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## Chapter 14 - Process of the Review

### 14.1 Introduction

This was an independent review authorized by Order-in-Council. It was not a public inquiry. I had no authority to compel the attendance of witnesses or the production of documents. The mandate required me to review and consider the regulatory regime for the production of meat in Ontario and in doing so simply provided that I could “request any person to provide information or records . . . and hold public and/or private meetings.”

### 14.2 Participation by Ontario Government Employees

The Order in Council directed all government ministries to assist me “to the fullest extent” and the employees at the Ministry of Agriculture and Food (OMAF), the Ministry of Health and Long-Term Care (MOHLTC) and the Ministry of Natural Resources (MNR) were all encouraged to participate in the process through memoranda issued by their respective deputy ministers. The staff of those ministries were assured that their co-operation, “absent any wrongdoing” would not result in any negative disciplinary repercussions. However, many of the meat inspectors expressed concerns about the effectiveness of this protection and through the auspices of the Ontario Public Service Employees Union obtained a clarification which provides that “no adverse employment action will be taken against any employee or any contractor, because that person, acting in good faith, makes representations to or discloses evidence to the Meat Inspection Review.”<sup>1</sup>

In my view, the fact this exercise was required highlights the need for legislation of general application that provides such protection. The principal concern is the public interest. At no time should anyone in the public service who identifies a public health risk be deterred from disclosing that information in good faith because adverse employment consequences could ensue.

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<sup>1</sup> We needed a name by which we could be identified and settled on Meat Inspection Review early on although the meat regulatory and inspection regimes encompass much more than meat inspection.

In the opening paragraph of its recent report to the President of the Privy Council for Canada, the Working Group on the Disclosure of Wrongdoing makes the following statement which I endorse:

*An effective regime for the identification, disclosure and correction of wrongdoing . . . provides public servants with the tools and support they need to reveal and correct instances where conduct and decision-making fall short of the high standards expected in public institutions. In addition, a trusted disclosure regime can make a significant contribution to public service morale and conduct, and to public confidence in government.<sup>2</sup>*

As it turns out, there is such protection for public servants in Part IV of the *Public Service Act*<sup>3</sup> that was passed by the Legislature in 1993, but never proclaimed.

**I recommend that the provincial government consider enacting legislation to provide “whistle blower” protection for public servants akin to that provided for in the unproclaimed Part IV of the *Public Service Act*.**

### 14.3 Time Line

When I was initially approached to conduct this Review, the time allotted for its completion was the subject of some discussion. It was difficult to estimate the time required for a task which was essentially investigative in nature and for which no procedural process had been established. Although I was assured the government of Ontario was committed to acting on the recommendations and anxious to have a report as soon as possible, I, of course, needed to be sure that there was sufficient time to do a credible job. The date we settled on was April 30, 2004 with a provision that this date could be extended. By early March, it became apparent that the April 30 deadline was not achievable and, at my request, it was extended to June 30, 2004.

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<sup>2</sup> Government of Canada, *Report of the Working Group on Disclosure of Wrongdoing*, 2003.

<sup>3</sup> S.O. 1993, c. 38 (not proclaimed).

## **14.4 Procedure**

Once authorized to proceed, it was up to me to decide on the process, subject, of course, to the limits prescribed by the Order in Council. I was fortunate to be able to retain counsel almost immediately and together we settled on the approach we would take.

The first step was clear. I needed to identify the stakeholders and invite their participation. Apart from the various ministries, health units and relevant government agencies, our list of 366 included all of the licensed abattoirs, deadstock collectors, receiving and rendering plant operators, livestock associations, animal welfare groups and retail associations. I then corresponded with these many individuals and groups requesting their submissions and established a website to post information as the Review progressed.

The purpose of this Review is to strengthen public health and safety and business confidence. In order for the report to be worthy of the public's confidence, the process had to be open, fair and thorough. At the outset, I was concerned that it would be a challenge to achieve these goals given the time frame and procedural limitations of the mandate. On the other hand, without the sceptre of fault looming in the background, I thought this process could perhaps provide a platform for a more co-operative and constructive discussion of the issues relating to meat safety and I believe that has occurred.

## **14.5 Consultations**

### **14.5.1 Private Meetings**

Once we had reviewed and considered the relevant legislation and regulations, we embarked on an extensive and very productive series of meetings with key personnel at OMAF, MOHLTC and MNR as well as representatives from the many stakeholder organizations that responded to our request for input. We also met with numerous individuals who were involved in the meat industry in various capacities and who had information, concerns and insights to share with us. I am grateful to all of those to whom

we spoke. Every meeting was worthwhile and no one who requested a private meeting was refused.

