

**IPPERWASH INQUIRY**



**COMMISSION D'ENQUÊTE  
SUR IPPERWASH**

## **RULING ON STANDING AND FUNDING**

### **I. THE INQUIRY PROCESS**

I have been appointed by Order in Council 1662/2003 dated November 12, 2003 to:

- a) inquire into and report on events surrounding the death of Dudley George; and
- b) make recommendations directed to the avoidance of violence in similar circumstances.

The Inquiry will be conducted in two parts. Part I will focus on the matters set out in paragraph (a) of the Order in Council. Part II will address the matters set out in paragraph (b) of the Order in Council.

The Rules of Procedure and Practice to govern Parts I and II of the Inquiry have been published on the Commission website at [www.ipperwashinquiry.ca](http://www.ipperwashinquiry.ca).

#### **A. Process – Part I**

Part I will be conducted by way of public hearings to be held in Forest and Toronto, at which witnesses will give evidence under oath or affirmation, and at which the witnesses will be examined and cross-examined. Parties with standing will make closing submissions at the end of Part I.

## **B. Process – Part II**

Part II will address primarily policy issues and will proceed concurrently with Part I. In Part II, the Commission will commission research and policy papers from experts, invite written and/or oral submissions from parties with standing and the public, convene meetings, symposia (the format of which may vary) and hold evidentiary hearings on relevant public policy topics.

## **II. STANDING AND FUNDING**

The Commission published a Notice of Hearing which invited interested parties to apply for standing and funding. The Commission received thirty-five applications for standing and seventeen applications for funding. The applications were heard in Forest from April 20 to 23, 2004. We also received two applications for standing after the standing hearings concluded and those are dealt with in this ruling.

### **A. Standing – Part I**

I have granted standing in Part I to persons or groups who have demonstrated that they have a substantial and direct interest in the subject matter of the Inquiry pursuant to section 5.1 of the *Public Inquiries Act*, R.S.O. 1990, c.P.41 (the “Act”). I have also granted standing, on a discretionary basis, to parties who do not have a direct and substantial interest in the subject matter of the Inquiry, but who represent distinct ascertainable interests, and whose expertise or perspective will be essential if the Commission is to fulfill its mandate.

A grant of standing for Part I will entitle a party to:

1. access to documents collected by the Commission, subject to the Rules of Procedure and Practice;
2. advance notice of documents which are proposed to be introduced into evidence;

3. advance provision of statements of anticipated evidence;
4. a seat at the counsel table;
5. the opportunity to suggest witnesses to be called by Commission Counsel, failing which an opportunity to apply to me to lead the evidence of a particular witness;
6. the opportunity to cross-examine witnesses on matters relevant to the basis upon which standing was granted; and
7. the opportunity to make closing submissions.

By seeking and being granted standing, a party is deemed to have attorned to the jurisdiction of the Commission and to abide by the Commission's Rules of Procedure and Practice.

### **B. Standing – Part II**

I have granted standing for Part II of the Inquiry to parties that represent distinct ascertainable interests and perspectives that are likely to be helpful to me in considering policy-based or systemic “recommendations directed to the avoidance of violence in similar circumstances.”

## **III. STANDING - REASONS**

### **A. Standing – Parts I and II**

I have granted standing for both Parts I and II of the Inquiry to the following parties:

#### ***The Estate of Dudley George and George Family Group***

The Estate of Anthony “Dudley” George, Maynard “Sam” George, Reginald George, Pamela George, Joan Price, and Laverne George, representing five of Anthony “Dudley” George’s (“Dudley George”) seven siblings, have applied for and are hereby granted standing on their own behalf and on behalf of the estate of their brother, Dudley George,

for Parts I and II of the Inquiry. The interests of its members will be directly and substantially affected by the subject matters of both parts of the Inquiry, and their participation will be essential to the Commission if it is to fulfill its mandate.

### ***Aazhoodena and George Family Group***

The Aazhoodena and George Family Group (consisting of Perry Neil Watson George, Darryl Kerry Stonefish, Cheryl Fay Stonefish, Kevin Charles Daniel Simon, Laura Mia George, Christina Laura Wakefield, Robert Darryl Stonefish, Leanne Louise George, Cathryn May Mandoka, Graham Fletcher George, and Daniel Ray George, Jr.) have applied for and are hereby granted standing to participate in Parts I and II of the Inquiry. Members of the Aazhoodena and George Family Group are each related, by blood or marriage, to Dudley George, and include descendants of members of the former Stoney Point Reserve. The interests of the members of this group will be directly and substantially affected by the evidence led at the Inquiry. The participation of this group's members, through submissions, and as witnesses, will also assist the Commission in the fulfillment of its mandate.

### ***Residents of Aazhoodena***

This group consists of fifty residents of Camp Ipperwash, now referred to as Aazhoodena by its occupants. Several of its members were present at Ipperwash Provincial Park when Dudley George died, several are related to Dudley George, and each resides at Camp Ipperwash/Aazhoodena or Kettle and Stony Point First Nation. The members of this group have applied and are hereby granted standing for Parts I and II of the Inquiry. The members have a direct and substantial interest in the work of both Parts of the Inquiry and their participation will assist the Commission in fulfilling its mandate in both Parts of the Inquiry.

