

IN THE MATTER OF an Inquiry pursuant to the *Public Inquiries Act* R.S.O. 1990, c. P.41, as amended, into Pediatric Forensic Pathology in Ontario.

SUBMISSIONS OF THE PROVINCE OF ONTARIO

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SUBMISSIONS OF THE PROVINCE OF ONTARIO

Introduction

1. The Province of Ontario¹ looks forward to receiving the Commissioner's recommendations on all of the systemic issues identified by the Commission. In these submissions the Province will focus on those systemic issues relating to the role of the Crown² and police³ in pediatric forensic cases.
2. During the course of the Inquiry, the Province provided information to the Commission regarding its current policies and practices, and about new initiatives that are under development.
3. The submissions below are intended to supplement the papers and information already provided to the Commission by the Province and to respond to some of the questions posed by the Commission.

¹ The Office of the Chief Coroner, which is separately represented at the Inquiry, will be making its submissions directly to the Commission and they do not form part of the Province's submissions.

² In these submissions "Crown" refers to the Criminal Law Division, Ministry of the Attorney General.

³ The Ontario Provincial Police will be the primary police service referred to herein.

Role of the Crown

Question 56 – Should Crown counsel have specialized training in order to prosecute pediatric forensic death cases?

4. Specialized training and education for all participants in the criminal justice system dealing with pediatric forensic pathology cases, including police, Crown attorneys, defence counsel and the judiciary, on the proper limits of expert evidence in these cases is crucial.

Child Homicide Resource Team

5. The Crown, through the establishment of the Child Homicide Resource Team, will ensure that there is a group of Crown attorneys with specialized expertise who can provide ongoing advice, mentoring and an objective review of the forensic pathology evidence in all child homicide cases in Ontario.⁴

6. The Crown has committed to enhanced education on pediatric forensic pathology issues for the Child Homicide Team.⁵

7. The Crown struck a Committee of senior Crown attorneys involved in criminal trials, appeals, policy development and education to consider how best to educate Crown attorneys on issues of pediatric forensic pathology. The

⁴ Summary of Criminal Law Division Initiatives, PFP304038, Item 5

⁵ Summary of Criminal Law Division Initiatives, PFP304038, Item 7

Committee concluded that it is not practical to educate all Crown attorneys in the Province (approximately 1,000 prosecutors) about issues involving a very small proportion of cases in a highly specialized area, and that the best model would be to have a small team of Crown attorneys with specialized training who can act as a resource to Crown attorneys throughout the Province who prosecute pediatric homicide cases.⁶

8. This delivery model is designed to ensure ongoing consultation and review of the prosecution by Crown attorneys who have up-to-date information about medico-legal issues in this area and who are familiar with the unique facts and issues pertaining to every pediatric homicide case in the system as outlined in Crown initiative #1. This model would also avoid the possibility of tunnel vision on the part of an individual prosecutor because the Child Homicide Resource Team would provide objective advice and oversight.

Joint Education Programs

9. The Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services will work together to develop joint education programs involving police, Crown attorneys, defence counsel and scientists in respect of pediatric forensic pathology issues, similar to those held in relation to forensic science following the Kaufman Inquiry.

⁶ Paul Lindsay, Transcript, Feb. 19, 2008, p.11, line 1 – p. 16, line 14; Brian Gilkinson, Ed Bradley, Transcript Jan. 24, 2008, p.252, line 12 – p. 256, line 24.

Crown Attorneys' Conferences

10. The Ministry of the Attorney General, Criminal Law Division works in partnership with the Ontario Crown Attorneys' Association (OCAA) to provide extensive and continuing educational programs to ensure that Crown attorneys have the necessary skills and knowledge to properly perform their function.

11. The Ministry will work together with the OCAA to ensure that the Crown Attorneys' Spring and Fall Conferences include presentations about issues related to pediatric forensic pathology that are of concern to all Crown attorneys.