### 14.5.2 Public Meetings

Although there was no provision in the terms of reference for the calling of witnesses, I thought it important to provide a forum for those interested in speaking publicly about the issues I was being asked to address. As a result, arrangements were made for two days of public meetings. The first was held in Peterborough on March 24, 2004 and the second, one week later, in London. The notices of the meetings that were published in advance asked interested parties to provide us with their submissions in writing and estimate the time they would require so that we could ensure that all who attended and wished to speak were given the opportunity. The meetings were a resounding success. Not only were the presentations helpful to me, but the meetings gave those with competing interests an opportunity to hear and consider a variety of perspectives. I heard 17 presentations in Peterborough and 16 in London. I am grateful to all of those who prepared submissions and attended to present their views.

The public meetings were recorded and verbatim transcripts of the proceedings posted on the Review's website.<sup>4</sup>

### 14.5.3 Tours

I was persuaded that I would not be able to properly apprehend the task before me without witnessing the various operations that constitute the meat industry. As a result, the Review staff and I toured the following facilities:

Norwich Packers Limited  
Thames Road Country Meats  
Metzger Farms Meat Market  
T. & R. Sargent Farms Limited  
Better Beef Limited  
Weston Abattoir Limited  
Bellwood Poultry Limited

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<sup>4</sup> See Appendices L and M.

Springer's Meats and Deli  
Laziz Meat and Deli  
Gietl's Fine European Meats and Sausages  
Sikorski Sausages Company Limited  
Central By-Products and Oxford Dead Stock Removal Limited  
Ontario Livestock Exchange Inc.  
Denfield Livestock Sales Ltd.

At most locations, we met with the owners or managers of the particular businesses who patiently responded to our many inquiries. I am indebted to each of them.

Prior to my appointment to conduct this Review, I had not been inside a slaughterhouse. It was one of life's experiences that I had been prepared to forego; something I suspect I shared with any number of others. For me, at least, it was easy to make the direct transition from cattle in the field to beef in the supermarket. I really did not give much thought to the steps in between. These tours, then, were very instructive. Not only did I learn how meat was produced, but I also witnessed the reality of it - from the 1,500 head of cattle processed each day in the highly mechanized environment of Better Beef Limited in Guelph to the kill floor at Thames Road Country Meats in Huron County where the owner and one employee were processing one of only a few animals slaughtered in that facility each week. There was no better way for me to appreciate the crisis in the deadstock industry than to witness the piles of dead calves at Oxford Deadstock Removal Limited and to listen to the owners explain with frustration the challenges facing their industry. Nor could I have properly understood the processes of curing, smoking and fermenting and the reasons for a comprehensive system of inspection for free standing meat processing plants without the benefit of the education provided at Springer's Meats and Deli and Metzger Farms Meat Market.

## 14.6 Expert Advisory Panel

The modern approach to food safety is science-based and expert advice was required to assist me in assessing the effectiveness of the current regulatory regime and in considering measures for strengthening it. In selecting

members of the panel, I attempted to ensure the group would reflect the necessary diversity of experience and perspective that was required. I am indebted to the co-chairs of the panel for their guidance in the selection process.

When the panel was first constituted, the issues that we believed had to be addressed were identified and a strategy devised to facilitate their consultations. The plan of action had each member of the panel contributing his particular expertise to a collective effort that would result in a report to me from the panel addressing the pertinent scientific issues. In order to bring further experience and perspective to bear, the panel determined that the report, once drafted, should be circulated to other public health and food safety specialists for their review. To this end, a one-day conference was convened in Toronto with myself, the Review staff, the panel and the invited reviewers in attendance for the purpose of discussing the conclusions and proposals in the panel's preliminary report. Finally, with the benefit of these additional views, the panel completed its report and submitted it to the Review with its recommendations.

The panel consisted of the following individuals:

**Ronald L. Doering, B.A., LL.B., M.A., LL.D.**, (Co-chair), is the former President of the Canadian Food Inspection Agency (CFIA) and now practices law with the Government Relations and Regulatory Affairs Group in the Ottawa offices of Gowling Lafleur Henderson LLP where his practice is primarily in the areas of agriculture and food law, environmental law and public health law and policy. He has over 30 years experience in law and public administration. Before joining Gowlings, he held a number of senior positions in the federal government. He has written and lectured widely on law and public policy, most recently on environmental regulations, food safety, biotechnology regulations, and regulatory reform and risk management. He is an adjunct Professor, Ontario Agricultural College, University of Guelph.

