

IPPERWASH INQUIRY -- PART TWO RESEARCH AND CONSULTATION PLAN FOR WORK COMMISSIONED BY THE INQUIRY

DRAFT

October 12, 2004

PROJECT	POTENTIAL RESEARCH PAPER	CONSULTATION PROCESS/ PROJECT
1)	<p>Description of Aboriginal Peoples in Ontario</p> <p>A summary description of the Aboriginal population in Ontario, including:</p> <ol style="list-style-type: none"> 1) Reserves and locations 2) Demographic analysis and trends 3) Geographic analysis 4) Socio-economic analysis and trends 5) Paper must account for urban and rural populations, north/south, on and off reserve 6) Comparison with non-Aboriginal populations in Ontario including: numbers, health, employment, income, family status, suicide rates, housing, water, life expectancy, birth rates, education, language 	<ul style="list-style-type: none"> • Draft paper to be circulated to Part Two parties for comment and submissions.
2)	<p>Land Claims in Ontario</p> <p>The purpose of the land claims in Ontario paper is to assist the Ipperwash Inquiry Commissioner to design practical recommendations concerning the land claims process and; provide an accessible description of the land claims process, set out the challenges presented by the existing process and suggest some alternative approaches to land claims and other disputes. Outline:</p> <ol style="list-style-type: none"> 1) Historical overview: why are there outstanding land grievances in Ontario? <ol style="list-style-type: none"> a) basis in history and law b) previous treatment by the courts c) current state of the law 2) Survey of current Ontario land/treaty claims: <ol style="list-style-type: none"> a) How many? Where? Description b) Current Status? 3) Federal role and fiduciary obligations? 4) What is – and should be – the role of the provincial government in resolving land and treaty claim disputes in Ontario? <ol style="list-style-type: none"> a) Scope of provincial jurisdiction? b) History of provincial practice in Ontario and elsewhere, including the Indian Commission of Ontario c) Current land and treaty claims framework in Ontario: Relevant provincial legislation, ministries, regulations and policies? d) Current and potential role of ONAS, MNR and other prov depts 5) How have – and should – land and treaty claims be resolved in Ontario? <ol style="list-style-type: none"> a) Legal and negotiation challenges? b) How are disagreements about the legal basis or legitimacy of a claim dealt with? c) Timeliness of existing processes? d) Summary of previous reports and recommendations : LaForest, ICO? e) Ont. action on those and after 1995? 6) Are there best practices/successful models that have been used in Ontario? 	<ul style="list-style-type: none"> • Draft paper to be circulated to Part Two parties for comment. • Roundtable or conference to discuss paper and potential options. • Final paper circulated to Part Two parties for final submissions. • Inquiry should seek submissions/support projects from parties on this subject also.

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<p>3)</p>	<p>Profile/Inventory of Sacred Sites and Aboriginal Burial Grounds and Sacred Sites in Ontario</p> <p>An inventory/description of Aboriginal burial grounds and other sacred sites in Ontario and an analysis of why sacred sites are important to Aboriginal peoples and potential options for protecting them:</p> <p><u>Identification of Sacred Sites</u></p> <ol style="list-style-type: none"> 1) Definition of sacred sites 2) How many? Where? Current Status? 3) If – and how – sacred sites acknowledged in treaties 4) Current profile/ process in Ontario. Gaps? 5) Are there best practices or successful models that have been used in Ontario or other jurisdictions to identify and list burial grounds and other sacred sites? <p><u>Protection of Sacred Sites</u></p> <ol style="list-style-type: none"> 6) Why are sacred sites important to Aboriginal peoples? Why are they flashpoints for disputes and confrontations? 7) Analysis of current Ontario legislation and practice, including: <i>Cemeteries Act</i>, other relevant legislation, common law and constitutional rules, scope of provincial authority 8) Analysis of non-Aboriginal rights, perspectives, expectations 9) Government’s obligations to Aboriginals/non-Aboriginals 10) Compare/contrast Crown land versus non-Crown land. 11) Whether – and how – to protect sacred sites, including best practices or successful models from other jurisdictions 12) How to acknowledge and reconcile competing expectations and rights of Aboriginal and non-Aboriginal stakeholders/landowners. Potential options? 13) Keys and barriers to success 	<ul style="list-style-type: none"> • Draft to be circulated to Part Two parties for comment. • Roundtable or conference to discuss paper and potential options. • Final paper circulated to Part Two parties for final submissions. • Inquiry should seek submissions/support projects from parties on this subject also.
<p>4)</p>	<p>History and Comparison of Aboriginal Land, Treaty and Rights Disputes</p> <p>An historical and comparative analysis of Aboriginal land, treaty or rights disputes/ occupations, including:</p> <ol style="list-style-type: none"> 1) An inventory and description of disputes/occupations in Ontario and Canada. 2) What circumstances or issues are flashpoints for disputes and occupations? 3) A comparison of three or more land, treaty or rights claim disputes. Compare and contrast approaches and outcomes. 4) What are the interests and perspectives of various Aboriginal and non-Aboriginal stakeholders? 5) Are there best practices or successful models that have been used in Ontario or other jurisdictions to resolve confrontations peacefully and constructively. If so, what do positive examples tell us about how to prevent violence in the future? 6) Role of the media 	<ul style="list-style-type: none"> • Draft paper to be circulated to Part Two parties for comment. • Roundtable or conference to discuss paper and potential options. • Final paper circulated to Part Two parties for final submissions. • Inquiry should seek submissions/support projects from parties on this subject also.