***Chippewas of Kettle and Stony Point First Nation***

The Chippewas of Kettle and Stony Point First Nation (the “First Nation”) have applied for and are hereby granted standing for Parts I and II of the Inquiry. Dudley George was a member of the First Nation, as were many of the witnesses to his death and the circumstances surrounding his death. Ipperwash Provincial Park and Camp Ipperwash/Aazhoodena are lands previously held by the ancestors of many members of the First Nation. Its members have been and continue to be significantly affected by the events of September, 1995. Their interests will be directly and substantially affected by the work of this Commission, in both its Parts.

***Province of Ontario***

The Province of Ontario has applied for and is hereby granted standing to participate in both Parts I and II of the Inquiry. The involvement of several Crown ministries, including the Ministry of Natural Resources, the Ministry of the Attorney General (including the Special Investigations Unit and the Ontario Native Affairs Secretariat), and the Ministry of Community, Safety and Correctional Services (formerly the Ministry of the Solicitor General) in the events of September, 1995, is likely to be examined in both stages of the Inquiry. The Province therefore has a direct and substantial interest in the subject matter of both Parts of the Inquiry, and represents a distinct and ascertainable interest and perspective. Its participation is essential to the discharge of the Commission’s mandate.

***The Honourable Michael D. Harris***

Mr. Harris has applied for and is hereby granted standing in Parts I and II of the Inquiry. At the time of the events giving rise to the Inquiry, Mr. Harris was the Premier of Ontario. The extent and nature of his participation in ministerial decision making at the time of Dudley George’s death has been brought into question in previous civil

proceedings commenced by family members of Dudley George. Mr. Harris' interests are therefore directly and substantially affected by the subject matter of Part I of the Inquiry. Further, he has a substantial interest in the policy issues to be considered by the Inquiry.

***Charles Harnick***

Mr. Harnick has applied for and is hereby granted standing for Parts I and II of the Inquiry. At the time of the events that give rise to this Inquiry, Mr. Harnick was the Attorney General of Ontario and the Minister responsible for Native Affairs. In the civil action that preceded this Inquiry, his involvement in the events surrounding the death of Dudley George was put at issue, and his involvement is likely to be examined in this Inquiry. As such, he has a direct and substantial interest in the Commission's work in both Parts of the Inquiry.

***Robert Runciman***

Mr. Runciman has applied for and is hereby granted standing for Parts I and II of the Inquiry. At the time of the events at issue in this Inquiry, Mr. Runciman was the Solicitor General for Ontario and Minister for Correctional Services. In the civil action that preceded this Inquiry, it was alleged that Mr. Runciman's participated in the events leading up to the death of Dudley George. The same issues may arise in Part I of the Inquiry. Mr. Runciman therefore has a direct and substantial interest in the subject matter of Part I of the Inquiry. Similarly, the relationship between the OPP and the Solicitor General are likely to be at issue in Part II of the Inquiry, and Mr. Runciman therefore has a direct and substantial interest in the subject matter of Part II.

***Marcel Beaubien***

Mr. Beaubien has applied for and is hereby granted standing for Parts I and II of the Inquiry. At the time of the events that give rise to this Inquiry, Mr. Beaubien was the Member of the Legislative Assembly for the provincial riding encompassing Ipperwash

Provincial Park, as well as Kettle and Stony Point First Nation, the Town of Forest, and the surrounding lands. In his application for standing, Mr. Beaubien asserts that he was “an important participant” in events and activities relating to the occupation of Ipperwash Provincial Park and Camp Ipperwash/Aazhoodena in the months prior to and following the death of Dudley George in September, 1995. As such, he has a direct and substantial interest in the work of both Parts of the Inquiry.

### ***Ontario Provincial Police***

The Ontario Provincial Police (“OPP”), Commissioner Gwen Boniface, and the commissioned officers of the OPP have applied for and are hereby granted standing for Parts I and II of the Inquiry. They have a direct and substantial interest in both Parts of the Inquiry, arising from the direct involvement of the OPP and its officers in the events in question, and in relation to any policy recommendations relating to policing that may be made pursuant to the Commission’s work in Part II of the Inquiry.

### ***Ontario Provincial Police Association***

The Ontario Provincial Police Association (“OPPA”) has applied for and is hereby granted standing for Parts I and II on behalf of its present and past members, including Mr. Kenneth Deane, who may have had any involvement with any of the matters that are the subject matter of the Inquiry. The OPPA is the exclusive collective bargaining agent for all non-commissioned officers of the OPP and civilian members of the OPP not employed in supervisory or confidential capacity. Those members of the OPPA referred to above have a direct and substantial interest in the Part I of the Inquiry, in that they were present, on duty, and involved in the events giving rise to this Inquiry in September 1995 at Ipperwash Provincial Park. Further, its members have a direct and substantial interest in Part II of the Inquiry.

***Office of the Chief Coroner for Ontario***

The Chief Coroner of the Province of Ontario has applied for and is hereby granted standing for Parts I and II of the Inquiry. On September 7, 1995, shortly after the death of Dudley George, the Office of the Chief Coroner commenced an investigation into Mr. George's death. I anticipate that the report generated as a result of that investigation, as well as subsequent investigations conducted by the Chief Coroner, are likely to assist the Commission in fulfilling its mandate for Part I of the Inquiry. The Chief Coroner has the power to call an inquest; however, the Chief Coroner submitted that given the broad mandate of the Order-in-Council, he may determine that an inquest would be an unnecessary duplication of effort and expense and any benefit that an inquest would provide to address the considerations of section 20 of the *Coroner's Act* and issues arising from his investigation will be realized through the Inquiry. Further, the Chief Coroner's expertise with respect to both the fact finding process and in the development of policy recommendations directed to the avoidance of deaths in similar circumstances is likely to be of assistance to me in fulfilling my mandates under Parts I and II of the Inquiry.

