

# THE CORNWALL PUBLIC INQUIRY

## EXECUTIVE SUMMARY ONTARIO PROVINCIAL POLICE AND ITS COMMISSIONED OFFICERS

On November 4 2004, the Premier of Ontario, Dalton McGuinty announced that the Government of Ontario was committed to calling a public inquiry into “Project Truth”. On April 14 2005, the Lieutenant Governor in Council for the Province of Ontario, pursuant to the *Public Inquiries Act, R.S.O. 1990, c. P. 4*, appointed The Honourable Mr. Justice G. Normand Glaude as Commissioner (Commissioner). The Commissioner’s mandate is set out in the Terms of Reference as follows:

“2. The Commission shall inquire into and report on the institutional response of the justice system and other public institutions, including the interaction of that response with other public and community sectors, in relation to:

- (a) allegations of historical abuse of young people in the Cornwall area, including the policies and practices then in place to respond to such allegations, and
- (b) the creation and development of policies and practices that were designed to improve the response to allegations of abuse

in order to make recommendations directed to the further improvement of the response in similar circumstances.

3. The Commission shall inquire into and report on processes, services or programs that would encourage community healing and reconciliation in Cornwall.

4. The Commission may provide community meetings or other opportunities apart from formal evidentiary hearings for individuals affected by the allegations of historical abuse of young people in the Cornwall area to express their experiences of events and the impact on their lives.”

The Commissioner received submissions from interested individuals and organizations for standing in relation to both Phase I and Phase II of the Inquiry. The Ontario Provincial Police and its Commissioned Officers, both current and retired (OPP), applied for and were granted standing for both Phase I and Phase II of the Inquiry by the Commissioner on November 17 2005.

The Hearings in respect of Phase I commenced on February 13 2006 with the presentation by Commission Counsel of contextual evidence from a number of renowned expert witnesses, the purpose of which was to put the factual evidence to be heard into a historical, legal and social framework.

Over the next three years ending January 29 2009 Commission counsel presented Phase I evidence from witnesses as well as by way of overviews of documentary evidence and factual overviews. The Commission heard evidence from institutional witnesses in respect of corporate presentations, alleged victims and related evidence, alleged perpetrators, context witness evidence, and finally institutional response evidence in relation to the various public institutions granted standing at this Inquiry.

As one of the public institutions that was central to the Commissioner's mandate, the OPP participated fully at the Inquiry from its inception to the conclusion of the evidence. Out of respect for the Commissioner and the Inquiry process and the other parties with standing, as well as the alleged victims and the community at large, counsel for the OPP attended the Inquiry on a daily basis.

Moreover, the OPP Inquiry team led by A/Detective Superintendent Colleen McQuade and the OPP legal team endeavored to assist the Commission to address its mandate by responding as cooperatively and efficiently as time and circumstances would permit to the various requests and demands made by the Commissioner and his counsel from even prior to the Standing Hearings until the conclusion of the Phase 1 evidence.

The Final Written Submissions of the Ontario Provincial Police and its Commissioned Officers which follow this Executive Summary include the OPP's recommendations to the Commissioner, the relevant investigations inquired into during the proceedings as a whole, and, the institutional response evidence of the OPP in particular and evidence relevant to that institutional response.

The Recommendations submitted by the OPP address the issues of training, standardized sexual abuse protocols, human resources (abuse issue officers), access to information by law enforcement agencies, sex offender registries, enhanced DNA legislation, justice sector inter-disciplinary teams, standardized "disclosure" tracking systems, prioritizing sexual offence prosecutions in the courts, the de-genderizing of sexual assault victim services, and the commitment of government at all three levels to implement them for the protection of children and the communities in which they live.

We have endeavoured to address as many of the relevant investigations inquired into during these proceedings as the limited time available to us permitted. The Commission heard from over one hundred and seventy (170) witnesses during the course of the Inquiry. Of those who spoke to dealings with

current and retired members of the OPP, some were critical of the OPP and/or the Commissioned and Non-Commissioned Officers whom they encountered during the events addressed during their evidence. Some of that criticism was valid, some was uninformed, some was unfair, and much of it was refuted by the witness under cross-examination or during our institutional response. On the other hand, many of the witnesses whose evidence touched on the OPP institutional response, including victims as well as witnesses from other institutions, had very positive things to say about their experience.

