Franks. A number of First Nations people surrounded the vehicle, and residents in the area were concerned. When the officers arrived, they saw a Camaro parked near the beach, but no activity that warranted a criminal investigation. They explained to residents that there was a dispute involving the provincial park that would likely be settled in court, and that the OPP were monitoring the area.

Detective Sergeant Bell returned to the OPP Forest Detachment at 6:00 p.m. and continued to work on the profile books into the evening before the decision was made to deploy the Crowd Management Unit (CMU) and Tactics and Rescue Unit (TRU) to the sandy parking lot outside Ipperwash Park.

There were further missed opportunities by the OPP to verify information that made its way to the command post that evening. No one officer on the intelligence team at Ipperwash was designated with the essential role of analyzing, filtering, and verifying the information. The Incident Commander continued to receive raw information from a variety of sources. Crucial decisions made by the Incident Commanders on the night of September 6 were based on unauthenticated information. There was clearly a failing in OPP intelligence in the Ipperwash operation. Associate Chief Justice O’Connor, in his recent report on the activities of Canadian officials in relation to Maher Arar, has stressed the importance of ensuring the accuracy and reliability of information and the irreparable harm that inaccurate and unreliable information can cause to individuals.¹ I agree with Associate Chief Justice O’Connor about the importance of accuracy and reliability of police information. In my view, more attempts should have been made at Ipperwash to test the reliability of the information received by the OPP.

1 Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar. Report of the Events Relating to Maher Arar — Analysis and Recommendations (Ottawa: Public Works and Government Services Canada, 2006) at 24-26, 335.

11.9 Captain Smith Offers His Assistance to the OPP

Captain Doug Smith from the Department of National Defence arrived at the OPP command post to speak to John Carson late in the morning of September 6, 1995. The purpose of his visit was to offer his assistance to the Incident Commander. The two men had a lengthy discussion about issues at the provincial park.

After this meeting, Captain Smith met with First Nation representatives at Kettle and Stony Point to discuss the park occupation. He also spoke with First Nations people at the army camp, mostly Aboriginal women, and discussed “the status of the base, the status of the park,” and “what could be done to possibly resolve the situation.”

After learning that Les Jewell was a leader of the park occupation, Captain Smith said he wanted to meet Mr. Jewell. Members of the Kettle and Stony Point Band offered to facilitate a meeting. Captain Smith had “a relationship with the people in the camp” — “I could just drive up and talk to them.” He had become the military liaison after the occupation of the army barracks at the end of July, and had met with the Aboriginal occupiers several times in August.

Captain Smith returned to the command post at approximately 4:15 p.m. to notify the Incident Commander that Les Jewell was “running things” at the park. Captain Smith knew the importance of opening up a line of communication with the occupiers in a leadership position in the park. He intended to meet with Mr. Jewell, possibly on Friday, September 8, and asked if the OPP wanted him to communicate anything. Inspector Carson requested that Captain Smith notify him before he spoke with the occupiers.

Inspector John Carson was aware that Captain Smith had ongoing contact with the First Nations occupiers in the built-up area of the military base. Despite the fact that the OPP had had no success in initiating a meaningful dialogue with the park occupiers, Inspector Carson did not ask Captain Smith to try to arrange a meeting with the occupiers earlier than Friday, September 8. Had the OPP Incident Commander made this request, Captain Smith would have tried to facilitate immediate communication with the park occupiers. This was another significant missed opportunity for the police to learn and understand the occupiers’ grievances and anxieties, and in turn to communicate the OPP’s intentions to the First Nations people.

Captain Smith represented the military and was from the federal government, which was involved in a land claim with regard to the army camp. The Incident Commander did not want Captain Smith’s involvement in the park occupation, nor did he want the military to communicate on behalf of the OPP. As

Inspector Carson said at the hearings, “I ... didn’t want occupiers to see ... that the OPP and the military were working together towards issues against the occupiers ... I wanted ... the appearance that the military had their business and we had our business ... I wanted the OPP to be seen as independent from the military’s issue with the occupiers.”

However, “in retrospect,” Inspector Carson believed that although it would be inappropriate to use Captain Smith as an “intermediary,” “given his role” and the position of the military and the occupiers regarding “the land claim of the military base,” he realized he could have used Captain Smith to convey information to the First Nations occupiers. The OPP Incident Commander did not consider asking Captain Smith to send the message to the occupiers that, if they remained within the park boundaries, the OPP had no intention of entering the park — “I didn’t think that through.” This was most unfortunate. Dialogue between Captain Smith and the occupiers may have helped avert the tragic events that took place that night in the confrontation that occurred between the OPP and the First Nations people. A critical missed opportunity.

11.10 Chief Superintendent Coles and Superintendent Parkin Visit the Command Post

The arrival of Chief Superintendent Coles and Superintendent Parkin at the Forest Command Post on September 6 was not a surprise to Inspector Carson. He had had advance notice of their visit. Inspector Carson’s superiors wanted to show support for the OPP officers involved in the Ipperwash occupation. Superintendent Parkin testified that their presence was to “wave the flag,” “to be seen as supportive of our people”; the OPP officers were “under a very stressful situation, and as the leaders in the region, it’s important to show that support.”

Chief Superintendent Coles also wanted to know if Inspector Carson was encountering difficulties — did he have a sufficient number of officers and were there problems the Incident Commander wanted to discuss? Both Chief Superintendent Coles and Superintendent Parkin testified that their visit to the OPP Command Post was not prompted by concerns that John Carson was not handling the Ipperwash situation effectively.

When his superiors arrived, Inspector Carson asked the scribe and members of his command team to leave the command post. This was a confidential, private meeting. None of the three commissioned officers took notes and there is no written record of discussions at this meeting. In my view, the discussions between Chief Superintendent Coles, Superintendent Parkin, and Inspector Carson should have been committed to writing. A written record is essential for reasons

of transparency and accountability. It would also have averted continued speculation, suspicion, and uncertainty about what actually transpired at this meeting.

Inspector Carson had a lengthy discussion with Chief Superintendent Coles and Superintendent Parkin about the events to date at Ipperwash, about police strategies as well as issues in the community. John Carson explained that attempts to establish a dialogue with the occupiers had been unsuccessful, and he was seeking retired OPP officer Lorne Smith's assistance. (Lorne Smith had served as a liaison officer to First Nation police at Kettle Point.) Inspector Carson also discussed the challenges of obtaining an injunction. An Aboriginal man named Doxtator claimed the occupiers had automatic weapons. What John Carson had anticipated would be "a fifteen, twenty-minute meeting turned into a couple of hours."

Inspector Carson stated his plans regarding the police operation did not change as a result of this discussion with his superiors.

Chief Superintendent Coles and Superintendent Parkin drove to the Ipperwash area after the meeting. They went to TOC at the MNR parking lot and chatted with members of the Emergency Response Team and other OPP officers. They also drove to the intersection of Army Camp Road and East Parkway Drive and were told cameras had not been installed across the road from the sandy parking lot because of the unavailability of hydro.

As mentioned earlier, Chief Superintendent Coles considered the cameras an important source of intelligence — "in case something bad did happen," it was important that the events be recorded. In fact, hours later, the sandy parking lot was the site of a confrontation between the OPP and the First Nations occupiers at which Dudley George was shot. When Chief Superintendent Chris Coles testified at the hearings, he lamented the fact that cameras had not been installed at the sandy parking lot — "I wished there had been."

After Chief Superintendent Coles left the area on the afternoon of September 6, he did not have further contact with Inspector Carson, Inspector Linton, or any OPP officers before the confrontation with the First Nations people in the sandy parking lot.

11.11 Call between Ron Fox and Mark Wright

Ron Fox contacted the command post at the time Inspector Carson was meeting with Chief Superintendent Coles and Superintendent Parkin. A/D/S/Sgt. Wright responded to the call as John Carson was occupied. This was the first contact between Ron Fox and A/D/S/Sgt. Wright.

Ron Fox told A/D/S/Sgt. Wright that, in preparation for the injunction application, a government lawyer from the Ministry of the Attorney General would

be contacting the OPP. He told Mark Wright that he had attended the IMC meeting that morning and wanted confirmation of particular comments made at the government meeting:

RON FOX: Can you give me a confirmation on something?