12. The Crown Summer School will include issues related to pediatric forensic pathology in its Homicide Course next year and periodically thereafter as needed.

Crown Intranet

13. The Crown also provides more general education to Crown attorneys about the use and limits of expert evidence through its internal website, CLDNet, which contains papers, articles and a forum for information exchange among Crown attorneys.

Question 57 – How should Crown counsel ensure the timely preparation of pediatric forensic pathology reports?

14. Timely and comprehensive written reports from pathologists to police investigators are essential to the proper functioning of the criminal justice system.

15. The Crown Initiatives provide for a mandatory dual reporting process for the prosecuting Crown attorney to (a) their supervisor and (b) the Child Homicide Resource Team Lead in cases where there are procedural issues with a pathologist. This would include difficulty in obtaining timely reports.⁷

16. The Crown, through the Child Homicide Resource Team Lead will work with the Office of the Chief Coroner to develop protocols for exchanging information about the work of pathologists in criminal prosecutions.

17. The Crown Initiatives and the joint protocols will allow for the early identification of problems and patterns as they arise. In addition, they will provide an avenue for the Crown to raise these matters with the Chief Coroner's Office to ensure they are properly addressed.

⁷ Summary of Criminal Law Division Initiatives, PFP304038, Item 4.

Question 58 – Should the Crown have a role in evaluating the accuracy and reliability of pediatric forensic pathology evidence? How and when should that be done?

18. Pediatric forensic pathology can play an important, if not crucial, role in determining whether a crime was committed, and/or the timing of the fatal injuries. The Chief Forensic Pathologist has the primary role of evaluating the accuracy and reliability of pediatric forensic pathology evidence, but the police and Crown also play a role.

Ongoing Assessment per Crown Policy

19. Crown attorneys must evaluate the accuracy and reliability of pediatric forensic pathology evidence in consultation with the police, where appropriate, to the extent expected of a lawyer acting in the position of a minister of justice. The Crown attorney should assess the strength of the pathologist's opinion from a lawyer's perspective and must, as part of a Crown attorney's ongoing obligations, consider whether there is a reasonable prospect of conviction given the importance of the pathologist's evidence to the entire case.

Child Homicide Resource Team

20. The Child Homicide Resource Team will collect information about pediatric forensic pathology through education and continuous consultation with Crown attorneys in child homicide cases that may help the Office of the Chief Coroner of Ontario (OCCO) evaluate the evidence given by pathologists in criminal proceedings.

21. Crown attorneys will be required to inform the managing Crown Attorney and Child Homicide Resource Team of any problems encountered with a pathologist's evidence in a prosecution in accordance with the Initiatives filed at the Inquiry.⁸ This would include problems with disclosure, changes in evidence, or testimony that is speculative, inflammatory or outside the pathologist's area of expertise.

22. The Initiatives adopted by the Crown also envisage the dual reporting of adverse judicial comments on pediatric forensic evidence by the prosecuting Crown attorney to his or her supervisor and to the Team Lead of the Child Homicide Resource Team.⁹ The term "adverse judicial comments" will have to be defined and based on the definition, a determination will then need to be made about reporting to the OCCO and other authorities, if appropriate. There are also potential disclosure issues that will have to be considered. The information is intended, at a minimum, to assist the Team in providing advice to Crown attorneys about the reliability of pathologists' evidence in subsequent cases.

23. The involvement of the Child Homicide Resource Team as consultants to the prosecuting Crown attorney throughout the prosecution will ensure that current medical issues are addressed. The Team can also assist in providing the

⁸ Summary of Criminal Law Division Initiatives, PFP304038, Item 2.

⁹ Summary of Criminal Law Division Initiatives, PFP304038, Item 4.

prosecutor with appropriate context where the pathology involves issues that are controversial in the medical community.

