

**IN THE MATTER OF THE INQUIRY INTO PEDIATRIC FORENSIC
PATHOLOGY IN ONTARIO**

**AND IN THE MATTER OF AN APPLICATION FOR
STANDING AND FUNDING
BY ABORIGINAL LEGAL SERVICES OF TORONTO
AND NISHNAWBE-ASKI NATION**

**NOTICE OF APPLICATION FOR STANDING AND FUNDING
of the ALST-NAN COALITION**

**THE APPLICANTS, ABORIGINAL LEGAL SERVICES OF TORONTO
and NISHNAWBE-ASKI NATION** (hereinafter the “ALST-NAN Coalition”) will
make an application before the Honourable Justice Stephen T. Goudge, Commissioner of
the Inquiry into Pediatric Forensic Pathology (hereinafter “Inquiry”), at 10:00 a.m.
Wednesday, August 8, 2007, or as soon thereafter as the application can be heard, at 108
Chestnut Street, Toronto, Ontario.

THE PROPOSED METHOD OF HEARING:

The Applicants request that the application be heard orally.

THE APPLICATION IS FOR:

1. An Order granting standing to the ALST-NAN Coalition at the Inquiry, with the right to participate as set out in section 5(1) of the *Public Inquiries Act*, R.S.O. 1990 Ch. P.41; and,
2. An Order granting funding to the ALST-NAN Coalition pursuant to section 14 of the Order-in-Council establishing the Inquiry.

THE GROUNDS FOR THE APPLICATION ARE:

1. The ALST-NAN Coalition has an interest which is directly and substantially affected by the subject matter of the Inquiry;
2. The infant mortality rate among First Nations is 2 to 3 times higher than the Canadian rate. The death rate among Aboriginal infants and preschoolers is 4 to 5 times higher than the Canadian rate. Aboriginal infants are 3 times more likely to have Sudden Infant Death Syndrome than the Provincial rate. Aboriginal people, therefore, are more likely than other members of the public to interact with the pediatric forensic pathology system, including the Office of the Chief Coroner;

3. Aboriginal people are over-represented as victims of homicide in Canada. Aboriginal people are more likely than non-Aboriginal people to be the subject of forensic pathology;

4. Aboriginal people are over-represented in the criminal justice system, and highly over-represented as persons accused of homicide. Aboriginal people constituted 23% of those accused of committing a homicide between 1997 and 2004. The Aboriginal community has an interest in ensuring that investigations and prosecutions meet high standards of quality control;

5. ALST was established for the purpose of assisting the Aboriginal community and its members to exercise control over the justice-related issues and factors that affect them. ALST's vision includes a community where its citizens have minimal exposure to the existing legal system. It also includes a community that promotes a positive environment related to justice issues, based on mutual understandings with non-Aboriginal groups and services. These groups and services include police, crown attorneys, judges, defence lawyers, the Office of the Chief Coroner, and Legal Aid Ontario;

6. NAN is an Aboriginal political organization representing 49 First Nation communities within the James Bay Treaty 9 territory and the Ontario portions of Treaty 5. NAN territory covers two-thirds of the province of Ontario. NAN's elected Executive Council (Grand Chief and three Deputy Grand Chiefs), together with individual NAN First Nation Chiefs, advocate on behalf of the people and communities of the NAN

territory. The Executive Council operates on a nation-to-nation basis with the governments of Ontario and Canada. Each Executive Council member is responsible for specific portfolios, such as justice, health, policing and government relations;

7. The ALST-NAN Coalition has developed considerable expertise with respect to Aboriginal peoples, including expertise with respect to the following issues relevant to the mandate of the Inquiry:

- (i) Aboriginal people and the justice system, including the systemic issues within the criminal justice system that impact Aboriginal accused and Aboriginal victims;
- (ii) The relationship between Aboriginal people and police, crown attorneys, and defence lawyers during investigations and criminal proceedings,
- (iii) The relationship between Aboriginal people and the Office of the Chief Coroner, and the specific challenges that exist when serving the Aboriginal community generally and remote First Nation communities, specifically;
- (iv) The establishment of best practices in relation to training, protocols, peer review, and oversight mechanisms of organizations and institutions that work with, and within, the Aboriginal community; and
- (v) The effectiveness and role of the Ontario legal aid system.

8. The subject matter of the Inquiry is of utmost importance to the ALST-NAN Coalition. The issues that will be raised by the Inquiry's proceedings and the potential recommendations of the Inquiry impact directly and substantially on the ALST-NAN Coalition's clients, members and constituents;

9. The ALST-NAN Coalition represents distinct ascertainable interests and perspectives bearing on the subject matter of the Inquiry. In light of its previous work and expertise concerning the systemic issues before the Inquiry, the ALST-NAN Coalition could greatly assist the work of the Commission in discharging its mandate;

10. The granting of standing and funding would enhance confidence amongst Aboriginal people in the justice system, and would be consistent with the fairness and efficiency of the Inquiry;

11. Section 5(1) of the *Public Inquiries Act*, R.S.O. 1990, c. P.41;

12. Inquiry's *Rules of Standing and Funding*, in particular, Rules 11, 14, 16, 19, and 20; and,

13. Such further and other grounds as counsel may advise and may be permitted.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the application:

1. The Affidavit of Derek Chum, sworn Friday, July 13, 2007;
2. The Affidavit of Deputy Grand Chief Alvin Fiddler, sworn Friday, July 13, 2007;
and,

Such further and other materials as counsel may advise and may be permitted.

Dated: July 16, 2007

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