MARK WRIGHT: Sure.

RON FOX: It came up in the middle of an Aboriginal issues meeting that I was at.

MARK WRIGHT: Uhum.

RON FOX: Just recently, that apparently the media were approached by two people from the location and they had baseball bats and our people were required to take some action.

MARK WRIGHT: Well, we heard that stuff too, and they said they had tape ... and we just watched the news and that's not what happened, nor have we got any report like that at all from our people on the ground. What we — what happened was, I don't know if John told you about the picnic table episode this morning?

RON FOX: Yep.

MARK WRIGHT: Okay. So because we heard automatic fire last night out there ...

A/D/S/Sgt. Wright further explained to Ron Fox that when the OPP removed the picnic tables that morning, “two ERT teams” were on site — “one team provided cover and they had ten officers with Rugers ... at shoulder arms ... or port arms I guess it's called.” Ron Fox considered this operational information.

11.12 Preparations for the Injunction: Communication Between MAG Lawyer and Inspector Carson

As they walked back to their respective offices after the IMC meeting, Ministry of the Attorney General (MAG) lawyer Tim McCabe discussed with Ron Fox what he needed from the OPP to prepare for the injunction application. Elizabeth Christie accompanied them on the walk from the Ontario Native Affairs Secretariat (ONAS) office, north on Bay Street.

Mr. McCabe required an OPP officer, knowledgeable about the events at Ipperwash, to testify at the court hearing the following day in Sarnia. He wanted

the officer to provide a narrative of events from the beginning of the park occupation on September 4, 1995. He also wanted the names of the First Nations occupiers in the provincial park. In addition, the government lawyer wanted to discuss the service of the injunction documents by the OPP on the First Nations occupiers.

At approximately 2:30 p.m., Mr. McCabe contacted Inspector Carson. This was the first time the two men communicated. Mr. McCabe explained he was expecting “confirmed instructions” later that afternoon “to seek an ex parte interlocutory injunction,” and asked if John Carson could testify at the hearing. Inspector Carson explained that his “boss,” the OPP Chief Superintendent, was “just discussing” whether he was “the most appropriate person to supply that information” — “probably my No. 2 guy” in the command post, “who is every bit as up-to-speed on the issues as I am,” could testify at the hearing in Sarnia. Inspector Carson was thinking of A/D/S/Sgt. Mark Wright. Inspector Carson agreed to fax a list of names of the park occupiers to the government lawyer.

Mr. McCabe explained that, in an injunction without notice, it was necessary to establish “some kind of urgency” that “serious consequences could occur.” He said the “reports of gunfire last night” had “gotten people particularly concerned here,” as well as “the fire ... and the alcohol.”

Inspector Carson gave his perspective of these events. Regarding the picnic table incident, he said OPP officers “got ambushed” when they went to “deal with the fire on the roadway and got bombarded with rocks which caused damage to windshields” of “three vehicles” — “fortunately no officers were hurt.” But John Carson cautioned the government lawyer not to attach too much importance to the reports of gunfire the previous night. He stressed that no weapons had been pointed at the OPP, nor had any officer been threatened by a firearm:

... I have to be frank with you. We have not had a weapon pointed at us. We haven't seen one fired in any direction, and there is no reason to believe that the firing that we heard last night was anything more than audio for our benefit ...

When you hear that there's gunfire, you can't really use that. I mean it's a significant factor, from a safety point of view from my perspective, in that I know that obviously there's weaponry in there. But to say ... our officers have been threatened with weapons, I can't say that ...

If a judge asked me specifically ... where did we see weapons or ... [were] any weapons pointed at us or [if] we felt our safety was in

jeopardy because of those weapons, we'd have to say we have not been directly threatened ...

It was important to Inspector Carson that Mr. McCabe understand the “context”; “I didn’t want him to think that myself or somebody else is going to stand up in the witness box tomorrow and say that we had automatic weapon fire incoming at us, because that wasn’t the context of that gunfire:”

There’s no doubt that they would have had hunting weapons in there. But clearly the shots [that] had occurred overnight in my view were done for effect as opposed to ... someone hunting deer.

In fact, to Inspector Carson’s knowledge, First Nations people had never used or pointed their rifles at an OPP officer since they had occupied the military range in 1993.

It was evident to Mr. McCabe that John Carson wanted to ensure the gunfire reports were not overstated or exaggerated at the injunction hearing.

But given the events of September 4 and 5, Inspector Carson “absolutely” felt an “injunction should be granted on this urgent basis.” Waiting two to four weeks for an injunction was a serious concern for Inspector Carson. John Carson explained:

There was a number of issues, I would suggest all of the concerns that had arisen to that point. We had the altercation on September 4. There had already been concerns in the community, and the ability for us to maintain security ... all [were] going to be significant challenges. I felt it was important that some direction be sought through the courts in regards to the ownership and direction relative to the ownership as soon as possible, before anything occurred that caused us other grief ...

We’d already had altercations and we’d had a situation where we didn’t even have dialogue happening and I was certainly concerned that ... without some stability, and without a court injunction, it really put us in a tough position trying to deal with all this.

Inspector Carson was also hoping a timely injunction would stimulate a dialogue with the occupiers.

About an hour and a half later, Inspector Carson confirmed with Mr. McCabe that A/D/S/Sgt. Wright would testify at the injunction hearing the following day.

Chief Superintendent Coles thought Inspector Carson should remain at the command post and not travel to Sarnia to testify. Inspector Carson explained to the MAG lawyer that Mark Wright had been involved with Ipperwash since May 1993 when First Nations people occupied the military range at the army camp: “Other than myself, he’s the only one that has been ... intimately involved in all aspects of this operation.”

Inspector Carson agreed to have A/D/S/Sgt. Wright meet with Mr. McCabe at the Sarnia courthouse at 8:00 a.m. the following morning to discuss the officer’s evidence for the injunction application.

The OPP sent a fax to Mr. McCabe with the names of twenty-six people who had occupied Ipperwash Park property since the evening of September 4, 1995.

This was the last contact on September 6 between Inspector Carson and Mr. McCabe. From his conversation with the Incident Commander that day, Mr. McCabe believed Inspector Carson and the OPP intended to “stay the course” while the government sought the injunction.

A/D/S/Sgt. Wright was surprised he had been asked by Inspector Carson to testify at the injunction hearings in Sarnia. He considered this “a rather daunting task” and “was hoping [he] wasn’t going to be the guy.”

Mr. McCabe wanted the injunction materials to be served on the occupiers. He spoke with Inspector Linton and A/D/S/Sgt. Wright early that evening to ensure that the Aboriginal occupiers received notice of the court application.

11.13 Attempts to Communicate with the Occupiers

Inspector Carson was aware on September 6 that it was important for the OPP to establish a dialogue with the park occupiers. It was the third day of the occupation and there had been no meaningful communication with the Aboriginal occupiers.

Inspector Carson suggested to Sergeant Seltzer that Constable Vince George go to the park with OPP negotiator Sergeant Marg Eve. Constable Vince George, born and raised on the Kettle Point Reserve, was conversant with the cultural issues and knew the Stoney Point occupiers. Inspector Carson also suggested that Lorne Smith speak to Elder Robert George, father of Vince and Ron George, at the Kettle and Stony Point Reserve. He “felt Bob George had influence with the occupiers, or at least knew people who were of influence” and who could “assist us in dialogue.” He thought Lorne Smith should also speak to other Elders at Kettle Point such as Earl Bressette, who was well respected in the First Nation community. Even if the OPP was not successful in establishing “direct dialogue,” Inspector Carson “wanted the message to be delivered, however that might occur,

that we intended to keep this peaceful.” Inspector Carson also wanted “some sense” of how the occupiers were “feeling,” their “anxiety” level, and “intentions.”

Sergeant Seltzer agreed that Constable Vince George’s role should be confined to introducing Sergeant Marg Eve to the occupiers, “just to help us get in.” Sergeant Seltzer and the other OPP officers “were very sensitive to Vince’s position; just introduce us and we’ll take it from there.” Negotiator Eve would then be responsible for entering into a dialogue with the First Nations people. Sergeant Seltzer believed the occupiers might be more receptive to communicating with a female police officer.