***Municipality of Lambton Shores***

The Municipality of Lambton Shores has applied for and is hereby granted standing for Parts I and II of the Inquiry. Many of the events likely to be at issue in this Inquiry took place within the boundaries of the Municipality. The Municipality participated directly in negotiations with many of the affected and involved parties, both before and after Mr. George's death. The Municipality will be directly and substantially affected by the proceedings in Part I of the Inquiry, and has a direct interest in any policy recommendations arising from Part II of the Inquiry.



### ***Chiefs of Ontario***

The Indian Associations Co-ordinating Committee of Ontario Inc. (“Chiefs of Ontario”) has applied for and is hereby granted standing for Parts I and II of the Inquiry. The Chiefs of Ontario is the umbrella organization for all status Indian communities in Ontario. Its mandate is to represent the interests of each of Ontario’s 134 First Nations on issues of broad general significance. It was directly involved in the events immediately prior and subsequent to the death of Dudley George on September 6, 1995. The Chiefs of Ontario has a direct and substantial interest in the subject matters of both Parts of this Inquiry. Further, I anticipate that the perspective and expertise of the organization with respect to First Nations communities will assist the Commission in its work.

### ***Aboriginal Legal Services of Toronto***

Aboriginal Legal Services of Toronto (“ALST”) has applied for and is hereby granted standing for Parts I and II of the Inquiry. ALST is a legal clinic established to serve the Aboriginal community in the Greater Toronto area. While ALST and its membership and clientele do not have direct and substantial interest in the subject matter of Part I of the Inquiry, they have developed considerable expertise with respect to Aboriginal people and the justice system, and particularly with respect to policing. As such, it represents a distinct and ascertainable interest. That expertise will assist the Commission in discharging its mandate in both Parts I and II of the Inquiry.

### **B. Standing – Part I**

The following Parties have applied for and been granted standing for Part I only.

***Christopher D. Hodgson***

Mr. Hodgson has applied for and is hereby granted standing to participate in Part I of the Inquiry. At the time of the incidents that give rise to this Inquiry, Mr. Hodgson was the Minister of Natural Resources. The Ministry of Natural Resources had responsibility for Ipperwash Provincial Park, the site of the dispute that resulted in Dudley George's death. In the civil litigation that preceded this Inquiry, initiated by members of Dudley George's family, Mr. Hodgson actions, responsibilities, and knowledge concerning the events at Ipperwash were put at issue. They are likely to arise in the course of the Inquiry. As such, Mr. Hodgson has a direct and substantial interest in the subject matter of Part I of the Inquiry.

***Debbie Hutton***

Ms. Hutton has applied for and is hereby granted standing with respect to Part I of the Inquiry. Ms. Hutton has asserted in her application for standing that she was the Executive Assistant – Issues Management in the Office of the Premier at the time of the events in question in this Inquiry. She states that in the days immediately preceding and following the death of Dudley George, she communicated with the Premier and other senior advisors in the Office of the Premier regarding the protest at Ipperwash Provincial Park. She also attended Interministerial Committee and other Government meetings, as a representative of the Premier's Office, at which the situation at Ipperwash Provincial Park and possible Government responses to that situation were discussed. As such, she has a direct and substantial interest in the subject matter of Part I of the Inquiry.

**C. Standing – Part II**

I have granted standing for Part II to the following parties:

***Union of Ontario Indians***

The Union of Ontario Indians has applied for and is hereby granted, standing to participate in Part II of the Inquiry. The Union is the political organization representing 42 of the First Nations in Ontario. Kettle Point and Stony Point First Nation is a member of the Union. The Union represents a distinct and ascertainable interest. Its members have a direct and substantial interest in any policy recommendations I make at the culmination of the Inquiry. The experience and perspective of the Union are likely to assist the Commission in Part II of the Inquiry.

***Chippewas of Nawash Unceded First Nation***

The Chippewas of Nawash Unceded First Nation have applied for and are hereby granted standing to participate in Part II of the Inquiry. This First Nation has its own experiences with disputes concerning land and burial sites, involving circumstances with some similarities to the circumstances experienced by the occupants of Ipperwash Provincial Park and Camp Ipperwash/Aazhoodena. I believe those experiences, combined with the First Nation's involvement in policy initiatives and programs designed to minimize the potential for violence in the context of disputes concerning Aboriginal rights, give this applicant a level of expertise and a perspective that will assist the Commission in the fulfillment of its mandate in Part II of the Inquiry.

***Anishnabek Police Service***

The Anishnabek Police Service has applied for and is hereby granted standing to participate in Part II of the Inquiry. The Anishnabek Police Service is an Aboriginal police service with primary policing responsibility for seventeen First Nation territories in Ontario, including Kettle Point and Stony Point First Nation (although not during the time of events at issue in this Inquiry). The experience of the Anishnabek Police Service

in developing policies, practices and procedures for culturally appropriate police services will assist the Commission in Part II of the Inquiry.

***Nishnawbe-Aski Police Service***

The Nishnawbe-Aski Police Service (“NAPS”) has applied for standing in Parts I and II of the Inquiry. I do not find that NAPS has a sufficiently direct and substantial interest in the subject matter of Part I of the Inquiry to be granted standing in that phase of the Inquiry’s work. However, the experience and perspective of NAPS will assist the Commission in its work in Part II of the Inquiry, and I therefore grant NAPS standing for that part. NAPS has been involved in the development of culturally appropriate policing practices and the provision of policing services to First Nations communities in the Nishnawbe-Aski area in Northwestern Ontario.