**Scott McEwen, D.V.M., D.V.Sc., Diplomate A.C.V.P.**, (Co-chair), is a Professor in the Department of Population Medicine, Ontario Veterinary College, University of Guelph. His research focuses on the epidemiology of

foodborne infections in food animal populations, particularly *E. coli*, antimicrobial resistant organisms, *Salmonella* and other pathogens, as well as risk factors of foodborne illness in humans. Since 1986, Dr. McEwen has taught food safety and advised over 25 graduate students. He has authored over 95 scientific journal publications. He consults on food safety, antimicrobial resistance, epidemiology and other veterinary public health matters with governmental and non-governmental organizations in North America and Europe, notably various food animal industry groups, Health Canada, the Alliance for the Prudent Use of Antibiotics, the United States Food and Drug Administration, and the World Health Organization.

**Robert Clarke, B.Sc., D.V.M., Ph.D.**, is currently a Visiting Professor of Epidemiology and Community Medicine in the Faculty of Medicine, University of Ottawa. He also serves as the Executive Director of the McLaughlin Centre for Population Health Risk Assessment, Institute of Population Health. Prior to joining the University of Ottawa, Dr. Clarke was Executive Director of Laboratories for the CFIA. In this position, he was responsible for one of the largest national laboratory systems in Canada, comprising over 800 personnel at 16 sites. In previous positions, Dr. Clarke managed scientific programs at Health Canada, and Agriculture and Agri-Food Canada. He obtained his Doctor of Veterinary Medicine degree in 1976 and a Ph.D. in Veterinary Microbiology in 1985.

**Mansel Griffiths, B.Sc., Ph.D.**, holds an Industrial Research Chair in Dairy Microbiology in the Food Science Department, University of Guelph. He is Program Chair for the Masters of Science in Food Safety and Quality Assurance and is the Director of the Canadian Research Institute for Food Safety, a research collaboration between the federal and provincial governments and the University of Guelph. His research includes rapid detection of foodborne pathogens, growth and survival of microorganisms in foods, and beneficial uses of microorganisms. Dr Griffiths has authored over 200 articles and supervised 35 graduate theses. He serves on editorial boards of national and international food science journals. He is a member of the International Dairy Federation working group on milk-borne pathogens and the Expert Scientific Advisory Committee for Dairy Farmers of Canada.

**David McEwen, D.V.M.,** is President of McEwen Agri-Consulting Inc., consultants to the agriculture and food sectors. He has extensive experience in federal and provincial regulatory agencies. Since founding the company six years ago, he has worked with food safety systems from a planning, development and maintenance perspective in a variety of industries. His experience includes 15 years with the CFIA, in both Meat Hygiene and Animal Health. More recently, Dr. McEwen has conducted audits in provincial abattoirs and assisted OMAF with changes in community sales and deadstock programs. He has provided HACCP guidance to both governments and industry, including the meat-processing sector and on-farm programs (Canadian On-Farm Food Safety Program). Prior to joining CFIA, he operated a veterinary practice for a number of years.

**Graham Pollett, M.D., M.H.Sc., FRCPC, FACPM,** is Medical Officer of Health and Chief Executive Officer for the Middlesex-London Health Unit. He has over twenty years of rural and urban public health experience, having served in the past as Medical Officer of Health for the Region of Halton and the City of North York. A graduate of Dalhousie University Medical School, Dr. Pollett completed a residency in community medicine at the University of Toronto. He was Director of the Community Medicine Residency Program at the University of Toronto from 1989 to 1991. Dr. Pollett is Adjunct Professor in the Departments of Family Medicine and Epidemiology and Biostatistics, University of Western Ontario.

**Douglas Powell, B.Sc., Ph.D.,** is currently an Associate Professor in the Department of Plant Agriculture, University of Guelph, and Director of the Food Safety Network, where he leads a diverse research team that integrates scientific knowledge with public perceptions to garner the benefits of a particular agricultural technology or product while managing and mitigating identified risks. Dr. Powell completed his PhD in Food Science in 1996, applying risk communication theory to issues of food safety and agricultural biotechnology. Dr. Powell is a consultant for industry and government, is a frequent speaker on public issues of science and society, and continues to work as a freelance journalist. McGill-Queen's University Press published his first book, *Mad Cows and Mother's Milk*, co-authored with Bill Leiss, in 1997.

**W. Ronald Osborne B.Sc., M.Sc. Ph.D., P.Ag.,** is Vice-President of Quality Assurance, Food Safety, and Technical Services, Caravelle Foods, Brampton Ontario. Previously, he was a Professor of Animal Science/Food Science and Chair of the Department of Food Science, University of Guelph. At Caravelle Foods, he has advised raw material suppliers on applying HACCP-based food safety programs and humane handling in their slaughter and boning operations. The Ontario Food Protection Association and the Canadian Meat Council recognized Dr. Osborne for his technical contributions to food safety and the advancement of meat science and service. The Ontario Independent Meat Processors awarded him a lifetime membership in 1996. He currently serves on academic, government, and industry advisory boards, committees, and councils.

