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## Restoring Confidence in Pediatric Forensic Pathology

Volume 2 of my Report contains my systemic review and assessment of the practice and oversight of pediatric forensic pathology in Ontario, from 1981 to 2001. It chronicles the systemic failings that occurred as they affected the criminal justice system.

In this volume, I set out the changes necessary to ensure, so far as possible, that the public can once again trust that pediatric forensic pathology will play its vital role in helping the criminal justice system address the very difficult and troubling cases involving a child's death in suspicious circumstances.

The systemic review and assessment that I conducted identified a significant array of failures that must be addressed if public confidence is to be restored. These systemic issues emerged from my examination of Dr. Charles Smith's work and its oversight, and from what I heard about the practice and oversight of pediatric forensic pathology generally during the years on which I was mandated to report. As I describe in the chapters that follow, the responses to these systemic issues can in some instances be targeted at pediatric forensic pathology specifically. In many instances, however, effective responses require broader change, often to forensic pathology as a whole.

Very early in the Inquiry process, Commission counsel and I were conscious of the need to begin developing an inventory of systemic issues that needed to be addressed before we turned to the recommended solutions.<sup>1</sup> Commission counsel began this process by preparing a preliminary list of possible systemic issues based on the facts and information collected to that point. It was understood that not every issue on the list would necessarily be addressed in my Report.

The nature of my mandate made it essential that we be conscious not just of

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<sup>1</sup> See Chapter 23, The Scope and Approach of the Inquiry, in Volume 4 of the Report.

the systemic issues but of the need to gather, at every stage of the process, the necessary policy information to address them. Our information was collected in a number of ways.

Through my director of research, Professor Kent Roach of the University of Toronto, I commissioned independent research by a group of world-renowned experts from Canada, Australia, the United Kingdom, and the United States. These studies, which related to pediatric forensic pathology and its interaction with the justice system, proved to be of great benefit to me. I know they will add significantly to the body of knowledge in this field.

In addition to the research studies, the hearings themselves proved to be a fruitful source of policy information. Many of the witnesses who had evidence about factual matters relevant to the systemic review had also thought deeply about the policy issues the Commission would address. In addition to eliciting their evidence about the years under review, we took the opportunity to invite their views on many of the broader policy issues.

To assist in the development of specific recommendations, the Commission also held a series of 18 policy roundtables, each designed around a particular theme, to provide the Inquiry with policy input.<sup>2</sup> We were fortunate to secure participation from world leaders in the various fields, and I found the dialogue extremely helpful.

One of the reasons the dialogue was so helpful was that, in advance of the roundtables, Commission counsel circulated to the parties a description of each roundtable, together with a series of questions to be discussed, reflecting the systemic issues that might be addressed in my Report. The parties and the community were canvassed for opinions and advice and, once again, it was made clear that the questions posed were part of an evolving process.

The final submissions stage of the Inquiry also provided great assistance. In both their written and their oral submissions, the parties were able to address the systemic issues that, in light of the body of information collected by the Inquiry, they believed should be the subject of recommendations for change. All counsel met a very high standard that has contributed much to my capacity to address the difficult questions confronting the Inquiry.

In making my recommendations, I have benefited enormously from all the information that has been gathered over the entire course of the Inquiry. I am very grateful to all involved. In the end, the issues that I ultimately chose to address in this volume are those that, in my judgment, must be dealt with if pub-

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<sup>2</sup> See Appendix 29 in Volume 4 for the issues covered at the roundtables.

lic confidence in pediatric forensic pathology in Ontario and its use in the criminal justice system is to be restored and enhanced.

In the main, the recommendations are organized around the themes of the various roundtables. In each chapter, I attempt to reiterate briefly the findings from my systemic review that justify the need for the recommendations, as well as my reasons for making them. In my view, these recommendations, if acted upon, represent the best way to protect the justice system from flawed pathology and to leave behind the dark times of the recent past.