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<p>5)</p>	<p>Policing Public Order Events</p> <p>How do police forces manage public order events/protests?</p> <ol style="list-style-type: none"> 1) Police objectives and strategies 2) Description of current police standards, responsibilities 3) Police decision-making 4) Police training 5) Role of specialized units 6) Recording and documentation of decisions and activities 7) How do police balance public order with protester's rights? 8) Potential supports for police and protesters 9) Police and government responsibilities to surrounding communities 10) Strategies for reducing potential for violence? Best practices ? Lessons learned? 11) Relationship (or lack thereof) with the community being policed? 	<ul style="list-style-type: none"> • Draft paper to be circulated to Part Two parties for comment. • Roundtable or conference to discuss paper. • Roundtable/ conference on this paper could be combined with consultations on other protest/policing papers. • Final paper circulated to Part Two parties for final submissions. • Inquiry should seek submissions/support projects from parties on this subject also. • Consultation process could be combined with projects 6), 9), 10)
<p>6)</p>	<p>Collection and Use of "Intelligence" in Policing of Public Order Events</p> <ol style="list-style-type: none"> 1) When and why do police collect "intelligence" when policing public order events? 2) How to balance gathering and use of intelligence with the democratic right to protest? 3) Police force protocols and best practices? 	<ul style="list-style-type: none"> • Consultation process could be combined with projects 5), 9), 10)
<p>7)</p>	<p>Policing and Aboriginal Occupations</p> <p>A detailed analysis of policing and aboriginal occupations, including:</p> <ol style="list-style-type: none"> 1) Are aboriginal occupations different than other protests? How? 2) Compare and contrast peaceful and aboriginal occupations that became violent <ol style="list-style-type: none"> a) Why did they turn out differently? b) Lessons learned? 3) Complexity of policing aboriginal occupations <ol style="list-style-type: none"> a) Policing objectives b) Jurisdictional issues affecting police c) Training, preparation for officers d) Limits to use of police to manage disputes 4) Are violent confrontations between police and aboriginal occupiers necessary or are peaceful solutions and positive outcomes possible? What do positive examples tell us about how to prevent violence in the future? 5) Review recent protocols/developments for crisis management 6) Police and government responsibilities to surrounding communities? 7) Role of external organizations? 	<ul style="list-style-type: none"> • Draft paper to be circulated to Part Two parties for comment. • Roundtable or conference to discuss paper. • Final paper circulated to Part Two parties for final submissions. • Evidential Hearings? • Inquiry should seek submissions/support projects from parties on this subject also.