The institutional response evidence of the OPP commenced on October 29 2009. It occupied 29 days and comprised 13 witnesses. The number of OPP witnesses that were originally identified by Commission counsel, who would be leading their evidence, had numbered as many as 28. All were prepared by OPP counsel and twenty-three (23) were interviewed by Commission counsel; however, the amendment of the mandate on October 22 2008 resulted in a truncation as well as an intensification of the hearing process that was stressful and exhausting both for the witnesses who ultimately testified and their counsel. The OPP's Corporate Presentation evidence was heard in the spring of 2006 before the issues that would dominate the Commission's agenda had crystallized, at least in the minds of the OPP legal team. The Corporate Presentation evidence, as with all evidence at the Inquiry, was led by Commission counsel and, consequently was informed by their understanding of the relevant issues at the time. In any event, the Corporate Presentation was a "look back" at how things were done in the 1990s and before, in keeping with section 2 of the Commission mandate which requires the Commission to inquire into and report on both (a) "...the policies and practices then in place to respond to such allegations;" and (b) "the creation and development of policies and practices that were designed to improve the response to allegations of abuse."

During the OPP's Institutional Response, Deputy Commissioner Chris LEWIS, testified with respect to various changes which have taken place in the OPP in respect of training, sexual abuse management protocols, the use of abuse issue officers, crime prevention initiatives aimed at the protection of children, human resources and the assignment of Case Managers to major cases, how the OPP addresses the media today, investigative support including tactical analysis, officer communication and information systems, Project Plan funding and how these changes over the years have had a positive effect on the investigation of historical sexual assault cases, citing a recent historical sexual assault investigation in East Region.

Deputy Commissioner LEWIS explained that it must be understood that the OPP today is a completely different police service than it was at the time of Project Truth. Things have not stood still since Project Truth. He cited changes to the *Police Services Act* in 1998; the Policing Adequacy Standards that resulted in significant policy and training changes throughout policing in Ontario; the report of The Honourable Justice Archie Campbell following the trial of Paul Bernardo and the Major Case Management framework that followed; numerous municipal police services amalgamating into the OPP resulting in significant growth in the OPP; technology and the real-time communications advantages technology brings; the acquisition of additional physical resources; substantial enhancement to the OPP's investigative personnel by government; a total re-alignment of OPP General Headquarters structure; and a complete turnover in OPP senior management, that has resulted in further changes.

Deputy Commissioner Lewis told the Inquiry that since Commissioner Fantino was appointed, he along with his Deputy Commissioners have reached across the entire organization to all personnel to find out what the OPP is doing well and where the OPP needs to improve as an organization. This has been accomplished through "Frontline Focus Groups" which resulted in the "Efficiency Reviews", which are ongoing efforts to ensure that the OPP is as efficient as it can be with its present resources; to identify any physical and human resource needs; and to build a business case for additional personnel for presentation to municipal and provincial governments.

The Commission is empowered to make findings of misconduct. This power is derived from s. 5(2) of the *Public Inquiries Act*, R.S.O., 1990, Chapter P.41.

**Rights of persons before misconduct found**

5(2) No finding of misconduct on the part of any person shall be made against the person in any report of a commission after an inquiry unless that person had reasonable notice of the substance of the alleged misconduct and was allowed full opportunity during the inquiry to be heard in person or by counsel. R.S.O. 1990, c. P. 41, s. 5(2)

The *Public Inquiries Act*, however, does not define what acts or omissions constitute misconduct. In respect of the issue of s. 5(2) Notices of alleged misconduct the OPP and its Commissioned Officers adopt the submission of the Ontario Provincial Police Association:

This Inquiry has been examining, *inter alia*, a number of OPP investigations. It is submitted the officers conducting those investigations did so in a professional and competent fashion. It is important to consider the context in which these investigations took place and not to judge the quality of the investigations by simply saying that more could have been done, or it could have

been done differently. No human endeavour is immune to the criticism that perfect hindsight offers. To say the investigations were conducted in a professional and competent manner does not mean that there were not mistakes made. However, the mistakes are considered from the point of view of why they happened, it is submitted that none warrants a finding of misconduct.