I note that, in its application for standing, NAPS acknowledges the potential overlap between the assistance it may be able to provide to the Commission and the involvement of other Aboriginal police services. I urge Anishnabek Police Services and NAPS to collaborate, wherever possible, to the extent that their interests and experience coincide, to avoid any duplication of their work in Part II of the Inquiry.

***Centre Ipperwash Community Association***

The Centre Ipperwash Community Association (“CICA”) has applied for and is hereby granted standing for Part II of the Inquiry. The CICA represents approximately 120 non-First Nations households in the area of Ipperwash Provincial Park, and therefore represents a distinct and ascertainable interest. Its members have a direct and substantial interest in any policy recommendations that I may make pursuant to the proceedings in Part II of the Inquiry. Further, the perspective of the CICA may assist the Commission in the fulfillment of its mandate in Part II.

***Aboriginal Peoples Council of Toronto***

The Aboriginal Peoples Council of Toronto has applied for standing in Parts I and II of the Inquiry. The Council is granted standing for Part II of the Inquiry but not for Part I of the Inquiry. The Council represents approximately 1000 members of the Aboriginal community in the Greater Toronto Area. Its mandate is to advocate on behalf of Aboriginal peoples in the Metropolitan Toronto area with respect to, among other things, policing issues and relations between police and Aboriginal people and organizations. The Council represents a distinct and ascertainable interest and perspective, and the involvement of the Council in Part II of the Inquiry may assist the Commission in the subject matter of that Part. I also encourage the Council to work, in whatever manner it deems appropriate, with Aboriginal Legal Services of Toronto, with respect to the subject matter of Part I of the Inquiry.

***Law Union of Ontario***

The Law Union of Ontario has applied for standing to participate in Parts I and II of the Inquiry. In its application materials, the Law Union demonstrated that, in the approximately 30 year history of the organization, it has developed considerable interest in and experience concerning policing issues. Further, the Law Union has involved itself in advocacy concerning issues affecting Aboriginal communities, including the events that give rise to this Inquiry. I do not find that the interests of the Law Union are sufficiently directly and substantially affected by the subject matter of Part I of the Inquiry to warrant granting the Law Union standing for that Part. I find, however, that the Law Union's interest and considerable experience with respect to policing issues may assist the Commission in Part II of the Inquiry. Accordingly, the Law Union is granted standing for Part II.

### ***African Canadian Legal Clinic***

The African Canadian Legal Clinic (the “ACLC”) has applied for standing for Parts I and II of the Inquiry. In my view, the ACLC does not represent interests directly and substantially affected by the subject matter of Part I of the Inquiry, to warrant Part I standing. The ACLC provides advice and representation to African Canadians on legal matters involving issues of systemic and institutional racism and racial discrimination. In that capacity, ACLC represents a distinct and ascertainable interest and perspective that may be of assistance to the Commission in the fulfillment of its mandate in Part II of the Inquiry and they are granted Part II standing.

### ***Amnesty International Canada***

Amnesty International Canada has applied for standing for Parts I and II of the Inquiry. In addition to having a great deal of experience and involvement with international human rights issues and cases, the organization has engaged in advocacy and analysis concerning the events that are at issue in this Inquiry. I believe that its perspective and experience may assist the Commission in the fulfillment of its mandate in Part II of the Inquiry, and accordingly, I grant standing to Amnesty International Canada for Part II. In my view, Amnesty International does not have a sufficiently direct and substantial interest in the subject matter of Part I of the Inquiry to warrant my granting standing for that Part of the inquiry, but of course, they are free to attend the hearings that will constitute Part I of the Inquiry, in a non-participatory capacity and I encourage its members to do so.

### ***Canadian Civil Liberties Association***

The Canadian Civil Liberties Association (“CCLA”) has applied for and is hereby granted standing to participate in Part II of the Inquiry. The CCLA has, in its approximately 40 year history, developed considerable expertise in the course of its

advocacy on policing and Aboriginal issues. This expertise may assist the Commission in the fulfillment of its mandate for Part II of the Inquiry.

***Mennonite Central Committee Ontario***

The Mennonite Central Committee Ontario (“MCC”) has applied for and is hereby granted standing for Part II of the Inquiry. As stated in its application materials, the MCC is the relief and development agency of the Mennonite and Brethren in Christ Church. The MCC was involved with the people of Kettle Point and Stony Point First Nation prior to September, 1995, and directly after the death of Dudley George. Their experience and involvement in the de-escalation and resolution of conflict in this and other conflicts will assist the Commission in Part II of the Inquiry.

***George Simpson and Rowland Carey***

George Simpson and Rowland Carey have applied for standing for Part II of the Inquiry. Messrs. Simpson and Carey were Correctional Managers indicted and disciplined after a riot at the Bluewater Youth Centre. In their standing application, they state that political interference similar to that alleged to have occurred at Ipperwash also occurred during the police investigation of that riot. Messrs. Simpson and Carey are granted standing in Part II of the Inquiry, particularly with respect to the relationship between the executive branch of government and the police.