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8)	<p>Role of Regulatory Agencies in Aboriginal Rights Disputes in Ontario</p> <ol style="list-style-type: none"> 1) Inventory of provincial and federal regulatory agencies that potentially impact Aboriginal rights, such as the Ontario Ministry of Natural Resources and the federal Department of Fisheries and Oceans. 2) List and analysis of regulatory agency enforcement mechanisms. 3) Analysis of historic and current relationship between enforcement agencies and Aboriginal peoples. 4) Analysis of enforcement protocols employed by regulatory agencies 5) Oversight mechanisms 6) Gathering and use of intelligence 7) Relationship between agencies and police 	<ul style="list-style-type: none"> • Draft paper distributed to Part Two parties and posted on website. • Inquiry to organize roundtables or consultations to discuss paper and potential options. • Final paper circulated to parties and posted on website. • Inquiry should also seek submissions/projects from parties
9)	<p>Trespass and Freedom of Assembly</p> <p>Is there a right to protest? Analysis of right to protest, trespass and public order, including review of:</p> <ol style="list-style-type: none"> 1) International human rights law 2) <i>Charter</i> and legislative rights 3) Public order/policing priorities and obligations 4) Relationship between protest/public order? 5) Difference between public and private property? 6) Analysis of US public forum law and applicability in Canada 	<ul style="list-style-type: none"> • Consultation process could be combined with projects 5), 6), 10)
10)	<p>Use of Force in Protests</p> <ol style="list-style-type: none"> 1) Current law and standards 2) Scope of police discretion 3) Access to medical care 4) Strategies for reducing potential for violence? Best practices? 5) Are First Nations people treated differently than non-First Nations people by police, hospital staff, etc.? 	<ul style="list-style-type: none"> • Consultation process could be combined with projects 5), 6), 9)
11)	<p>Aboriginal/Police Relations and Policing – Best Practices – Literature Review</p> <p>Comprehensive literature review of culturally appropriate North American and Australian Commission reports, innovations and “best practices” in providing effective community policing services to Aboriginal people. Review to be supplemented by an interview examination of selected innovations considered best practice by the RCMP. Report to contain:</p> <ul style="list-style-type: none"> • Background • Analysis of the literature: <ul style="list-style-type: none"> ○ Police recruitment and training ○ In-service education ○ Community policing models ○ Race relations strategies ○ Governance & accountability ○ Mentoring & exchange models ○ Other aspects impacting police/Aboriginal relations ○ A model for understanding effective police/community relations. ○ A summary of other Commission recommendations. 	<ul style="list-style-type: none"> • Consultation process combined with project 12)

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<p>12)</p>	<p>Aboriginal/Police Relations and Policing – Best Practices – Survey and Focus Groups</p> <p>Review of Aboriginal, government and policing organizations “best” practices relating to Aboriginal-Police relations in Canada. Issues to be addressed would include those related to:</p> <ol style="list-style-type: none"> 1) organizational planning, culture, policy development and leadership, 2) governance, organization and accountability, 3) relations among Aboriginal, policing and governmental authorities, and 4) matters related to community liaison, training, recruitment, and retention, as well as other issues identified by the Parties to the inquiry (through a process outlined below). The analysis would include practices in both Aboriginal and “mainstream” policing organizations; <p>To plan and conduct focus group sessions with Aboriginal police officers employed by both Aboriginal and “mainstream” policing organizations to gain their insights into Aboriginal-Police relations in Canada, including issues related to:</p> <ol style="list-style-type: none"> 1) governance, organization and accountability, 2) relations among Aboriginal, policing and governmental authorities, and 3) matters atters related to community liaison, training, recruitment, and retention; and 	<ul style="list-style-type: none"> • Draft paper to be circulated to Part Two parties for comment. • Roundtable or conference to discuss paper and potential options. • Final paper circulated to Part Two parties for final submissions. • Inquiry should seek submissions/support projects from parties on this subject also. • Need evidential hearings because of differing opinions on the subject. • Consultation process could be combined with project 11)
<p>13)</p>	<p>Aboriginal Policing</p> <p>A summary and analysis of Aboriginal policing in Ontario:</p> <ol style="list-style-type: none"> 1) Description and overview, including: <ol style="list-style-type: none"> a) History and objectives b) Locations, complements, and resources c) Powers and responsibilities d) Statutory, legal and financial framework 2) What is the current or potential role for Aboriginal policing in reducing potential for violence in aboriginal land or treaty confrontations? 3) Are there best practices/successful models in Ontario or other Canadian jurisdictions? 4) Relationship to mainstream police forces 5) Analysis of aboriginal units within mainstream police forces 6) Options. Keys/barriers to success? 	<ul style="list-style-type: none"> • Draft paper to be circulated to Part Two parties for comment. • Roundtable or conference to discuss paper and potential options. • Final paper circulated to Part Two parties for final submissions. • Inquiry should seek submissions/support projects from parties on this subject also.