Joint Protocols – Crown and OCCO

24. The Crown will work together with the OCCO to develop protocols for the exchange of information about the accuracy and reliability of pediatric forensic pathology evidence. Consideration could be given to the types of protocols developed between the Crown and the Centre of Forensic Sciences following the Kaufman Inquiry. Such protocols will help OCCO ensure that proper follow up takes place when problems are identified, including appropriate remedial action where required.

25. There are a number of issues that would need to be addressed in the development of protocols between the Crown and the OCCO, including the need to encourage a full and frank exchange of opinions, while at the same time being sensitive to issues such as disclosure requirements in criminal proceedings, freedom of information, libel, professional discipline and employment consequences.

Case Conferences

26. Early case conferences with OCCO, the pathologist and police should be encouraged in order to ensure that medical evidence is properly understood before charges are laid. The participation of a Crown attorney in the case

conference may be desirable where it is necessary for the Crown to be fully aware of any limitations in the evidence; however, this should be distinguished from charging advice, which should involve only the Crown attorney and police.

Meetings among Pathologists; Pathologists and Defence

27. The Crown is always willing, and considers it ideal, for pathologists, whether or not they will be expert witnesses at trial, to meet as early in the proceeding as possible to try to find areas of agreement or disagreement.

28. In the Jenna case, where such a meeting took place, a trial was avoided when the experts on both sides met and Dr. Smith deferred to the defence expert. This enabled the Crown attorney to re-assess the reasonable prospect of conviction and withdraw the charge, as the deferral to Dr. Ein about the time period in which the fatal injuries were inflicted excluded the accused.

29. In serious cases such as homicides, Crown attorneys meet with the pathologist in advance of a preliminary hearing and trial. Crown policy provides that a police officer is present to take notes at the meeting, as any change, expansion or limitation placed on an expert's opinion must be disclosed to the defence, and the Crown must not put himself or herself in the position of being a witness.¹⁰

¹⁰ Crown Policy Manual, Witness Interviews PM [2006] No. 5; Policy Memo re Physical Scientific Evidence, March 21, 2005.

30. The Crown does not object to a meeting between defence counsel and the pathologist who will testify for the Crown. As the evidence in this Inquiry shows the Crown has facilitated such access wherever requested, but many defence counsel decline to take advantage of this opportunity.

31. Meetings between Crown attorneys and defence pathologists would also be beneficial as they would give the Crown an opportunity to evaluate the reasonable prospect of conviction in light of the defence evidence or to focus the issues for any eventual trial. If the defence evidence tends to exonerate the accused or if it is likely to raise a reasonable doubt about the guilt of the accused, such a meeting in advance of a preliminary inquiry or trial can only benefit the defence – and indeed the administration of justice.

32. Defence counsel have expressed general concerns about having their experts meet with the Crown, or with expert witnesses who will testify for the Crown. The reason appears to be that it could reveal the defence theory prematurely and allow the Crown to “shore up” its case.

33. When defence counsel in an individual case has concerns that information about the defence may be given to the Crown in advance of trial, defence counsel may choose not to meet with the Crown pathologist. It is important, however, that pathologists who will testify for the Crown not keep information confidential as between the Crown and defence if they are to be perceived as

truly independent experts. The system will benefit more if pathologists paid by the state are engaged in truth-seeking rather than strategizing in an adversarial system.

34. Meetings between pathologists who will testify for the Crown and pathologists who will testify for the defence might enable the experts to discuss and resolve areas of difference between themselves and improve the quality of the scientific opinion that is ultimately presented to the court. Such meetings between pathologists alone would satisfy the desire on the part of experts to discuss their scientific findings and opinions in a collegial atmosphere, and avoid the problems of disclosure and confidentiality that can arise when counsel are present.