It is recorded in Sergeant Seltzer’s notes that he met with Vince George and Marg Eve to brief them on “the plan” he had discussed with Inspector Carson. He made it clear he wanted the two officers to try to establish contact with First Nations people in the park and find out the identity of their leader. However, when Constable George testified, he had no recollection of this discussion with Sergeant Seltzer, or with any other OPP officer, about assisting the negotiators to open communication with the park occupiers. An entry in Sergeant Seltzer’s notes also says that Constable George would travel to Grand Bend that morning to “talk” with “a contact person.” As I discuss later, Vince George travelled to Grand Bend on September 6 to meet with a confidential source to obtain intelligence on activities at the park. The informant told Constable George that “Buck Doxtator said he had guns in the park, with about six guys from Muncey.”

Sergeant Seltzer, accompanied by Lorne Smith, set out for Kettle Point after 10:00 a.m. Lorne Smith explained the customs of the First Nation community and the way in which Sergeant Seltzer should interact with Aboriginal people on the Kettle Point Reserve:

It was very clear to me that my role was to be listening and that there was a great deal of respect to be paid to the gentleman and that I was to listen and if at all earn the right to speak.

Sergeant Seltzer was also told not to take notes during the visit. The OPP officer had no knowledge of the history of Stoney Point or the rift between members of the Kettle and Stony Point First Nation and the occupiers.

The two men first met with Elder Earl Bressette at Kettle Point. Recorded in Sergeant Seltzer’s notes after the visit were:

- Three hundred people at CFB
- Most not Stony Point but others who have no real claim
(Elder women originate power to Chief. Others held above him — Lorne)

- heavy machine guns ...
- Trust OPP and always has
- Does not know anyone who agrees with what is happening
- No burial grounds known

After this meeting, Sergeant Seltzer returned to the command post to inform Inspector Carson of his discussions with Earl Bressette.

Sergeant Seltzer and Lorne Smith returned to Kettle Point in the middle of the afternoon to meet with Robert George (“Nobby”) at his home. Mr. George discussed the 1942 appropriation by the Department of National Defence, the dislocation of the Stoney Point people, and their transplantation to the Kettle Point Reserve. Inscribed in Sergeant Seltzer’s notes:

- Indian Affairs will not recognize Stoney Point persons as a reserve in itself and now [Stoney Point people] are simply saying, we are here to stay — recognize us as “people” having had our land taken regardless of whether we are a “band” or not.

Robert George’s son Ron (“Spike”) joined the conversation. Ron George was aware that Sergeant Seltzer was anxious to “open up a line of communication with someone at the park and they specifically were looking for our help to do that.” Of note is the following comment regarding possible spokespersons at the park and the relationship between communication with the occupiers and safety:

- *Spike and Bob think perhaps Judas or Glenn might talk if no arrest is made* — because all agree, Lorne, myself, Bob and Spike, that *safety will start only when we can open communication.* (emphasis added)

Also noteworthy is the following inscription in Sergeant Seltzer’s notes:

- No known burial ground at property but 1 person thought to be buried there
- of value is that Stoney Point is a flint field
- Stony Point young and impatient radicals see Prov. Park takeover as the same as 2-year slow occupation of DND property. It doesn’t matter who owns it now — it was S.P. people owned ...
- Females are respected when they are mothers of chiefs due to genetic powers ...

- Indian custom is to never be lied to. You must never make a flippant remark. They will hold you to it. NEVER LIE

Sergeant Seltzer learned that spokespersons such as Roderick George (“Judas”) would be reluctant to talk to the OPP for fear of being arrested. At that time there was a warrant for Roderick George’s arrest.

Ron George went to the army camp after this meeting to find Roderick George. He noticed a “surprisingly” large number of police officers on Army Camp Road who stopped him as he drove to the built-up area. Ron George explained he was looking for Judas. But when he arrived at the base, Judas’s daughter told him her father was not home.

After speaking to Earl Bressette and Robert George, Sergeant Seltzer had a “very strong impression” the park occupiers wanted to talk with someone in authority and power to deal with their claim to the land. That was obviously not someone from the OPP.

It is surprising that Sergeant Seltzer did not know the history of Stoney Point and the tense relationship between the occupiers and people on the Kettle and Stony Point Reserve. Until he spoke to Earl Bressette and Robert George, he was unaware of this rift between the Aboriginal people: “I didn’t appreciate at the time there was any rift happening there.”

September 6 was the third day of the occupation. Clearly it was important for OPP Crisis Negotiators to be aware of the history and tension between the official Band and the occupiers, particularly when they were seeking information and advice on how to initiate dialogue with the occupiers. Inspector Carson and other members of the command team, such as A/D/S/Sgt. Wright, were aware of this information. This information should have been conveyed to Sergeant Seltzer.

In my view, OPP officers whose responsibility is to open up a dialogue with First Nations occupiers should have knowledge of the Aboriginal community, their history, and issues of concern to them. Without this information, it is difficult to establish meaningful communication and achieve the objective of de-escalating an Aboriginal protest. Native awareness training and an understanding of First Nations issues in the Ipperwash area was lacking amongst many officers involved in the OPP operation. This knowledge was critical, particularly for negotiators attempting to open up communication with the First Nations occupiers. This issue is discussed in detail in the Part II report. I am mindful that the OPP have instituted changes in this area. I commend these and continued improvements, which I discuss in Part II, in training negotiators and other police officers in First Nations culture, history, and traditions.

11.14 Mark Wright's Attempts to Communicate with the Park Occupiers Fails

A/D/S/Sgt. Wright and Sergeant Eve approached the park fence about 3:00 p.m. in a further attempt to initiate a dialogue with the occupiers. A number of First Nations people, including men, women, and children, congregated at the park store and yelled at the two officers. With mirrors from the park washroom, children reflected sunlight into the eyes of Mark Wright and Marg Eve. The atmosphere was tense. A boy of about fourteen years of age approached the fence in an ATV and told the officers to leave the property. A/D/S/Sgt. Wright said he wanted to speak to someone in charge. Members of the press were in this area.

Sergeant Marg Eve, unlike Mark Wright, was a trained negotiator. Another reason she was chosen to approach the Aboriginal people was that she was a woman. A/D/S/Sgt. Wright understood that there was a “tradition that the females in the First Nations culture” were considered representatives of “their community” and, consequently, a female OPP officer might have more success in opening up communication with the occupiers.

Several First Nations occupiers, such as Gina George, Glenn George, and Isaac Doxtator, saw Mark Wright and Marg Eve approach the fence in an attempt to speak to them. But the Aboriginal people at the park had little interest in entering into a dialogue with the Ontario Provincial Police. Marlin Simon and other First Nations people feared being targeted as leaders of the occupation, criminally charged, and ultimately jailed. People at the park had been involved in other Aboriginal protests and had witnessed the incarceration of First Nations spokespersons.

Gina George stood close to the fence and remembers that Mark Wright and Marg Eve waited “for quite some time” to speak to a spokesperson for the occupiers: “When they said they wanted to talk to somebody, leaders or something, I just motioned to them that my children would talk to them if they wanted somebody to talk to.” It was clear that the Aboriginal people did not want to engage in any meaningful communication with the OPP. They did not believe the OPP could resolve their grievances concerning their land and their sacred burial sites.

After waiting for about forty-five minutes, a black Camaro with two men inside approached the fence line from inside the park. One of the Aboriginal occupants said, “Scott Ewart sends his regards.” Scott Ewart, a bailiff from Middlesex County, had been involved in the occupation of the military range in May 1993. The occupier then asked Mark Wright if he spoke for his people. The OPP Sergeant replied that he did. In turn, Mark Wright asked the Aboriginal man if he spoke for his people, and there was no response. A/D/S/Sgt. Wright

said he wanted to discuss the park occupation with a First Nations person. Sergeant Eve tried to explain that “talk[ing]” was required to resolve the situation. Mark Wright testified that the man responded, “We’ll do our talking with guns.” The driver then accelerated, turned the car 180 degrees, and “spinning” his tires, returned deep inside the park.

A/D/S/Sgt. Wright considered the statement a threat to their safety. The two OPP officers left the site.