We trust that when reaching any conclusions about the performance of our Commissioned Officers and of the organization as a whole during the periods under scrutiny, the Commissioner (as well as the public at large) will rely upon standards of conduct that could reasonably have been expected of them at the time when the conduct under consideration occurred.

A final word. This has been a long and often difficult process for all involved, not the least for those who were directly involved as witnesses. Terrible and painful memories have been stirred up. For those who did summon the courage to testify, and for their loved ones, we sincerely hope that some good will come from this effort, and that our children and grandchildren will be the beneficiaries.

And to the people of Cornwall, who extended a warm welcome to those of us who came from other places to participate at this Inquiry, we sincerely thank you for all the kindnesses you showed us over the past three years and assure you that they, and you, will never be forgotten.

The **Ontario Provincial Police** respectfully submit the following **RECOMMENDATIONS** for consideration by The Honourable G. Normand Glaude, Commissioner of The Cornwall Public Inquiry.

## **1. TRAINING**

While the Ontario Provincial Police Academy and the Ontario Police College offers training in General Investigative Techniques and in Sexual Assault Investigations historically, specialty training of police officers in respect to the investigation of historical sexual assaults and male victimization has not been offered. While recently, the Ontario Provincial Police has offered Crime Conferences and Conferences for Police Services, Children Aid Services and Victim and Witness Assistance personnel focused on understanding and responding to male victimization, a review of the present training programs to address the need for specialized training is now underway.

**IT IS RECOMMENDED THAT** the Ontario Police College in consultation with the Sub-Committee of the Provincial Crime Management Review Committee which is composed of representatives of the OPP Academy, review all of the present training programs offered by the Ontario Police College and the OPP Academy in respect of the investigation of sexual assaults, and where not addressed, propose training programs or training modules that should be added to existing training programs that address the following areas: the investigation of historical sexual

assaults, understanding and responding to male victimization, the investigation of sexual offences against children and joint training of police and CAS workers.

## **2. STANDARDIZED PROTOCOL and AMENDMENTS TO PROVINCIAL LEGISLATION TO INCLUDE “DUTY TO ADVISE”**

Evidence heard at The Cornwall Public Inquiry revealed that sexual abuse protocols vary in application and content across the Province and what is needed is consistency in approach. The OPP recently approached the Ontario Association of Chiefs of Police and discussed the concept of developing a standardized Provincial Protocol for Sexual Abuse Management fully understanding that a standard protocol would require some autonomy due to local nuances. As a result a Committee has been struck and will use the recently developed Durham Regional Police model as a starting point for further discussions with the Ontario Association of Children’s Aid Societies.

**IT IS RECOMMENDED THAT** this Commission endorse the development of a standardized Provincial Protocol by the Ontario Association of Children’s Aid Societies and the Ontario Association of Chiefs of Police which would provide for consistency in approach with respect to the roles of the CAS and the Police in sexual abuse investigations, including historical sexual abuse investigations permitting local CAS and local Police Services the freedom to include addendums to the Provincial Protocol to address local issues.

**IT IS FURTHER RECOMMENDED THAT** this Committee, also review and consider whether legislative change should be proposed to amend the *Child and Family Services Act* such that in addition to the present “*duty to report*”, that there should be a “*duty to advise*” employers and/or volunteer organizations of alleged sexual abuse, whether present or historical, in cases where the allegations are made against an individual whose employment or volunteer activities brings them into close association with children.

## **3. HUMAN RESOURCES - ABUSE ISSUES OFFICERS**

A comprehensive overall OPP staffing model has been developed so that the OPP can properly assess its staffing needs based on workload, and articulate those needs to municipalities and to the Government of Ontario to support an enhanced complement. As part of this staffing model the Commissioner’s Committee has approved a plan where each Detachment in the OPP would be staffed with an Abuse Issues Officer, who would be available as a resource to the Case Manager and Investigators in respect of child abuse and sexual assault investigations.

**IT IS RECOMMENDED THAT** this Commission endorse that part of the OPP staffing model approved by the OPP Commissioner's Committee which calls for the provision of an Abuse Issues Officer in each OPP Detachment.