Reciprocal Disclosure

35. While there is no consensus in the legal community concerning mandatory disclosure of defence expert evidence beyond that already required by the *Criminal Code*, there appears to be a consensus that early defence disclosure of expert evidence should be encouraged since it ensures that decisions on bail and reasonable prospect of conviction are made as early as possible and on the basis of all available evidence. As the evidence in this Inquiry demonstrates, such early disclosure and meetings between Crown and defence experts has

served to identify cases that do not have a reasonable prospect of conviction and has led to the withdrawal of charges.¹¹

Question 59 – How should the pathology affect the charge selection in pediatric forensic cases?

36. The decision about whether to charge, and what charge should be laid, is made by the police, sometimes in consultation with the Crown. The pathology is one part of the evidence to be considered in assessing the case. Charge selection must be done on the basis of the evidence as a whole.

37. The recently-adopted Initiatives require Crown Attorneys to encourage their local police services to consult with the local Crown attorney prior to laying charges in pediatric homicide cases, absent a concern about public safety or the destruction of evidence.¹²

38. Once charges have been laid, the Crown attorney assigned to prosecute the case must ensure that the evidence supports the charges. In addition, the Crown Policy Manual provides that the Crown attorney must be satisfied (1) that there is a reasonable prospect of conviction on the charges and (2) that it is in the public

¹¹ Jenna case, Sharon case; Michael Code, Feb. 21, 2008, p. 61, lines 4-8.

¹² Summary of Criminal Law Division Initiatives, PFP304038, Item 6.

interest to continue the prosecution. The Crown attorney has an ongoing responsibility to assess the case on these criteria throughout the prosecution.¹³

39. The Crown continually reviews cases for reasonable prospect of conviction and public interest. If at any time the Crown attorney believes there is no longer a reasonable prospect of conviction, the charge will be withdrawn. In some cases, another more appropriate charge may be laid.¹⁴ This process is usually done after consultation with the police and where appropriate, the victim's family.

40. Where plea negotiations are held and the accused is willing to plead guilty to a lesser charge, it may appear to a person unfamiliar with the case that the Crown presented an "alternative" to the original charge that was too attractive for the defence to resist, thus pressuring the accused to plead guilty. In fact, the reduced charge may result from the Crown attorney's ongoing assessment of the evidence for reasonable prospect of conviction and a consideration of whether it is in the public interest to proceed to trial on the original charge. The plea accepted by the Crown should adequately reflect the gravity of the provable offence and be in the public interest as defined in the Charge Screening Policy.¹⁵

¹³ Crown Policy Manual, Charge Screening Policy and PM [2002] No. 5 – Charge Screening.

¹⁴ Charge Screening Policy and PM [2002] No. 5 – Charge Screening; Crown Policy Manual, Resolution Discussions, PM [2005] No. 16, p. 7, par. 4(c).

¹⁵ Crown Policy Manual, Resolution Discussions, PM [2005] No. 16, p. 7, par. 4(c); Charge Screening Policy and PM [2002] No. 5 – Charge Screening.

41. The Crown Policy Manual provides that Crown attorneys must not accept a guilty plea if they believe the accused is innocent of the charge or when they know that a material element of the offence can never be proven, unless that fact is fully disclosed to the defence prior to the guilty plea.¹⁶

42. The Crown Policy Manual contains detailed policies with respect to plea resolutions to ensure that guilty pleas are made voluntarily, with the benefit of full disclosure and legal advice, or with information about the availability of legal advice.¹⁷

43. The Rules of Professional Conduct enacted by the Law Society of Upper Canada also provide that defence counsel may enter into an agreement regarding a guilty plea only when the client voluntarily is prepared to admit the necessary factual and mental elements of the offence.¹⁸

44. If defence counsel is concerned that a Crown attorney is applying pressure to an accused to plead guilty to a charge that is unsupported by the evidence, defence counsel may contact the Crown attorney's manager to discuss the matter.

¹⁶ Crown Policy Manual, Resolution Discussions, Policy Memo March 21, 2005, p.1; PM [2005] No. 16, pp. 3, 11.