Although A/D/S/Sgt. Wright did not know the two Aboriginal men, Dudley George was identified by Sergeant Eve in her notes as the person who made the comment about resolving their issues with guns:

There appeared to be no one in charge. Dudley George — know[n] to myself from the summer camping, driving in a black Camaro — driven by David George. They advised they were not willing to talk. Stated that Wright was a liar and this would be settled by guns. They drove off.

Sergeant Eve did not give evidence at the Inquiry. She died in a car accident before this Inquiry was established.

The OPP failed to communicate critical messages to the First Nations people, namely, that the OPP’s goal was to resolve the occupation peacefully, that the police would not remove the occupiers from the park, and that the occupiers should remain within the park boundaries. Had these crucial messages been conveyed, it would have undoubtedly averted many of the misunderstandings that developed between the occupiers and the police in September 1995.

At no time did A/D/S/Sgt. Wright inform Bert Manning or other First Nations occupiers that, as long as they remained in the provincial park and did not venture into the sandy parking lot, there would be no problem from the OPP’s perspective. At no time did A/D/S/Sgt. Wright make it clear that a line was drawn at the park fence. Mark Wright agreed that from September 4, the day the park was occupied, until the confrontation on September 6 when Dudley George was shot, this was “never specifically communicated” to the First Nations occupiers. A/D/S/Sgt. Wright acknowledged this was a missed opportunity. I agree.

A/D/S/Sgt. Wright, with Sergeant Seltzer and Sergeant Eve, had tried to initiate a dialogue with the park occupiers. It was A/D/S/Sgt. Wright’s role to introduce the OPP negotiators to the First Nations people because he had been involved with this Aboriginal community since 1993. But each attempt to open communication with the occupiers was unsuccessful.

In my view, the OPP might have been more successful if they had resorted to other measures to stimulate a dialogue with these Aboriginal people. The fact

that Sergeants Seltzer and Eve were dressed in police uniforms rather than civilian clothes was likely not conducive to opening up a dialogue with the First Nations occupiers. Inspector Carson in fact raised this when Sergeant Eve and A/D/S/Sgt. Wright returned to the command post that afternoon. Also the OPP could have resorted to other techniques, such as setting up a field telephone to initiate communication with the park occupants. First Nations people were fearful that if they engaged in dialogue with the police, they would be targeted as leaders and charged with criminal offences. A/D/S/Sgt. Wright agreed that, in retrospect, a field telephone “would have been helpful”; “if that was their concern and they wanted to remain anonymous, that would have been a way to get over that hurdle.”

Another reason for the park occupiers’ reluctance to speak to A/D/S/Sgt. Wright and Sergeant Eve was because, as Kevin Simon said, they wanted “somebody with the authority” from the government to initiate “meaningful negotiations” to enable the First Nations people to reclaim their land. Gina George explained that the police could not “assist with settling a land claim.”

Glenn George recalls that Sergeant Eve stated she was the negotiator. Glenn George did not think the OPP officer was the appropriate person to engage in a meaningful dialogue with the First Nations occupiers. Glenn George said this at the hearings:

And I just told her that, you know, my understanding under a land dispute, there’s to be like a third-party tribunal made up of all of these people involved. And I just looked at her and said, “You’re not that negotiator,” and I walked away ...

... See, land negotiations are to be by a third-party tribunal. Not by somebody who claims to have authority ...

... You know, they show up with a gun and a badge and they say they’re a negotiator. Like, come on now ... [I] wasn’t born yesterday ... I know for a fact that Indian Affairs knew about these things. I know that the DND knew about these things. Provincially, I knew that they knew about the things within the park. (emphasis added)

In my view, the occupiers might have been more receptive if negotiators on behalf of the federal and/or provincial government had appeared at the fence to try and resolve issues that had been plaguing the community for decades, such as the appropriation of the Stoney Point Reserve in 1942. Had government officials with authority to resolve these issues confronting the First Nations people

appeared at the park fence, the occupiers would likely have been more amenable to participating in a dialogue. Undoubtedly this would have helped the OPP to realize the objective of Project Maple, namely, to resolve the occupation by peaceful and non-violent means.

A/D/S/Sgt. Wright and Sergeant Eve returned to the command post at about 4:45 p.m. They discussed with Inspector Carson their failed attempt to meaningfully communicate with the occupiers, and the comment, “They will settle this with guns.” The presence of women and children as well as the media was also described. As mentioned, Inspector Carson suggested to Sergeant Eve that she not approach the First Nations occupiers in police uniform — dressing in “plain clothes and jeans ... might create a more comfortable situation for the approach.”

In Project Maple, there was no reference to the technical means by which the OPP would establish communication with the occupiers. There is no reference to the OPP’s negotiating strategy or to the messages to be conveyed to the occupiers. Project Maple did not describe resources outside the OPP, such as First Nations negotiators Ovide Mercredi, Bruce Elijah, or Bob Antone — people who could be instrumental in opening up a meaningful dialogue with the park occupiers.

John Carson agreed that, in retrospect, it might also have been useful to involve Bonnie Bressette, the former Chief and Councillor of Kettle and Stony Point First Nation, in the Ipperwash occupation. Inspector Carson was not aware Bonnie Bressette was in the park that day with her children. However, Constable Vince George had seen her that afternoon from the air in the helicopter patrol of the park.

Cyndy Elder of “Approaches Mediation” called the OPP at about 4:00 p.m. to offer her assistance to Inspector Carson that afternoon. The First Nations mediator explained to Sergeant Drummelsmith that she had had contact with Inspector Carson in August 1995 after the army camp occupation. Ms. Elder, who was currently involved in the Gustafsen Lake protest in British Columbia, suggested “there may be some stuff from that you might be able to use that might help” with the Aboriginal people in Ipperwash Park. Sergeant Drummelsmith promised to convey the message to Inspector Carson.

When Sergeant Drummelsmith relayed the telephone message a few minutes later, Inspector Carson recognized the mediator’s name. The Sergeant said, “[S]he wanted you to call her and seemed to think it was important.” But Inspector Carson was too busy to return Ms. Elder’s call that day: “Say I’m extremely busy and unless there is something that she can supply you of information that is of urgent nature, I just don’t have time ... I am inundated with phone calls.” This was despite the fact that the OPP had had no success establishing communication with the occupiers. Inspector Carson acknowledged at the hearings that one of the

most difficult aspects of managing an incident such as Ipperwash is to engage in dialogue with the occupiers. But at the conclusion of his conversation with Sergeant DrummelSmith, Inspector Carson said, “The best I can do is some time tomorrow.”

Unfortunately tomorrow was too late. About six and a half hours later the OPP officers marched down East Parkway Drive to the sandy parking lot with their shields and guns. In a confrontation with the First Nations people, Dudley George was killed and other Aboriginal people and OPP officers were injured.

11.15 Bonnie Bressette Visits Ipperwash Park on September 6: “Everybody has a right to have a sit-in or a protest ... It’s to create an awareness.”

Bonnie Bressette, Councillor of the Kettle and Stony Point Band, decided to drive to Ipperwash Park on September 6 at about 10:00 or 10:30 a.m. The former Band Chief “went down to talk” to the occupiers and to “ask them why they were in the park.” Many of the occupiers were her relatives, and in the Anishnaabeg community, “it [doesn’t] matter whether somebody is someplace that is not of my blood, they are all our family.” The road was blocked as she turned from Highway 21 to Army Camp Road, and she saw four or five police officers. After identifying herself, she was permitted access to the park area.

As she drove toward Ipperwash Park on the road parallel to Army Camp Road, a helicopter hovered over her car: “There was a helicopter following me. It was up over top of the car.” The helicopter followed her “all the way” to the park.

Bonnie Bressette joined Dudley George, Glenn George, and Roderick George at a picnic table near the park store. The helicopter continued to fly over them, which made her very uneasy:

It stayed above us for quite a while ... I was feeling uncomfortable because I could see somebody up there with a camera and I could see somebody with a gun pointed down at us. And it stayed there for quite a while and then it would kind of go away and then would come back again. [It] never really left the area but [would] go away and then come back ...

It had become a kind of a eerie, scary thing for me, not knowing what was going on, till I was able to sit and talk and have my crying jag.