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14)	<p>Aboriginal Peoples and the Criminal Justice System A paper analyzing Aboriginal peoples and the criminal justice system in Ontario including:</p> <ol style="list-style-type: none"> 1) Perceptions of aboriginal peoples within criminal justice system and society generally. 2) Summary and analysis of previous reports and inquiries. 3) Aboriginal overrepresentation in criminal justice system <ol style="list-style-type: none"> a) Statistical analysis b) Sources/causes and implications/results of overrepresentation. c) Effect of <i>Gladue</i> and other initiatives 4) How to improve situation of Aboriginal peoples within the criminal justice system and reduce Aboriginal overrepresentation? <ol style="list-style-type: none"> a) Aboriginal justice systems b) Options a) Keys and barriers to success? 	<ul style="list-style-type: none"> • Draft paper to be circulated to Part Two parties for comment. . • Inquiry to organize roundtables or consultations to discuss paper and potential options. • Final paper circulated to parties and posted on website. • Inquiry should also seek submissions/projects from parties.
15)	<p>Overview of Police Independence An overview of the history and theory of police independence, including:</p> <ol style="list-style-type: none"> 1) UK and Canadian experience 2) Reports and practical experiences 3) Limitations of independence and accountability dichotomy 	<ul style="list-style-type: none"> • Paper presented to Osgoode conference in June 2004 • Draft paper circulated to Part Two parties for comment. • Final paper circulated to Part Two parties for final submissions following evidentiary hearings. • Inquiry should seek submissions/support projects from parties on this subject also.
16)	<p>Police Independence -- Core Principles How is police independence and accountability regulated and experienced in practice at both organizational and individual levels?</p>	<ul style="list-style-type: none"> • Same as for project 15)
17)	<p>Politics and Policing What is nature and frequency of policing in politically-charge contexts in Canada?</p>	<ul style="list-style-type: none"> • Same as for project 15)
18)	<p>Oversight of Government-Police Relationship – International Comparisons What mechanisms govern police and politicians in other jurisdictions?</p> <ul style="list-style-type: none"> • International comparisons • Best practices, lessons learned? 	<ul style="list-style-type: none"> • Same as for project 15)
19)	<p>Oversight of Government-Police Relationship – Public Law What democratic or constitutional mechanisms exist in Canada to govern or oversee police and politicians?</p> <ul style="list-style-type: none"> • Best practices • Constitutional law principles • Public law comparisons 	<ul style="list-style-type: none"> • Same as for project 15)

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20)	<p>Government-Police Relationship in Aboriginal Context</p> <p>What models have been developed to govern or manage relationship between police and Aboriginal peoples?</p>	<ul style="list-style-type: none"> • Same as for project 15)
21)	<p>Police/Government Relationship In Practice</p> <p>Focus groups with former Solicitor Generals, Attorney Generals and senior police executives to document and analyze their perceptions and understanding of the police/government relationship in practice.</p>	<ul style="list-style-type: none"> • Draft research circulated to Part Two parties for comment. • Roundtable • Final research circulated to Part Two parties for final submissions. • Inquiry should seek submissions/support projects from parties on this subject also.
22)	<p>Description of Police in Ontario</p> <p>A summary description of policing in Ontario, including:</p> <ol style="list-style-type: none"> 1) A description of the range, size, location and resourcing Ontario's police forces 2) Structure, history and role of OPP 3) What legal instruments, legislation, regulations, policies, govern police forces in Ontario <ol style="list-style-type: none"> a) Governance and management b) Use of force 	<ul style="list-style-type: none"> • Draft paper to be circulated to Part Two parties for comment. • Final paper circulated to Part Two parties for final submissions. • Inquiry should seek submissions/support projects from parties on this subject also.