¹⁷ Crown Policy Manual, Resolution Discussions, Policy Memo March 21, 2005, p.1; PM [2005] No. 16, pp. 1-14.

¹⁸ Law Society of Upper Canada, Rules of Professional Conduct, Rule 4.01(9).

Question 60 – What is the appropriate relationship between the Crown and child protection authorities in pediatric forensic death cases?

45. In general, a Crown attorney has no involvement with child welfare authorities other than in response to specific questions about the status of the criminal proceedings. The police are in the best position to deal with Children's Aid Societies, as they have direct knowledge of the evidence and are required to report child abuse.

46. The Crown attorney does not become involved in the investigation of alleged child abuse, nor does the Crown attorney recommend a course of action with respect to child welfare matters.

47. A Crown attorney may provide factual information to the authorities regarding a plea or the status of criminal proceedings, but a Crown attorney should not speculate on the likely outcome of the proceedings or comment on the evidence or the character of an accused. There is no evidence to suggest that this has happened.

48. The Ontario Provincial Police (OPP) and child welfare authorities have established protocols in some areas of the Province regarding investigations and communications, sometimes in conjunction with other police services. The OPP are working with the Ministry of the Attorney General to develop standardized

protocols for the sharing of information between the police and child welfare authorities.

49. Where charges are laid and the Children's Aid Society requires access to the Crown brief, the proper course is to seek an order of the Court so that the public interest in protecting the integrity of criminal proceedings can be balanced with the needs of the child protection authorities.¹⁹

Role of the Police

Question 53: Should the police have specialized training in pediatric death investigations?

50. The OPP has general procedures and training in place for death investigations of children under the age of five. Officers are required to have certain knowledge and skills to conduct these investigations and they receive thorough, ongoing training.

51. It is important, however, that in pediatric cases police have as accurate information as possible about the cause of death, and that pathologists consider and address in their post mortem reports any information provided by the police to the pathologist that may relate to the cause of death.

¹⁹ *P. (D) v. Wagg* (2004), 239 D.L.R. (4th) 501 (C.A.)

52. The OPP (Criminal Investigation Bureau) provides consultation to smaller police services throughout Ontario where there may be a lack of expertise in pediatric death investigations.

53. As already noted, it is important that police consult with the local Crown attorney prior to the laying of charges in pediatric cases, where consistent with public safety, in order to determine whether more investigation is required and, if not, what possible charges might be laid.

Question 54 – Should there be guidelines concerning the information the police provide to, and receive from, the pediatric forensic pathologist during and following the death investigation?

54. The OPP will emphasize in their training of investigators the current policy that they take care not to influence the pathologist by providing opinions about the cause of death or information about a suspect's background. The police should only provide factual information about such relevant matters as the death scene, the body and the medical history of the victim.

55. The police should prepare an information package for the pathologist that provides relevant background. A copy should be given to the pathologist and a copy should be included in the Crown brief for disclosure. The officer will testify about what information was provided to pathologist and why it was provided. The pathologist may subsequently testify about what information was received from

the police and what was relied upon. The pathologist's findings should be contained in the post mortem report which is provided to the police.

56. The Crown is required to disclose any relevant records of information exchanged between the police and the pathologist. In order to avoid conflicts in court over what information was provided it would be ideal to have notes from both the police and the pathologist as to what information was given and received, regardless of its relevance to the pathologist. It is possible that the pathologist will consider certain information irrelevant for purposes of determining the cause of death, in which case the pathologist should ensure that what is relevant is specified in the post mortem report.

Question 55 – Should there be guidelines concerning the communication by the police of information received from the pathologist to other institutions such as those responsible for child welfare?

57. The police are required by law to provide information about possible child abuse to a children's aid society. The OPP recognize the importance of guidelines concerning the relationship between the police and child welfare authorities and are involved with Ministry of the AG in the development of a protocol have encouraged the development of a Memorandum of Understanding in communities serviced by the OPP.