Bonnie Bressette could also see many police officers armed with “long guns” outside the park across the road on East Parkway Drive. “I didn’t count them, but there was sure a lot of them” just standing in a “big, long row.”

Bonnie Bressette became anxious: “I was feeling uneasy with the policemen behind with all the guns and the helicopter overhead and they had a gun there ... I actually started crying.”

Dudley George reassured her. He told her the police were aware that the people in the park had no weapons and that the OPP would not harm them. In a moving passage, Ms. Bressette described how Dudley comforted her:

He said, “Don’t be afraid.” He said, “They’re not going to do anything to us in here.” He said ... “They know that there’s just men in here and they know we’ve got no weapons.” He said, “They don’t shoot anybody that don’t have no weapons. They have something that can tell how many’s in here. It shows,” he said, “body mass.” I remember that. It can tell you whether that’s an adult or a kid, and he said, “Don’t be afraid.”

Glenn, Dudley, and Roderick George explained that the occupiers were in the park “because they wanted to bring attention that this park was located on our ancestors’ burial ground and that they wanted it to stop”; “it had to stop ... [and] they were there ... to bring attention.” Bonnie Bressette said at the hearings: “Everybody has a right to have a sit-in or a protest, there’s nothing wrong with that. It’s to create an awareness.”

They felt it was important to take a position so that people using the park would no longer picnic and camp on or near their ancestors’ graves. The former Chief of Kettle and Stony Point discussed at the hearings the high legal costs and the length of time it takes before First Nations issues are resolved through the court system: “By the time we get anything into the court system ... we don’t have the economy to continually keep supporting the high legal costs of anything.”

Bonnie Bressette emphasized the root of problems like this:

When people who have the responsibility to address things like this never address it until there’s been a protest, a demonstration or whatever. And that’s what it was, to say this is our ancestors’ burial ground and it should not be a park where people can party and carry on anymore.

Mrs. Matheson, the Assistant Park Superintendent’s wife, had told Bonnie Bressette several years earlier that “Indian remains” were dug up when a pump house was installed in Ipperwash Park.

Bonnie Bressette was aware that Dudley George’s great-grandfather Albert George had lived on these lands, and thought that Dudley’s ancestors may have

been buried in the park. An Elder had also told her that First Nations people came to this land to settle their arguments — it was known as “neutral territory” on which “they were safe” to settle their differences — “it’s sacred ground.”

After listening to Dudley and Glenn George, Bonnie decided to retrieve two eagle feathers from her car that had been given to her by an Elder. As Bonnie Bressette explained, “[E]agle feathers ... give you safety and you feel real good when you have” them. As she walked to her car, the helicopter “came real low again.” As she handed the eagle feathers to Glenn George, she said, “Glenn, I want you to have these, you and the boys down here.” The helicopters “were right over us, so low that the dust was all around,” and “they were taking pictures.” Glenn held the two eagle feathers “up in the air ... so they could see what it was” — Bonnie Bressette “felt comfortable ... leaving them with [her] feathers.”

Bonnie Bressette remained in the park for about two hours. Dudley George was in good spirits. He teased the officers, which angered them. He told Bonnie he had been threatened by the OPP: “They told me when they get in here, I’m going to be the first to get it.” But Dudley George was not frightened.

Bonnie Bressette asked Dudley and Glenn if they needed anything. They asked for food and cigarettes, and suggested that she return with the kids for a picnic.

Bonnie Bressette left the park about 12:30 p.m., bought groceries, and went home to collect her family. Her husband, Fred, daughters Gail and Barbara, and about eight of her grandchildren drove to the park later that afternoon. Again she was stopped at a police checkpoint and a helicopter followed their van into the park. There were about twelve people in the park at that time.

The noise and dirt of the helicopter was very irritating as they tried to eat their meal in the park. They flew “real low” and “dust would all come up” but Bonnie Bressette, her family, and the other First Nations people continued their meal.

Bonnie Bressette had intended to stay into the evening. Children in the park wanted to swim in the lake with her grandchildren. However, many “yellow jackets” were out that evening and both her husband, Fred, and her granddaughter Chelsea are “highly allergic” to bee stings. Fred did not have his epi-pen with him and they decided to be cautious and return home. They left the park at about 6:00 p.m.

Dudley and Glenn George suggested she come back later that evening and sit with them around a fire. Bonnie Bressette intended to join them.

Bonnie Bressette spent about four to five hours in Ipperwash Park that day, and at no time did she see the occupiers with weapons or firearms. Had she had any such concern, she would not have brought her children and grandchildren to the park and compromised their safety:

... nothing will ever make me believe that because I would never — and any mother that thinks of her children and the protection of them, 'cause I do, would ever take their children where there was guns.

Bonnie Bressette left the park “feeling good” and unconcerned: “I thought the boys are okay ... they were quite comfortable, that nobody was going to bother them.”

It was the last time Bonnie Bressette saw Dudley George. He was shot a few hours later in a confrontation with the OPP in the sandy parking lot. She recalled that the last time she saw Dudley, he was in good spirits and “he was proud of himself”:

By having a sit-in down there to create [awareness] and let people know that this was a burial ground for our ancestors and ... being part of creating this awareness and saying, “This has to stop.” He was proud of himself. (emphasis added)

While the OPP were equipping themselves with ASP batons and trying to secure military vehicles and fire-retardant suits during the day of September 6, First Nations people were swimming in Lake Huron and picnicking in the park.

11.16 MNR’s Presence at the Command Post

Park Superintendent Les Kobayashi continued to attend the command post briefings throughout the day. He was in contact with MNR officials, such as Peter Sturdy, and he was asked to comment on the progress of the injunction at the police briefings.

The MNR Park Superintendent continued to convey information he received at the command post to Mr. Sturdy, such as police operations and the state of affairs at the park from the perspective of the OPP. Neither Inspector Linton nor Inspector Carson placed restrictions on the information that could be conveyed to Mr. Sturdy. When Mr. Kobayashi learned at the police briefings about the rock throwing at the picnic table incident, the OPP aerial surveillance, and the gunshots purported to be automatic weapon fire, this too was relayed to MNR official Peter Sturdy. Mr. Sturdy, a participant at the Interministerial Committee meetings on both September 5 and 6, had no reservations or concerns about sharing any of this police information with Ontario government bureaucrats and political staff. Unlike Inspector Fox, Mr. Sturdy was not a trained police officer.

Mr. Kobayashi did not appreciate at that time what information should be passed up his “chain of command” and what information should remain at the OPP

command post and not be disclosed to government officials. As Mr. Kobayashi acknowledged in his testimony, this is a lesson learned from Ipperwash.

In my view, a lesson learned from Ipperwash is that MNR officials should not participate in command post briefings with the Incident Commander and other OPP officers. Nor should MNR officials be present at the command post. Although it is important for communication to exist between the OPP, the Park Superintendent, and other MNR officials, the communication should take place with an OPP officer appointed to liaise with these park officials. Such an arrangement would allow for valuable exchanges of information between MNR and the OPP without distracting the Incident Commander from police operations. Moreover, such an arrangement would allow the Incident Commander to be insulated from the possibility or perception of political interference. In the Part II report, I stress the importance of respecting traditions of ministerial responsibility in police–government relations in order to ensure transparency and accountability.

Les Kobayashi should not have been privy to discussions in the command post about the OPP strategies, unconfirmed reports received by the OPP, or police intelligence.

11.17 MPP Beaubien Appears at the Command Post

At about 6:40 p.m., MPP Marcel Beaubien arrived at the OPP command post. Despite his claim that he had been invited to the OPP briefing, it is my view that he arrived at the OPP Forest Detachment unannounced and without such an invitation.

Inspector Carson had no hesitation meeting with Marcel Beaubien as he had done earlier that day with Bosanquet Mayor Fred Thomas. In fact, Inspector Carson considered such exchanges of information “valuable.” It could alert the police to information they may not be aware of or it could validate information the police received from other sources. It is also a conduit for information in that it provides the OPP with “a vehicle to provide information that can be distributed through the community.” Inspector Carson had no reservations about meeting MPP Beaubien at the command post on September 6, nor did he consider it improper.