***The Ontario Federation for Individual Rights and Equality***

The Ontario Federation for Individual Rights and Equality has applied for standing for Parts I and II of the Inquiry. The Commission has been advised by Ms. Mary Lou LaPratte, the president of the Federation, that the Federation was incorporated in 1996 and has 350 members. The application states that the Federation was formed as a result of the tragedy in 1995 and the aftermath within the Ipperwash community. The application indicates that Ms. LaPratte is a long-time and active resident of the Ipperwash

area. In my view, the Federation, which was not formed until after the events of September 1995, does not have a direct and substantial interest in the subject matter of Part I of the Inquiry to warrant Part 1 standing. However, the application indicates that Ms. LaPratte in her individual capacity may have information that will assist the Inquiry in its work in Part I and Commission staff will be contacting Ms. LaPratte to discuss her potential participation as a witness. The members of the Federation do have an interest, based on the Federation's application, in the policy recommendations that I may make in Part II of the Inquiry and accordingly the Federation is granted standing in Part II of the Inquiry.

#### **IV. OTHER APPLICANTS**

The following parties have applied for standing in one or both Parts of the Inquiry. I have concluded that their interests are not directly and substantially affected by the mandate of either Part of the Inquiry, or that they do not represent a distinct and ascertainable interest. However, several of these applicants will be called upon to participate in the work of the Commission as witnesses and I encourage each of these parties to attend the hearings and proceedings that constitute each Part of the Inquiry, if they are so inclined.

##### ***Jeffrey Bangs and Paul Rhodes***

Messrs. Bangs and Rhodes have applied for standing to participate in Part I of the Inquiry. They each allege that they have an interest which is directly and substantially affected by the subject matter of Part I. Mr. Bangs was Executive Assistant to the Minister of Natural Resources at the time of the events at issue in this Inquiry. Mr. Rhodes was Senior Media Advisor to the Office of the Premier at the same time. Mr. Bangs asserts that he was present at several Interministerial Committee meetings that took place on September 4 through September 6, during which time the situation at Ipperwash Provincial Park was discussed. Mr. Rhodes asserts that he was involved in strategic discussions throughout the same period of time, and was further involved in



communicating the position of the Premier's Office and the Government in the period following Mr. George's death. The participation of Mr. Bangs and Mr. Rhodes in the events of September, 1995 in their respective capacities will likely mean that both individuals will be called as witnesses in Part I of the Inquiry. However, in my view, neither Mr. Rhodes nor Mr. Bangs has sufficient a direct and substantial interest in the subject matter at issue in Part I of the Inquiry to warrant granting standing. If, during the course of the Inquiry, that situation changes, they will be given an opportunity to renew their application for standing.

### ***The Golden Rule Society***

The Golden Rule Society, of Sarnia, Ontario, has applied for limited standing at the Inquiry. The Society has requested that it be permitted to pose the written question set out in its application to the OPP and First Nations representatives. The Society does not have a direct and substantial interest in the subject matter of either Part of the Inquiry, and accordingly, their request for standing is denied.

### ***Munyonze Hamalengwa***

Munyonze Hamalengwa has applied, on his own behalf, for standing in Parts I and II of the Inquiry. Mr. Hamalengwa is a criminal lawyer practicing in the Greater Toronto Area. He is a prolific writer and has done considerable work in the area of systemic racism, through his writing and his legal advocacy. However, I find that Mr. Hamalengwa does not have a direct and substantial interest in the subject matter of either Part of the Inquiry distinct from the interests represented by other parties granted standing. I encourage Mr. Hamalengwa to work with the other organizations granted standing with a view to contributing to the process in whatever manner he and the particular organization deems appropriate.

***Maynard T. George***

Maynard T. George has applied for standing to participate in the Inquiry, in his individual capacity. In my view, Mr. Maynard does not have a direct and substantial interest in either Part of the Inquiry that is distinct from other parties granted standing. However, his involvement, at various points, in the occupation of Camp Ipperwash/Aazhoodena, and in other disputes, mean that his participation in the Inquiry as a witness will be of assistance to the Commission. Moreover, it was clear from Mr. George's oral submissions on standing that he has amassed a great deal of documentary, videotaped, and other evidence that will assist the Commission throughout Parts I and II of the Inquiry. Accordingly, Commission Counsel will work with Mr. George to ensure that any relevant evidence and information in his possession is brought to light at the Inquiry.

***Mike and Brenda Neuts***

Mike and Brenda Neuts have applied for standing in Part II of the Inquiry. In their application for standing, the Neuts draw parallels between the police and coroner's investigations into the death of Dudley George and comparable investigations into the death of their son, Myles Neuts. While both deaths were tragic, and gave rise to considerable controversy, I find that the interests of the Neuts are not sufficiently directly and substantially connected to the subject matter of this Inquiry to warrant my granting standing to the Neuts. Mr. and Mrs. Neuts are, of course, welcome to attend the hearings in Part I and the meetings, symposia, and other events in Part II of the Inquiry that are open to the public if they wish.

***Trevor Cloud***

Trevor Cloud has applied for standing to participate in the Inquiry, in his individual capacity. Mr. Cloud has stated in his application for standing that he is descended from the members of the former Stoney Point Reserve. While Mr. Cloud may be called as a

witness in Part I of the Inquiry, and as such he will be interviewed by Commission staff, I do not find that he has a direct and substantial interest in either Part of the Inquiry, pertaining to the events of September, 1995, that is distinct from other parties granted standing. Mr. Cloud is, of course, encouraged to attend any and all of the Part I hearings and Part II events that he wishes.