Corrective Measures

Question 75 – What role should the Ombudsman’s office play after the fact of inadequate pediatric forensic pathology? Are there other institutions that should also play a role?

58. Although the question of the possible involvement of the Ombudsman was identified as a potential systemic issue, no evidence was led on this issue.

59. Before discussing any possible role of the Ombudsman, it would have to be determined whether a pathologist who conducts an autopsy under a coroner’s warrant is “acting in the course of the administration of a government organization”. If the pathologist is not so acting, the Ombudsman would have no jurisdiction to investigate a complaint about the pathologist.

60. The *Ombudsman Act*²⁰ provides:

14(1) The function of the Ombudsman is to investigate any decision or recommendation made or any act done or omitted in the course of the administration of a governmental organization and affecting any person or body of persons in his, her or its personal capacity.

.....

(4) Nothing in this Act empowers the Ombudsman to investigate any decision, recommendation, act or omission,

(a) in respect of which there is, under any Act, a right of appeal or objection, or a right to apply for a hearing or review, on the merits of the case to any court, or to any tribunal constituted by or under any Act, until that right of appeal or objection or application has been exercised in the particular case, or until after any time for the exercise of that right has expired.

²⁰ *Ombudsman Act*, R.S.O. 1990, c.O.6, s.14

61. In addition to any possible recourse under the *Ombudsman Act*, there are other possible avenues for exploring concerns about inadequate pediatric forensic pathology, including the complaints process established by the Office of the Chief Coroner or the College of Physicians and Surgeons.

62. The Child Homicide Resource Team and the Office of the Chief Coroner can work together to establish protocols for the exchange of information about the performance of pediatric forensic pathologists. This will enable the Office of the Chief Forensic Pathologist and the Chief Coroner to explore concerns at an early stage and alert the appropriate authority so that any issues can be addressed.

63. The Crown can address any actual or potential miscarriages of justice through the courts.

General

Question 76 – Where there is a significant change in the science of pediatric forensic pathology, how should the criminal justice system respond?

64. The issue of what, if any, response is required in light of changes in the science of pediatric forensic pathology is one that needs to be addressed by the Chief Coroner's Office.

65. Any changes in the science that affect the timing or cause of death should be communicated by the Chief Coroner's Office to the police since it may affect the investigative process and the consideration of appropriate charges, if any. The police will communicate with the prosecuting Crown attorney regarding the results of any further investigation that has been undertaken.

66. The prosecuting Crown attorney will disclose new evidence to the defence and will consult with the Child Homicide Review Team about the case.

67. The Ministry of the Attorney General has established a Criminal Conviction Review Committee. The Committee has retained the Honourable Patrick Lesage, former Chief Justice of the Superior Court of Justice, to work with members of the Committee in providing advice to Crown attorneys on emerging trends in cases such as those involving pediatric forensic pathology.

68. The Crown is prepared to respond and deal appropriately, through established procedures, with the evaluation of the soundness of any conviction where the pediatric forensic pathology relied upon by the Crown is called into question, e.g. Mullins-Johnson.

69. In addition, the Ministry has indicated that, where appropriate, the Crown will consent to an extension of time to bring the matter before the Court of Appeal if that avenue remains available to the accused.

70. There is no systemic evidentiary justification for a wide-ranging review of past cases.

71. On a going-forward basis, the circumstances giving rise to this Inquiry will be avoided due to a combination of new procedures adopted by the OCCO and the Crown:

(a) The peer review and quality control procedures adopted by OCCO in respect of autopsies carried out under Coroner's warrant should identify problems before they can affect criminal proceedings.

(b) The Crown Initiatives set out in the Crown's evidence before the Inquiry, including procedures for these cases to be reviewed by experienced and specially trained Crowns and procedures for the early identification of any problems in these cases so that they can be addressed at the earliest opportunity.