The meeting with Mr. Beaubien took place in the command trailer and was attended by Inspector Carson, Inspector Linton, Les Kobayashi, and Marcel Beaubien. It was clear at the outset that the MPP wanted to convey his constituents’ concerns and frustrations at the park occupation, and that he was in contact with the Premier at Queen’s Park. According to the typed version of the OPP scribe notes:

Marcel Beaubien advised that he had sent a fax to the Premier advising of his intentions and that he wanted a return phone call regarding his intentions.

The handwritten version of the OPP scribe notes record Mr. Beaubien conveying to the OPP: “Premier is in constant touch. Good communications.” From these statements, Inspector Carson understood that there was good communication between Premier Harris and MPP Beaubien. Mr. Beaubien testified that he might have told the OPP the Premier was following the park occupation. Commissioner O’Grady agreed that, on the basis of these statements, one could conclude that the Premier had taken a personal interest in the occupation.

Inspector Linton asked Mr. Beaubien if there had been feedback from the Solicitor General. The MPP replied that officials from the Solicitor General’s office were meeting that day. Later that evening, Inspector Linton called Superintendent Parkin to tell him “Marcel Beaubien was in tonight. He had talked to the Solicitor General ... and the Attorney General.” Inspector Linton should not have been in a position to learn about feedback from the Solicitor General from an MPP. Such feedback, should it be provided, should come through proper ministerial channels and the chain of command within the OPP.

Inspector Carson explained the injunction motion scheduled in Sarnia for the following morning to Mr. Beaubien, and the criminal charges that could result if the application was successful and the occupiers refused to leave the park. John Carson told him there was no land claim — “there has been no legal claim to the land.” Les Kobayashi added that research had been conducted and no burial ground was on the property of Ipperwash Park.

Inspector Carson then described the occupation of the park on September 4 — the officers were outnumbered, “they were swarmed,” and the OPP decided to leave the park for safety reasons. There were twenty to forty Aboriginal people in the park at that time. The presence of women and children at the park, he added, placed the police in a “very awkward position.” He also told the MPP that Chief Tom Bressette did not support the First Nations occupation.

Inspector Carson tried to reassure Mr. Beaubien that he understood the concerns of residents, that there were approximately thirty officers — two ERT teams — monitoring the area, and that the OPP were visible to members of the community. Safety was essential.

The Provincial Member of Parliament was disturbed to learn that the OPP had left Ipperwash Park because they feared for their safety. His constituents were asserting that if the OPP did not have the capability or resources to do the work, others should take over the work, such as the army. As Mr. Beaubien listened to

Inspector Carson, he thought these comments gave “some credibility” to what he was hearing from his constituents: “The police can’t do the work in this area.”

Mr. Beaubien did not seem satisfied and indicated to the OPP that if the occupation “can’t be handled by police services, something has to be done to handle the situation.” Property owners in the Ipperwash area did not feel they were “being treated equally.” Some of Mr. Beaubien’s constituents thought there was a two-tiered system and believed the park occupiers should have been arrested by now. He mentioned that a meeting of over 100 residents had taken place, and community members were frustrated and anxious. Mr. Beaubien said he had been in contact with Chief Superintendent Coles. It was clear to Inspector Carson that Mr. Beaubien wanted the First Nations occupiers out of the park.

It is evident from Marcel Beaubien’s statements to the Incident Commander that the MPP was trying to exert pressure on the OPP in its operations at Ipperwash Park. This was inappropriate.

After the meeting, Park Superintendent Les Kobayashi thought about Mr. Beaubien’s concerns and frustration on behalf of his constituents and his view that something should be done by the OPP. He contacted Peter Sturdy to advise him of Mr. Beaubien’s visit to the command post.

Mr. Beaubien had no concerns about his presence at the OPP command post on September 6. He considered the information conveyed by the police valuable, and thought that he could also be a valuable conduit for the OPP to relay information to his constituents.

Although Marcel Beaubien “didn’t have any problem” meeting with John Carson at the command post, he understood a perception might arise that politicians were interfering in operational matters.

OPP Commissioner O’Grady was not aware Mr. Beaubien had visited the command post on September 6 until months later. He does not think it was appropriate that politicians, including MPP Beaubien or Mayor Thomas, attended at the OPP command post. The Incident Commander is involved with operational activities and “it would have been much better if there had been another site removed from the command post where someone could talk to these individuals.” “It would [have] be[en] better if” Mr. Beaubien “wasn’t in the command post and that information was exchanged between another person and him.” The Commissioner also thought some topics of conversation between the Incident Commander and the MPP were regrettable, such as the references to the Premier. In Commissioner O’Grady’s view, information on the Premier’s personal views and wishes should not be discussed with operational officers. I agree with Commissioner O’Grady on this point.

Politicians should not be present at the command post to obtain police information and discuss their concerns with the Incident Commander. As I discussed

in relation to the Mayor of Bosanquet’s visit to the command post, I think it is important for the OPP to both receive and convey information to political and community representatives. However, for the reasons previously expressed — primarily the perception or reality of political interference in a police operation, and the importance of allowing the Incident Commander to focus on the operation — a buffer or community liaison officer should be designated by the police to engage in communication with politicians and other community representatives. This officer should convey necessary information about police operations to the community and receive information about ongoing events from community representatives including elected officials. Complaints about police performance, particularly strong complaints by elected officials such as those made by Mr. Beaubien, should be filtered through proper channels within the Ministry of the Solicitor General and the OPP. Having such complaints communicated directly to the Incident Commander creates a risk of undue influence and political pressure.

11.18 Reaction of Occupiers to the Perceived Increased Police Presence

Kevin Simon did not go to work on September 6. He had an “uneasy feeling” that the situation at the park was escalating. The previous night he had witnessed the OPP officer’s threat to Dudley George that “you’re going to be first.” Dudley had told him that he had been threatened again when the police removed the picnic tables that morning. Kevin Simon and other park occupiers noticed more police officers throughout the day in the vicinity of the park.

Glen Bressette drove Dudley George to the town of Wyoming on the morning of September 6. They saw a number of officers in Forest, several of whom had congregated near the baseball field at Kimball Hall. Gerald George from Kettle Point was in Forest a number of times that day and he too noticed many police officers and cruisers at the OPP Detachment, near the baseball diamond at Kimball Hall, and on Highway 21.

Helicopters hovered over Ipperwash Park at various times throughout the day. A person leaned out of the chopper and videotaped the First Nations people. These helicopters flew very low, blowing dust, disturbing picnics, and other activities in the park. The chopper’s low altitude and loud noise was both unnerving and irritating to the First Nations occupiers. Isaac Doxtator described a yellow helicopter “flying right about the trees. It was shooting dust and sticks all over on the ground where people were ... [r]ight over our heads.”

Someone from the yellow helicopter took “pictures of everybody in the park”; “big cameras stuck out the side of the door.” Stewart George described how the

helicopter disrupted the picnic, stirred up dust, and blew their food away: it “was the one that was sitting right up above where we had the food sitting on the table and ... the prop wash was blowing dirt and everything all over the place, making a big wind.”

The low altitude at which the helicopter flew and the disruption it caused upset David George and other First Nations people. At approximately 11:30 a.m., a helicopter flew “pretty low, just above the trees ... probably fifty feet” — “it was kicking up dust, throwing stuff around — plates,” and “people were getting upset about it.” Exasperated, David George, Wesley George, and Clayton George picked up rocks from the ground and began to throw them at the helicopter.

Marlin Simon similarly described the yellow helicopter:

[It] was coming right down, it was making big dust storms, wind was blowing everything all over, anything that wasn't nailed down pretty much was blown all over ...

... mostly everybody was running around trying to gather up whatever was getting blown around.

“A guy with a big camera” in the doorway of the helicopter was “aiming it all over.” In their exasperation, First Nations people made “hand gestures” to the people in the helicopter, “shooting them the finger.”

Detective Constable George Speck, accompanied by Constable Paul Evans, was in the yellow helicopter. The MNR helicopter was operated by an MNR pilot. Detective Constable Speck testified that flying at “tree level,” the helicopter “kick[ed] up the dust on the ground.” He saw park occupiers throw stones at the helicopter. The park area was filmed from the air.

