

November 12, 2007

SYSTEMIC ISSUES TO BE EXAMINED BY THE INQUIRY

The Commission is to conduct a systemic examination of the practice of pediatric forensic pathology and its oversight mechanisms as they relate to the criminal justice system in Ontario.

The broad purpose is to determine the systemic failings that may have occurred, and, guided by that, to identify the systemic issues that need to be addressed in order to make the recommendations required to restore and enhance public confidence in pediatric forensic pathology in Ontario and its future use in investigations and criminal proceedings.

While it can be finalized only after the public hearings are completed, the Commission has compiled a list of systemic issues for consideration during public hearings. They can be usefully grouped into four areas of concern, recognizing that these are not watertight, and that the issues do not necessarily relate to only one area.

The first group is those issues that are most relevant to ensuring that the highest quality pediatric forensic pathology is available to the criminal justice system.

The second group comprises those issues that involve how that pathology is fairly and effectively communicated to the criminal justice system.

The third group involves issues that concern the roles that can best be played by the main actors who interact with pediatric forensic pathology. These include the coroner, the hospital in which the pathology may be done, the police, the Crown, the defence, the child protection agencies and the families. The broad challenge is to determine both how these actors can best assist in ensuring that sound pediatric forensic pathology is supplied

to the criminal justice system, and how these actors best interact with pediatric forensic pathology to ensure that justice is done.

The fourth group concerns those issues that arise after the fact of inadequate pediatric forensic pathology. The broad challenge is to determine the best corrective measures that ought to be available in these circumstances.

The investigation to date raises issues about systemic failings in all of these areas – in the pediatric forensic pathology available to the criminal justice system, in the communication of it to that system, in the roles played by the other main actors, and in the corrective measures available after the fact.

The attached list does not represent the final views of the Commission. Nor is it intended to be exhaustive. Not all of the issues will necessarily be addressed. They are intended to assist ongoing discussion with the parties, provide guidance for the public hearings and facilitate the ultimate development of recommendations to restore and enhance public confidence in pediatric forensic pathology in Ontario and its future use in the criminal justice system.