#### **4. ACCESS TO INFORMATION BY LAW ENFORCEMENT AGENCIES**

Law enforcement agencies need "24/7" access to all available information with respect to known/potential sex offenders (including historical) to provide accurate threat assessments in a timely manner; to facilitate issuance of public safety alerts; and to prioritize police resource allocation in the interest of public safety. In order to achieve this goal it will be necessary for the Ministry of Children and Youth Services, the Ministry of Community Safety and Correctional Services, Ontario Association of Children's Aid Societies and the Ontario Association of Chiefs of Police to work together to develop a policy for a mechanism to interface with all relevant provincial information/databases with respect to known/potential sex offenders.

**IT IS RECOMMENDED THAT** in order to address the critical need for law enforcement agencies to have reliable access to all relevant data/information from all other mandated child protection agencies and corrections at both the Provincial and Federal levels, that the Ontario Government develop policies to establish a mechanism that permits law enforcement agencies to interface with all associated Provincial databases available with respect to known/potential sex offenders and to provide the funding to do so.

**IT IS FURTHER RECOMMENDED** in respect of Federal databases available with respect to known/potential sex offenders that the Ontario Government, the Ontario Association of Chiefs of Police and the Ontario Association of Children's Aid Societies present this need for access to information/databases to the appropriate Departments of the Government of Canada to permit and facilitate access by Ontario municipal and provincial law enforcement agencies to Federal information/databases available with respect to known/potential sex offenders.

#### **5. SEX OFFENDER REGISTRIES**

Ontario's *Christopher's Law (Sex Offender Registry), 2000* provides for the establishment and maintenance of a provincial sex offender registry and requires persons convicted of a sex offence or found not criminally responsible of a sex offence on account of mental disorder to register in person at their local police station on certain triggering events (for example, upon being released from custody for a sex offence) and annually thereafter. *Christopher's Law Ontario Sex Offender Registry Amendment Act, 2008*, proclaimed on December 5, 2008, allows police to track more sex offenders in the community.

Sex offenders are very transient and commonly move from province to province and are difficult to monitor. All Canadian police services require the assistance of Federal and Provincial Corrections in order to monitor all sex offenders who are incarcerated, paroled or on probation. In August 2008, the Canadian Association of Chiefs of Police issued a resolution to request that the Federal Government consider using the Ontario Sex Offender Registry as a model for required enhancements to the National Sex Offender Registry.

**IT IS RECOMMENDED THAT** the legislative and software features of the Ontario Sex Offender Registry should be considered as a model for enhancing the National Sex Offender Registry Program, including but not limited to:

- (i) mandated automatic registration of sex offenders upon conviction rather than pursuant to a Judge's Order;
- (ii) insuring members of all police services in Canada have access, use and disclosure of registered offender information for crime prevention or law enforcement purposes;
- (iii) creation of an electronic link between all Provincial and Federal Corrections Agencies to the National Sex Offender Registry, which will assist provincial centres and police services in identifying offenders being released from institutions and ensure their compliance;
- (iv) ensuring the police services of jurisdiction verify the registered offender's reported home address allowing data matching which includes comparison of other electronic applications with the National Sex Offender Registry that is currently prohibited by the *Sex Offender Information Registration Act*;
- (v) mandating Federal and Provincial and Correctional Services to notify Sex Offender Registry Centres of offender release dates;
- (vi) amending the *Criminal Code of Canada* to allow for hybridization of the first offence provision in section 490.031("Fail to comply with Order"); that to support municipal and provincial police services in implementing the National Sex Offender Registry (using the Ontario Sex Offender Registry as a model) the Federal Government provide the programs development, implementation and maintenance costs required; and
- (vii) that the Government of Canada through the Minister of Justice and Attorney General and the Minister of Public Safety conduct a review and consider adoption of Ontario's Sex Offender Legislation and Software Application as a model to maximize public safety in all of Canada's Provinces.