The OPP boat anchored off Lake Huron was another a reminder of the police presence in the Ipperwash Park and beach areas. The police continued to stop First Nations people at the various checkpoints and ask them for identification. They also asked several people if they would open their trunks to be searched by the OPP.

The OPP checkpoint that had moved to East Parkway Drive and Army Camp Road on the morning of September 6 was very visible to First Nations people in the park. Officers and their cruisers were stationed at the intersection.

The perception of increased police presence grew as the day progressed. Tension increased in the park and First Nations people became anxious. The occupiers decided to take measures for their protection and to secure the park. Marlin Simon explained that “everybody was feeling that it was escalating ...

we started like a rotation for the different observation points where people would be manning them at different times.”

Glenn George said: “There was this thing happening. It was in the air, you could sense ... this thing of uncertainty.”

The occupiers drove back and forth between the park and the “built-up” area to create the impression to the police that more First Nations people were in these areas than there actually were. Elwood George “sensed something was going to happen” when he came to the park that afternoon and noted the “noticeable increase in [the police] presence.” He and Robert Isaac were among those who thought they “should drive our vehicles around” and “get a little bit [of] movement within the park.” This was “to lead the police to believe that there was actually more of us ... than there actually was.”

The “younger guys” ran “from bush to bush” when the helicopter with video cameras flew overhead to make it difficult for the police to determine the number of people in the park. In the words of J.T. Cousins, who was fourteen years old at that time, “[I]t makes like there was people in the park” and “they can’t get a full count.” But, unfortunately, these activities led the police to believe there were nefarious activities occurring in the park, and that the First Nations people were engaged in “offensive,” not “defensive,” preparations. This further escalated the tension.

Elizabeth Stevens, who was a Band Administrator of the Kettle and Stony Point Band, decided to drive to Ipperwash Park on September 6. She also noticed a pervasive OPP presence: “You could go any place and [you were] bound to see a police cruiser at that time”; it “didn’t matter where you went.” There was

... a high level of concern because there were OPP officers all over the area and a lot of Band members were scared ... We knew there were a lot of OPP and it was kind of a scary day.

Stacey George was another person who arrived at the park after hearing reports of a large buildup of police that day. The occupiers were “getting real uneasy,” and were “kind of scared on what’s actually going to happen.” Mr. George thought “they were going to come in and try to arrest us; drag us out.” But there was a “consensus” amongst the occupiers that “no one’s leaving.”

The First Nations occupiers began to collect sticks, rocks, bats, and pipes to prepare for a possible encounter with the police. They needed to defend themselves. They did not know that the OPP had no intention of entering the park if they stayed within the park boundaries. As I have repeatedly mentioned, the lack of communication by the OPP was a serious mistake.

Marlin Simon decided to prepare the school bus because he “didn’t know if the police were going to be coming in and moving everybody out.” Mr. Simon explained:

Everybody was pretty much thinking that something was going to happen and we were kind of getting ready. There was discussion about what’s going to happen. If we were going to let them drag us out or ... try and defend ourselves or whatever.

The school bus had been helpful in the past in “creating diversions,” such as when the Aboriginal people assumed control of the army barracks on July 29, 1995. The school bus had not been driven for about a month. Mr. Simon installed a new battery and filled the bus with gas. He also put fuel in about six gas cans and placed them in various locations, such as the bush near the inland lakes, in the park, and inside the bus. As he fuelled the bus at the maintenance shed, a helicopter flew near him and was only about “fifteen feet in the air from the ground.” It flew at such a low altitude, Marlin Simon thought the helicopter was “going to come and land right there.” After refuelling the bus, he drove it to the park.

First Nations people made “security runs” with cars and the dump truck to various locations. They also established observation points at the Outer Drive entrance to the army camp, at Matheson Drive, and at the main gate of Ipperwash Park. Marlin Simon was one of the people who patrolled the perimeter of the park and the army base.

But the First Nations people were adamant that at no time did they bring guns into Ipperwash Park, nor were there any plans to bring firearms to the park that day. Wesley George explained that, although some of the occupiers owned hunting rifles, there was an agreement to keep guns out of the park:

No guns were allowed to be in the park. It was what you call non-armed protest ... I believe it was a group decision because of what happened in Oka ... They don’t want to have no standoff, don’t want to shoot nobody. That’s the bottom line.

Tina George said that if she thought guns or other weapons were in the park, she would not have allowed her children to play in the park that day. Several young Aboriginal children and babies picnicked and swam at Ipperwash Park on September 6. As mentioned, Bonnie Bressette, Councillor and former Chief of the Kettle and Stony Point Band, brought her grandchildren to the park that afternoon to picnic and swim in the lake.

11.19 Vince George’s Concerns about Possible Burial Grounds in the Park and Helicopter Surveillance

After working on photographs of suspects at the OPP Detachment in Forest, Constable Vince George was assigned to helicopter surveillance shortly after 5:00 p.m. He boarded the MNR helicopter stationed in a field at the rear of the detachment with an officer responsible for videos and photographs. Their assignment was to fly over the provincial park and identify the occupiers.

The helicopter pilot “did a sweep” of the camping and maintenance building areas in the park. Constable George felt uneasy on this flight:

He was flying pretty low, too low for my liking at that time ... I thought he was trying to tick-off the people on the inside there ... there were stones flying all over the place.

At the park store area, Constable George identified Dudley George, Dudley’s brother Pierre, Les Jewell, David George, Robert Isaac, and Roderick George. He also saw Bonnie Bressette, Fred Bressette, Tracey George, Sherry George, and young children. As they flew over the maintenance area, Constable George watched Marlin Simon pump gas into the yellow school bus that belonged to Warren George, as well as into a five-gallon gas can. Tina George was leaving the area in a car.

A/D/S/Sgt. Wright asked Vince George on September 6 to interview older people at Kettle Point regarding the legitimacy of a burial site in Ipperwash Provincial Park. Constable George asked Mark Wright why the OPP had not investigated this issue at an earlier date. This was the third day of the park occupation, and the OPP had been aware of this claim by First Nations people prior to September 4, 1995. Constable George had concerns about “the colour of right”:

I do remember that specifically I had a conversation with him about why are we making this request right now, meaning we’ve known of this impending thing of going into Ipperwash Park. And I sort of asked him, Why are we doing this now? Isn’t it kind of late? And he indicated, Well, we sort of did something about it. My concern was the colour of right implications.

Constable George added:

It just seemed odd that we were beginning to get an interest in the colour of right issue at that late stage, when we knew some time in advance that [Ipperwash Provincial Park] may be occupied ...

I figured that it was something we would be looking at from the get go ... [O]nce we discovered ... there was going to be an occupation of the Provincial Park, then that would be something that we would be looking at right away.

Constable George raised the burial ground issue with his father, Robert George (“Nobby”), later that evening. He learned that Clifford George had told Vince’s father that a backhoe driver had dug up bones on Matheson Drive near the maintenance shed area. The bones had been reburied.

Vince George was concerned as he left the OPP command post and went off duty at 8:00 p.m. There was a “buildup” of “OPP personnel,” and he “was concerned at that point ... we needed to resolve that.” He called his parents when he returned home. They thought perhaps a community feast could be arranged to generate discussion about the park occupation with the occupiers. Vince George and his parents were “still on speaking terms with family members that were in there.” Constable George thought that “if we all generated [e]n mass[e] to go talk to them and generate some kind of community feast or something where we can sit down and talk about this, this might help resolve the issue, but it never got that far.”

Vince George went to bed that night thinking about the community feast and trying to devise ways of communicating with the occupiers at the park in order to dissipate tension and resolve the situation.

Vince George was awakened “in the middle of the night” to “pounding on the door” and “red lights flashing.” Sarnia police officers stood at his front door. There had been a confrontation between the police and First Nations people. Dudley George was dead.

11.20 Chief Tom Bressette Notified of Alarming Comments from the Government

It was after the Interministerial Committee meeting that Leslie Kohsed-Currie said she heard “shocking” information from a source whom she did not identify at the hearings:

I learned that in the Interministerial Committee, or the Emergency Blockade Committee, that there had been a statement made by Deborah Hutton, the senior advisor to the Premier, that the Premier was quite hawkish about the events at Ipperwash Provincial Park and had stated that he wanted the f-ing Indians out of the park and if necessary, use guns.