***Chief Ka-Nee-Ka-Neet***

An application for standing and funding was made on behalf of the Traditional, Inherent Head Chief of Anishinabe Nation, Ka-Nee-Ka-Neet. The application states:

1. the Chief is responsible to ensure that the provisions of Treaties and Bargains are upheld;
2. the Chief has extensive knowledge on Indian issues and as such would be able to expedite certain aspects of the Inquiry;
3. all servants of the Crown are trustees to non-enfranchised Indians and as such there exists a trustee/fiduciary relationship; and
4. the Chief has knowledge that William Robinson had no capacity to undertake Treaties and as such the Huron Robinson and the Huron Superior Treaties are of the defect (sic).

Chief Ka-Nee-Ka-Neet was unable to attend the standing hearing but requested that I consider his application on the basis of the written materials. I have done this and I am of the view that Chief Ka-Nee-Ka-Neet does not have a direct and substantial interest in the subject matter of the Inquiry nor does he represent a distinct ascertainable interest and perspective that are essential for the discharge of my mandate. Accordingly, his application for standing and funding is denied.

***Bruce Wilson Bressette***

Bruce Wilson Bressette, a member of Kettle and Stony Point First Nation, has applied for standing for Parts I and II of the Inquiry, on the basis of events that occurred at Kettle and

Stony Point First Nation in 1998. The events Mr. Bressette describes in his application for standing are not sufficiently temporally connected to the subject matter of this Inquiry to form a basis for granting standing to Mr. Bressette, or to give Mr. Bressette and his family a distinct and ascertainable interest with respect to the Commission's mandate. He is, however, welcome to make written submissions to the Commission if he believes these events are relevant and should be examined in either Part of the Inquiry, and he is also welcome to attend the proceedings as a member of the public.

## **V. FUNDING**

### **A. Funding - Part I**

Paragraph 6 of the Order in Council provides that:

The Commission may make recommendations to the Attorney General regarding funding to parties who have been granted standing, to the extent of the party's interests, where in the Commission's view the party would not otherwise be able to participate in the Inquiry without such funding.

The Commission is to follow Management Board of Cabinet Directives and Guidelines with respect to the expenses of the Commission and must follow the Ministry of the Attorney General's Fee Schedule for Private Sector Lawyers in recommending funding for participants.

To be considered for a funding recommendation, an applicant must:

- a. have obtained standing in at least one of Part I or Part II of the Inquiry;
- b. be able to demonstrate that it does not have sufficient financial resources to enable it adequately to represent its interests; and
- c. have a proposal as to the use it intends to make of the funds and how it will account for the funds.

In addition, I have also considered the following factors in making my recommendations:

- a. the nature of the applicant's interest and/or proposed involvement in the Inquiry;

- b. whether the applicant has an established record of concern for and a demonstrated commitment to the interest it seeks to represent;
- c. whether the applicant has special experience or expertise with respect to the Commission's mandate; and
- d. whether the applicant has attempted to form a group with others of similar interests.

The scope of the funding that I may recommend relates to the payment of counsel and reasonable disbursements in relation to the work of the counsel including reasonable travel and accommodation expenses. Funding, as recommended by me, includes preparation and work done after November 12, 2003.

Ten of the seventeen parties granted Part I standing by these reasons have not made a funding application. They are as follows: the Province of Ontario, the Ontario Provincial Police, Ontario Provincial Police Association, the Chief Coroner of the Province of Ontario, the former Premier and three former cabinet ministers, an MPP and an Assistant to the Premier.

The purpose of funding is to permit the party to adequately represent its interest at the Inquiry. The principle that should guide the funding decisions by the Ministry is one of fairness so that the parties for whom funding is recommended by these reasons should be treated equitably with those other parties for whom the Government is providing funding. There are 7 parties who have been granted Part I standing who have specifically asked for funding. These are as follows:

***The Estate of Dudley George and George Family Group***

The Estate of Dudley George and the George Family Group have requested funding. I am satisfied that the George Family Group meets the criteria for funding and the applicants would not otherwise be able to participate without such funding. As stated in its application, the George Family Group seeks funding for:

1. Legal counsel preparation and attendance fees, and disbursements. The applicants submit that they require and should be afforded a team of four more or less full time legal counsel (one of which may be an articling student), which is the scale of the legal team the applicants had assembled for the trial which was scheduled to begin on October 6, 2003. Three of the proposed counsel already have many years of highly intensive involvement in the issues in this inquiry, and are therefore likely able to make a significant contribution.
2. Prior to the hearing, to conduct a review of existing and new documentation arising out of the killing, to conduct research, to provide assistance to the Inquiry including through provisions of documents, information, analysis, facilitation of contact with various other parties, and for general preparation.
3. Preparation for effective and constructive participation in Inquiry hearings and other activities.
4. Retaining 2-4 experts for studies on historical or legal topics which the estate and family group has identified to this point as being especially significant, such as related to aboriginal burial grounds, and which could supplement or dovetail with the Inquiry's own work.
5. Expenses related to travel and attendance at all Inquiry hearings and other activities;
6. Partial or full payment of expenses for Sam George to attend the hearings in Toronto, such as for accommodation and related expenses. It is submitted that Mr. George is in a unique situation, given his extraordinary degree of participation over the eight years since the shooting, and that his day-to-day presence and participation, with financial contribution, would likely be of assistance to the Inquiry.

In my view, there is a difference in establishing a team for a trial in which the team represents the plaintiffs and a team of lawyers for a commission of inquiry. At this Inquiry, it is the Commission Counsel who will be calling most, if not all, of the witnesses on behalf of the Commission. While counsel will by necessity spend time preparing, it is important that the use of counsel funded at public expense be carefully utilized. Accordingly, I recommend funding for two counsel and an articling student or

clerk including reasonable disbursements and reasonable travel and related expenses in accordance with the Government of Ontario guidelines.