The panel was ably supported and assisted by:

**Richard Arsenault, D.V.M.,** is currently completing a M.Sc. in veterinary epidemiology in the Department of Population Medicine, University of Guelph, on leave from the CFIA. He is conducting research on *Salmonella* and *Campylobacter* in Ontario broiler chicken flocks. Dr. Arsenault received his Doctor in Veterinary Medicine degree in 1987 and after 2 years of small animal practice, moved to British Columbia to join the federal meat inspection service. He worked in various provincially and federally registered slaughter plants until 1991, when he was promoted to a national headquarters position with the CFIA. Before entering his current graduate program, he was involved in a number of national meat inspection programs, including the Food Safety Enhancement Program, and auditing of federally inspected establishments.

**David Pearl, D.V.M., M.Sc.,** is currently a PhD candidate in the Department of Population Medicine, University of Guelph. Dr. Pearl obtained his DVM from the University of Guelph in 2001. His doctoral research training is being funded through a fellowship from the Canadian Institutes of Health Research. He is studying the epidemiology of *E. coli* O157:H7 among humans in Alberta, and his research integrates the use of spatial statistics, molecular epidemiology, and multi-level modelling for answering epidemiological questions and improving surveillance systems.

His research interests include disease surveillance and the epidemiology of zoonotic and foodborne disease.

A list of those who attended in Toronto to conduct the peer review of the advisory panel's draft report can be found at Appendix O to this Report.

## **14.7 Research**

There was a need for substantial research capacity within the Review. There is a wealth of academic research and government material related to all facets of food safety here and around the world. The Review has, when necessary, had the assistance of those on the expert advisory panel to identify and locate information.

Apart from the research required to properly understand and appreciate the scientific issues, considerable research was required in order to identify and access documentation relating to the several aspects of the current regulatory regime.

As part of our request for documentation from relevant government agencies, I forwarded a questionnaire to each of the thirty-seven health units in order to collect information on the activities of each with respect to the various public health services and programs they were delivering in relation to food safety.

Although I had no power to compel production, and notwithstanding delays encountered as a result of documents being reviewed over concerns of privilege, I am satisfied that we had access to all of the documentation we required in order to fulfill the mandate.

## **14.8 Acknowledgments**

I would like to acknowledge the many people who have contributed to this Report.

First, I wish to thank the extraordinary group of people with whom I have worked over the past six months.

My counsel, Peter Kryworuk, Duncan Grace and Carolyn Brandow for their support and sound advice throughout. Each demonstrated a level of commitment and perserverance I have seldom seen.

Our administrator, Joy Beattie, for the marvellous job she did keeping us all on track and dealing with the mountain of details in the production of the report.

Pat File, our researcher, who, with her legal training, experience in government and current vocation of farming, provided valuable insights on so many issues.

Ryan Sills, who spent the last three months of his articles with us, for his capable assistance to counsel and me.

And, our assistants, Judy Nelles and Sherry Nickles, for their tenacity in dealing with the countless drafts and revisions. Judy's enthusiasm and Sherry's word processing wizardry were both essential to this report making it out the door.

My thanks as well to Peter Rehak, our media consultant, for his able advice and assistance; Albin Kmet, our website developer; Tammy Gooding, our technical advisor; and Honey Design, Marketing & Communications who designed the cover of the Report.

I have mentioned the significance of the tours we took of the various facilities associated with the production of meat. I am grateful to Dr. Robert Hayes of OMAF and Dr. James Christian, an OMAF consultant, who acted as our guides on many of those trips, Richard Barrette of the London-Middlesex Health Unit who accompanied us on others and Doug Rombough of the OSPCA who arranged for the tours of the sales barns.

I would also like to thank all of those who provided us with their written submissions and everyone who appeared and spoke at the public meetings. It was apparent that much thought and effort went into all the presentations.

I greatly appreciate the work of the co-chairs and members of the Expert Advisory Panel and all those who came together to review their preliminary

work on March 25, 2004 in Toronto. I was extremely impressed, first with the willingness of everyone to participate and, second, with the dedication of each to public health and food safety. Although the work of our experts was a true team effort, I do want to acknowledge the contributions of Dr. Scott McEwen, who was always available to answer our questions, Dr. Richard Arsenault, who undertook a technical comparison of certain regulations for us and Dr. Douglas Powell who provided us with the paper on the role of the media.

And finally, I wish to acknowledge and thank all of those at the various ministries, agencies, professional associations, commodity groups and industry associations who cooperated so readily in answering our questions and providing us with the information we requested. This review could not have been done without their participation.