## 6. ENHANCED DNA LEGISLATION

The *DNA Identification Act*, which establishes the National DNA Data Bank, is federal legislation that came into force on June 30, 2000. The federal government is responsible for the *DNA Identification Act* and the NDDDB. The NDDDB is operated and maintained by the RCMP, and includes: Convicted

Offenders Index (COI), containing sample information from offenders convicted of specified primary offences (sexual assault, murder, aggravated assault) and secondary offences (indecent acts, robbery, breaking and entering with intent. DNA helps the police protect the public by increasing the chance of detection, which is a more powerful deterrent than tougher sentences; brings more offences to justice and reassures communities; ensures that high risk offenders are linked to other and previously unsolved crimes if their DNA matches on arrest; makes the process easier for victims (particularly in sexual offences) for the significant proportion of cases where DNA evidence provokes early guilty pleas and removes the need for the cross-examination.

**IT IS RECOMMENDED THAT** the Ontario Association of Chiefs of Police work with the Canadian Association of Chiefs of Police to address the need to enhance the authority to secure mandatory “upon arrest” DNA samples from accused persons charged with any form of child sexual exploitation/abuse offences for the purpose of recommending to the Federal Government (Minister of Justice and Attorney General) the necessary amendments to the *Criminal Code of Canada*.

## 7. JUSTICE SECTOR INTER-DISCIPLINARY APPROACH

Training of law enforcement officers relative to sexual abuse (including historical), child abuse, victim care, and male victimization has been enhanced over time. Case management expertise in the handling of multi-victim/multi-perpetrator/multi-jurisdiction cases has improved greatly over the years with experience and training. Partnerships (based on experience, early engagement and dedicated Crown resources) between law enforcement officers and Crown prosecutors have produced excellent results.

**IT IS RECOMMENDED THAT** the Ontario Government (through the co-operation between the Ministry of Community Safety and Correctional Services and the Ministry of the Attorney General develop and implement a justice sector inter-disciplinary team approach to Crown/Police/Judiciary training opportunities, consultation, and special prosecutions relative to sexual offences (including historical offences) committed against children and to provide the necessary funding to do so.

**IT IS FURTHER RECOMMENDED THAT** the Ontario Government establish inter-governmental protocols and inter-disciplinary teams to ensure that Crown prosecutors and assigned law enforcement officers engage in early consultations on investigations and prosecutions of child sexual offenders and to provide the necessary funding to do so.

**IT IS FURTHER RECOMMENDED THAT** the Ontario Government increase the capacity of the Ministry of the Attorney General to have dedicated fully trained and

experienced prosecutors assigned to child sexual exploitation, sexual assault and sexual abuse (including historical) prosecutions and to provide the necessary funding to do so.

## **8. STANDARDIZED DISCLOSURE TRACKING SYSTEM**

Police and Crown “disclosure “, and the lack of a formalized, codified, tracking system is one of the most critical issues for the justice system across Canada that needs to be addressed.

**IT IS RECOMMENDED THAT** the Ontario Government (through the Ministry of Community Safety and Correctional Services – Policing Services and the Ministry of the Attorney General) in association with the Ontario Association of Chiefs of Police and the Ontario Association of Crown Attorneys research and develop a “codified” policy that would address the standardization of methodologies to track disclosure in the justice system and provide the necessary funding to do so.

## **9. PRIORITIZE SEXUAL OFFENCE PROSECUTIONS**

The delays that are encountered by the police and crown attorneys in processing sexual assault cases through the courts impact negatively on all concerned; and most importantly, the victims who look to the justice system for assistance and closure.

**IT IS RECOMMENDED THAT** the Ontario Government (through the Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services – Policing Services) in association with the Ontario Association of Chiefs of Police and the Ontario Crown Attorneys Association develop and establish a ‘special’ fast track process to help ensure that cases involving sexual offences (including historical) are expedited in the courts and to provide the necessary funding to do so.

## **10. DE-GENDER SEXUAL ASSAULT VICTIM SERVICES**

Sexual assault victim services have traditionally focused on the female victim, including rape crisis centres in publicly funded Ontario hospitals.

**IT IS RECOMMENDED THAT** the Ontario Government (through the Ministry of the Attorney General, the Ministry of Health and Long-Term Care) in association with The Men’s Project and other Victim Advocacy Groups enhance the access to services for sexual assault victims in Ontario including the rape crisis centres in Ontario’s publicly funded hospitals, regardless of gender and to provide (i) training of service providers on the subject of male victimization and (ii) public education relative to equal access to services regardless of gender and to provide the necessary funding to do so.