Funding is also sought for retaining experts. Pursuant to the Government guidelines, I am not recommending funding for experts, but I am asking counsel for the George Family Group to discuss with the Commission Counsel the names of the experts they wish to have called and the reason for calling the expert so that Commission Counsel may consider calling the experts.

Funding is also sought for the payment of Mr. Sam George's attendance at the hearings in Toronto, for accommodation and related expenses. I have not determined the location of the hearings yet and this application will be considered at the appropriate time.

#### *Aazhoodena and George Family Group*

This group includes Pierre George, one of Dudley George's brothers, and a number of his cousins.

I am satisfied after reviewing the submissions of counsel and the funding application that the group meets the criteria for funding.

Mr. Pierre George and the group seek funding for one senior counsel and one junior counsel plus disbursements including travel to Forest and related expenses. Funding is also sought for Mr. Pierre George to travel and stay in Toronto for hearings in Toronto.

I recommend that funding be provided for two counsel including reasonable disbursements and reasonable travel and related expenses in accordance with the Government of Ontario guidelines. I am not prepared to consider funding for Mr. Pierre George to attend the hearings in Toronto until I have made a determination regarding the location of future hearings.

***Residents of Aazhoodena***

One firm represents this group of fifty individuals. Many of these individuals participated in the events in question. I am satisfied from the materials supplied by counsel that the group meets the criteria for funding.

I recommend funding for two counsel and an articling student or clerk including reasonable disbursements and reasonable travel and related expenses in accordance with the Government of Ontario guidelines. The applicants submit that because of the large number of people involved, in their group, their counsel need help to communicate with them. Having such a large group of individuals represented by one firm will be very conducive to the efficient conduct of the hearing process. While I recognize that help will be needed to communicate with such a large group of clients, it should be possible for an articling student or a clerk on a part-time basis to do this.

***Chippewas of Kettle and Stony Pont First Nation***

The Chippewas of Kettle and Stony Pont First Nation seek funding for:

1. Preparation, participation, representation and submissions;
2. First Nation Community Impact (strategy); and
3. Public Relations.

The First Nation submits that it does not have sources of funding that it can secure for its participation in the Inquiry. It submits that in light of its many roles as a level of government, advocate and service provider, the First Nation has no funds available to it that it could reasonably or justifiably allocate for this purpose. In addition, Mr. Henderson, counsel for the First Nation, in his oral submissions advised me that the First Nation's financial statement shows a surplus. Mr. Henderson indicated that the surplus arose from funds received from Casino Rama under an agreement through which all First Nations in Ontario derive some benefit. However, there are rules attached to those funds



that would not contemplate the payment of fees for counsel or for any other activities of this type of legal nature.

I am satisfied that the First Nation meets the criteria for funding and I recommend funding for two counsel and a clerk including reasonable disbursements and reasonable travel and related expenses in accordance with the Government of Ontario guidelines. I am unable to recommend funding for the First Nation community impact strategy or for public relations. Notwithstanding the benefit to the First Nation of undertaking these activities, they are not within the mandate granted to me regarding recommending funding for counsel.

### ***Municipality of Lambton Shores***

The Municipality of Lambton Shores in its application submits that the Municipality is not in a financial position to fund its participation in the Inquiry. The Municipality seeks funding for a lawyer to be present at the hearing and for a law clerk and a lawyer to be available to review documentation, interview parties and prepare for the Inquiry.

In its application, the Municipality states that:

At the time of these events and subsequently, the Municipality could not afford the legal costs that were being incurred and conducted a fundraising activity in the community in order to assist.

The Municipality further submits that:

1. The Municipality has had to suffer the financial impact of the events surrounding Camp Ipperwash. Not only has tourism been affected, but businesses have been affected and the tax base of the Municipality has been seriously impaired.

2. Values of properties have been affected, declining business activity and the increased cost of providing services and maintenance to the area have had a profound effect on the Municipality budget.
3. The residents should not bear the burden of the costs of participation in this Inquiry. The residents rely on their elected officials to represent them and are relying on the Municipality to take an active and direct role in the Inquiry. They will be relying on the Municipality to represent their comprehensive interests.

The Mayor of Lambton Shores, Mr. Cam Ivey, stated as follows in his oral submissions:

We don't have any money in the budget. We like to think that we run a pretty tight ship here but we are a small rural municipality, and if I can just give you some sort of perspective: if it's going to cost us, say, \$200,000 to be - - have standing here as we go through the whole process, that's going to mean something in the order of three and one-half maybe as much as 4 per cent of our local budget – of our local tax dollar levy and that's quite significant for a community of our size.

While normally, one would expect a municipality to seek funding directly from the Province rather than through the Commission process, I am prepared to recommend funding for the Municipality for two counsel including reasonable disbursements and reasonable travel and related expenses in accordance with the Government of Ontario guidelines.

### ***Chiefs of Ontario***

The Chiefs of Ontario seek funding for three lawyers to participate in the hearings. The Chiefs of Ontario submit that it does not have sufficient resources to permit it to participate in the Inquiry. The Chiefs of Ontario propose to make maximum use of the resources which it can access without Commission funding.

The applications and submissions on behalf of the Chiefs of Ontario indicate that it receives core funding from the Governments of Canada and Ontario and project funding from both levels of government. As the project funding is tied to specific initiatives, the Chiefs of Ontario do not have discretionary resources for proper professional participation in the Inquiry. The Chiefs of Ontario have indicated that it does not have any independent sources of revenue.