Question 77 – Should the Court of Appeal for Ontario issue guideline judgments on important issues that may be in dispute in pediatric forensic pathology, as has been done by the English Court of Appeal?

72. The panel that addressed the topic of "The Judicial System and Expert Scientific Evidence" appeared to be of the view that guideline judgments should be avoided, as otherwise the risk would be to elevate a finding of fact to a legal proposition which then might be viewed as binding in subsequent cases. The Crown agrees.

73. The consensus of the panelists seemed to be that the Court of Appeal should continue to confine itself to deciding specific cases based on the evidence in each case. There may, however, be utility in grouping cases raising similar issues together and having them heard by the same panel in the interests of efficiency and consistency. The Crown agrees.

Question 80 – For any changes that may be recommended by the Commission, what are the most effective implementation mechanisms? In each case, what is best: legislation, regulation, guidelines or some other mechanism?

74. The most effective implementation mechanisms depend on the nature of the problem. Where legislative provisions are to be changed (e.g. the structure of institutions or procedure in criminal cases), legislation is required. Where there is no existing legislation, changes should be effected through the least formal method that is likely to bring about the desired change. If guidelines will resolve a problem, for example by clarifying the roles of different institutions, this would be a better mechanism than legislation or regulations.

75. The legislative process is time-consuming and regulations, while easier to pass, must be made pursuant to the regulatory powers provided in legislation.

76. Guidelines or protocols are the easiest and most flexible means of implementing change or confirming existing practices and procedures. Any party

may, in cooperation with another, establish guidelines provided they both have authority over the subject matter. There is no formal process necessary for the establishment of guidelines or protocols.

Other Issues

Legal Aid

77. Defence counsel expressed concerns at the Inquiry about the legal aid tariffs for defence experts and defence counsel. There was no evidence, however, that any accused in the cases reviewed by the Inquiry had been denied funding to retain a defence pathologist. On the contrary, the only evidence at the Inquiry was that funding for a defence pathologist was either approved upon request by defence counsel, or was not an impediment to retaining the expert.²¹

78. The concern about tariffs for defence counsel is that senior, experienced lawyers will not take on complex cases such as those involving pediatric forensic pathology evidence because the tariffs are too low and that accused persons will therefore not be adequately represented.

79. The Inquiry heard evidence that Legal Aid Ontario has implemented protocols that require minimum counsel qualifications for serious cases.

²² Bruce Hillyer, Transcript, Feb. 8, 2008, p.124, line 13 – p. 125, line 5;

80. In September of 2006 the Government of Ontario announced a Legal Aid Review led by Professor Michael Trebilcock, which will provide recommendations on strengthening the Legal Aid system and will examine the current tariff process.

81. In its 2007 budget the Government of Ontario announced a funding plan for Legal Aid, which will see the government invest \$51 million in Legal Aid over the next three years.

82. In July 2007, as part of this funding plan, the Government of Ontario increased the legal aid tariff rate retroactive to April 2007.

Conclusion

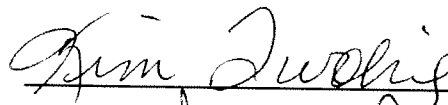
83. It is important that confidence in pediatric forensic pathology services provided to Ontarians be restored and that justice be done based on the proper diagnosis of injury and death. There must be an appropriate balance between guarding against wrongful criminal charges and convictions on the one hand, and on the other hand, ensuring the safety of children who remain in the care of a person who may have caused the death of a child.

84. The Province looks forward to receiving the recommendations of the Commission, and to continuing to work with all other institutions involved in the administration of justice to achieve this important objective.

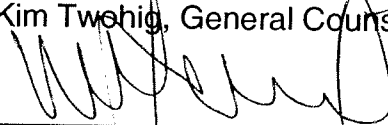
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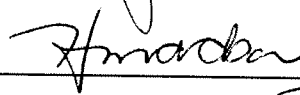
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