Ms. Kohsed-Currie worked in the Negotiations Support Branch of the Ontario Native Affairs Secretariat (ONAS) where she had been employed since 1986. Ms. Kohsed-Currie was “very shocked” and “very upset” when she received this information; “it seemed that the direction on the Interministerial or Blockade Committee was not proceeding as we had normally done in the past” with regard to First Nations occupations. In emotional testimony, Ms. Kohsed-Currie said:

It had always been the goal of the Blockade Committee to find ways to [defuse] the situation, ascertain the interests of the parties, and then deal with it. This was the opposite of the way we had worked for many years, and I was afraid that people’s lives may be at stake.

Although Ms. Kohsed-Currie was very concerned, she did not feel comfortable discussing this information with either her ONAS colleagues or other government employees — “you [could not] talk about these kinds of things in the office at that time.”

She decided to call Robert Watts “in Indian country” from Six Nations First Nation. Mr. Watts had previously been employed by the Union of Ontario Indians and had been on an exchange at ONAS from 1991 to 1994. She believed Mr. Watts had “a lot of respect in the indigenous community in Ontario and across the country.” Ms. Kohsed-Currie

... trusted Bob to discreetly and quietly pass on a warning that would hopefully get a word to the people occupying the park, that there was a potential for a change in the conduct of the province in this kind of situation, so that maybe it could at least advise people. It seems that Ontario was not in [the] talking mode that it used to be, and ... was not going to be talking ... the way it had been talking in these situations to try to diffuse the matter and in turn his attempt to try to say to people, “Be careful, your life or your lives could be at stake.”

Ms. Kohsed-Currie felt that she could rely on Mr. Watts to relay this warning quietly and discreetly.

Mr. Watts was alarmed when he learned the statements alleged to have been made at the IMC meeting. He too thought the First Nations community at Ipperwash needed to be warned.

Mr. Watts testified that Ms. Kohsed-Currie asked him not to reveal that Julie Jai was the source of the information regarding the statement Ms. Hutton made at the IMC meeting. Mr. Watts is “sure” he was told Julie Jai transmitted this

information to Ms. Kohsed-Currie. However, Ms. Kohsed-Currie was adamant when she gave evidence at the Inquiry that it was not Ms. Jai who relayed Ms. Hutton's comments. She was also confident that it was not Eileen Hipfner, Anna Prodanou, Dave Moran, Elizabeth Christie, or others in attendance at the IMC meeting. Despite repeated questioning by Commission Counsel, Ms. Kohsed-Currie did not reveal her source: "I have searched ... my mind for quite a while on that and I am really blank. I don't have a name."

Given how "shocked" Ms. Kohsed-Currie was by this information and her certainty that it was from a "reliable person," I find it surprising that Ms. Kohsed-Currie could not remember who told her what had transpired at the IMC meeting. Ms. Kohsed-Currie recollected that her source was "reliable," but claimed she could not remember anything else about the person who transmitted this information to her.

Robert Watts contacted Chief Tom Bressette immediately after this call. According to Chief Bressette, Mr. Watts conveyed that the Premier said, "Get those f-ing Indians out of the park even if we got to draw guns to do it" at a meeting with his Ministers.

Clearly disturbed by this information, Chief Bressette contacted the local radio station in Sarnia and spoke to reporter Lee Michaels. On tape, Chief Bressette suggested to the occupiers that they "start to negotiate or find a way to move out of the park because there may be trouble with the police officers or something of that nature." This was broadcast on the radio station later that evening.

The Chief decided not to drive to Ipperwash Park to convey this message in person to the occupiers. He thought the most effective and "most appropriate" way to transmit the warning was through the public media. He worried that the occupiers would not believe him if he spoke to them directly: "If they told me to 'Get out of here, we don't want [you to] speak for us,' would they have believed me? They would have probably thought I was trying to trick them into leaving the park."

The Chief of Kettle Point was clearly worried about the situation. Later that night, he decided to call the National Chief, Ovide Mercredi: "that call about Mr. Harris certainly sparked things off and that's why I felt something bad was going to happen and that's why I called the National Chief."

11.21 Mark Wright Stops Residents from Marching to Ipperwash Park

Upon A/D/S/Sgt. Wright's return to the Forest Detachment after his failed attempt to communicate with the occupiers, Inspector Carson asked A/D/S/Sgt. Wright

to drive to Port Franks. The police had information that local residents and cottagers were planning to gather in the Port Franks area to discuss the park occupation.

Mark Wright was “frustrated” as he drove through Port Franks, trying to find the venue of this meeting. It was about 6:00 p.m., he had received vague instructions about the time and place of this gathering, and he “didn’t want to be at work anymore”; “I wanted to go back to my room and start to prepare for my court appearance the next morning.”

He continued his search for this meeting until he received a call that community members were gathered in the MNR parking lot. A/D/S/Sgt. Wright left Port Franks and drove to the site of this meeting at the Tactical Operations Centre (TOC).

When Mark Wright arrived at the MNR parking lot, he was “shocked” to see a gathering of about thirty to forty men, women, and children. Mayor Fred Thomas was amongst the cottagers and residents from the community.

Mark Wright wore civilian clothes and drove an unmarked police car. He introduced himself to the group and learned they were about to march to the park to express their frustration with the First Nations occupation. This caused him “great concern.” Some community members held signs.

A/D/S/Sgt. Wright tried to dissuade them from marching to the park — it was dangerous and the OPP could not guarantee their safety. He told them that, while it was not illegal for them to march, “it would certainly complicate the situation.” He reassured the community residents that the OPP would remain in the area until the problem was resolved. He explained that ERT units had been assigned various duties in the vicinity of the park, and that the OPP had been “in the park with undercover officers” for some time.

Mark Wright encouraged people to return to their homes. He did not leave the area until he was “absolutely sure the last person who was there was gone.” He “certainly didn’t expect” he “would be walking into that kind of an atmosphere” when he had entered the MNR parking lot that evening. He was relieved when they agreed to halt their march to the park.

A/D/S/Sgt. Wright, who had been up since 5:00 or 6:00 a.m., must have been exhausted. He planned to drive to the Forest Command Post and brief the Incident Commander on this gathering at the MNR parking lot before going off duty. Mark Wright left the MNR parking lot just before 7:30 p.m. and drove to the intersection of East Parkway Drive and Army Camp Road where he came upon eight Aboriginal males standing at the edge of the roadway. This encounter between A/D/S/Sgt. Wright and the First Nations people is described in the following chapter.

11.22 Inspector Carson Leaves the Command Post

Before leaving the command post, Inspector Carson briefed Inspector Linton. He discussed the injunction scheduled for the following day in Sarnia at 9:00 a.m. at which A/D/S/Sgt. Wright would give evidence on behalf of the police. He mentioned that videos taken from the helicopters had identified most of the occupiers in the park. At 7:00 a.m. the next day, concrete barriers would be placed at the east end of Ipperwash Beach.

Also discussed was the gunfire heard the previous evening. It could not be established whether it was from an automatic or semi-automatic weapon. Nomex coveralls were en route from Edmonton to Ipperwash, the ASP batons were being distributed to the officers, and the canine units had arrived. Inspector Carson explained to Inspector Linton how to page the TRU in the event the unit was required.

Inspector Carson went off duty at about 7:00 p.m. and went to the private home of friends for dinner in Forest. He had arranged to meet A/D/S/Sgt. Wright later that evening to discuss his evidence at the injunction hearing the following morning in Sarnia. John Carson said, it had “been our position from the outset” and it “continued to be our position” that before the OPP would contemplate any action with regard to the occupation, it was necessary for MNR to obtain a court injunction.

As he left the command post that night, Inspector Carson was “optimistic” — “status quo for the night,” “injunction application tomorrow morning,” “and see what flows from that.” As Inspector Linton assumed the role of Incident Commander and John Carson left the OPP command post, he thought it extremely unlikely that anything significant would happen that evening.

As Inspector Carson drove to his friend’s home in Forest for dinner, it was his expectation that the night of September 6 would be “status quo” — “we would maintain the checkpoints and the patrols,” monitor the area with “night vision” equipment, and “basically sit tight” and “see what happens with the injunction in the morning.”