The Chiefs of Ontario commit in its application that it will make every effort to make an independent contribution to its proposed intervention. It will contribute its office resources, which include files on First Nations policy issues. It will coordinate input from First Nations, elders and other First Nations organizations, both through direct consultation by counsel, and through the operation of a Steering Committee.

I am satisfied that the Chiefs of Ontario meet the requirement for funding. I recommend funding for two counsel including reasonable disbursements and reasonable travel and related expenses in accordance with the Government of Ontario guidelines.

#### ***Aboriginal Legal Services of Toronto***

The Aboriginal Legal Services of Toronto ("ALST") is primarily funded by Legal Aid Ontario, although it does receive funding from other sources. ALST seeks funding for disbursements for out of town travel expenses for one lawyer and also to retain the services of an additional lawyer to assist in the preparation for participation in the proceedings. As noted in its application, ALST has one director, two staff lawyers and one community legal worker funded by Legal Aid Ontario. Legal Aid Ontario provides a limited amount of funding for disbursements. ALST indicates in its material that it assisted in the last calendar year 1391 clients through intake services and it presently has 379 open case files. ALST states that it requires two lawyers for the Inquiry but cannot use both its lawyers, as it will be unable to serve its clientele. I recommend:

1. funding for one counsel including reasonable disbursements for travel and related expenses in accordance with the Government of Ontario guidelines; and
2. funding for reasonable disbursements for travel and related expenses in accordance with the Government of Ontario guidelines for a second counsel.

## **B. Funding – Part II**

The purpose of funding in Part II is to encourage and facilitate research, submissions, projects and participation from a wide variety of perspectives. I will, therefore, recommend funding to Part II parties for one of two purposes. First, I will recommend project funding to parties to undertake research, prepare submissions, organize meetings, or for other relevant projects. Second, I will recommend disbursement funding to facilitate participation in Part II hearings or meetings. I will consider applications for Part II funding if parties make a written request to the Commissioner to the attention of Nye Thomas, Director of Policy and Research, describing their proposed research/submission/project and an explanation of how this work will assist the Inquiry. Parties will also be required to explain why this work could not be undertaken without public funding. Funding for advocacy groups will not always be granted if their mandates include participation in exercises like this Inquiry. I will make these decisions on a case-by-case basis in view of the need to coordinate projects and research and to ensure that the Inquiry receives the full benefit of the party's expertise.

## **SUMMARY AND CONCLUSION**

Standing for both Parts I and II of the Inquiry has been granted to the following parties:

1. The Estate of Dudley George and George Family Group;
2. Aazhoodena and George Family Group;
3. Residents of Aazhoodena;
4. Chippewas of Kettle and Stony Point First Nation;
5. The Province of Ontario;
6. The Honourable Michael D. Harris;

7. Charles Harnick;
8. Robert Runciman;
9. Marcel Beaubien;
10. Ontario Provincial Police;
11. Ontario Provincial Police Association;
12. Chief Coroner of the Province of Ontario;
13. Municipality of Lambton Shores;
14. Chiefs of Ontario; and
15. Aboriginal Legal Services of Toronto.

Standing for Part I only of the Inquiry has been granted to the following individuals:

1. Christopher D. Hodgson; and
2. Debbie Hutton.

Standing for Part II only of the Inquiry has been granted to the following parties:

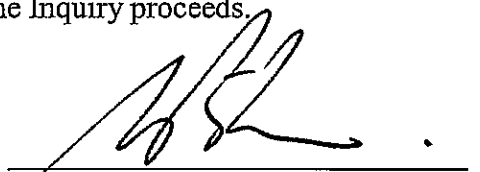
1. Union of Ontario Indians;
2. Chippewas of Nawash Unceded First Nation;
3. Anishnabek Police Services;
4. Nishnawbe-Aski Police Services Board;
5. Centre Ipperwash Community Association;
6. Aboriginal Peoples Council of Toronto;
7. Law Union of Ontario;
8. African Canadian Legal Clinic;
9. Amnesty International Canada;
10. Canadian Civil Liberties Association;
11. Mennonite Central Committee Ontario;
12. George Simpson and Rowland Carey; and
13. The Ontario Federation of Individual Rights and Equality.

In total, 17 parties have been granted standing to participate in Part I of the Inquiry, and 28 parties have been granted standing to participate in Part II of the Inquiry. The diverse

collection of interests and perspectives that will be represented in each Part of the Inquiry is necessary if the Commission is to fulfill its mandate. However, the large number of parties involved could potentially raise logistical and procedural difficulties. There is a danger that the proceedings, particularly in Part I of the Inquiry, will become bogged down by the number of parties with the right to cross-examine witnesses and make submissions. With that in mind, I am urging counsel for each of the parties granted standing to carefully assess where the interests, perspectives and expertise of their clients coincide with the interests, perspectives, and expertise of other parties, and, where possible, to work together with a view to avoiding duplication in the questioning of any witnesses or in any submissions that may be made. Clearly, the parties are in the best position to determine how, and to which issues, they are best aligned. However, if the parties with standing are unable to cooperate to avoid duplication, I will have to intervene to avoid repetitive questioning and submissions.

I was encouraged by the constructive tone of so many of the submissions made before me at the standing hearings in Forest and I am hopeful that the co-operative relationship between the parties and Commission Counsel will continue throughout the Inquiry. I am looking forward to working with all the parties as the Inquiry proceeds.

**Date: May 7, 2004**



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**The Honourable Sidney B. Linden  
Commissioner**