CHAPTER 1

INTRODUCTION

1.1 Inquiry Mandate

In 1995, Mr. Dudley George was shot during a land claim occupation and protest by Aboriginal people in Ipperwash Provincial Park and died of his wounds. Eight years later, in November 2003, the Ontario government established the Ipperwash Inquiry, pursuant to the *Public Inquiries Act.*

I discuss the purpose of public inquiries and the process of the Ipperwash Inquiry in detail in Volume 3 of this report. In this chapter, I describe more briefly the purpose of public inquiries and the process of conducting the investigation, or Part 1 of the Inquiry.

The mandate of the Ipperwash Inquiry, as set out in the Order-in-Council was

1. to inquiry into and report on events surrounding the death of Dudley George; and,
2. to make recommendations directed to the avoidance of violence in similar circumstances.

In broad terms, there are two types of public inquiries. One is an investigative inquiry, which examines and reports on a specific incident or series of events. Often, an element of public controversy is attached to the matter being investigated. Investigative inquiries are established to conduct an independent, comprehensive, and transparent review of the events. Unlike a civil or criminal trial, an inquiry is intended to uncover the truth rather than to establish liability. The purpose, in other words, is to find out what happened — to look back.

The other type of public inquiry focuses on the development of public policy in a specific area of public concern. Often, the need for such an inquiry arises from undesirable events or circumstances. In these cases, the inquiry serves as a means through which the contributing factors can be fully considered. Within that context, the inquiry may make recommendations for measures to prevent recurrence or for systemic improvement — in other words, to look forward.

Thus, a public inquiry can be an opportunity to look back or to look forward. It can also be both. An inquiry can be called to uncover the truth about a specific matter and, at the same time, to propose policy reform. The Ipperwash

Inquiry was established to meet both of those objectives — to conduct an investigation and to examine policy.

However, all public inquiries serve a further purpose. A public inquiry also informs the public by presenting evidence that, until that point, may only have been given in private, if at all. It provides a forum for citizens and groups to participate in the resolution of issues and the development of future policies and strategies concerning matters and events in which they may have a stake. In other words, what distinguishes a public inquiry from other types of investigations and policy reviews is that it is *public*: conducted in public view and with the participation of the public.

1.1.1 Two-Part Mandate; Two-Part Process

Part 1 of the Inquiry followed the evidentiary hearing model. It was a fact-finding process through which I would make findings, based on the evidence heard, regarding the events surrounding the death of Dudley George. Part 2 was a policy-based review to fulfill the broader part of the mandate of the Inquiry; namely, to make recommendations on measures to avoid violence in similar circumstances. The two parts of the Inquiry were conducted simultaneously.

In this volume (Volume 1), I report on the facts and findings arising from the investigation. Volume 2 explores the policy issues underlying the events of September 1995 and contains my recommendations for avoiding violence in the future. The inquiry process is described in Volume 3, and Volume 4 is an executive summary, which includes all of my recommendations stemming from the Inquiry.

1.1.2 Principles Governing the Inquiry, and Additional Goals

The principles that governed this Inquiry were similar to those of other public inquiries: thoroughness, expedition, openness to the public, and fairness. To get at the truth, and to meet the tests of impartiality and independence, the Inquiry had to be thorough. To inform the public and to restore public confidence, the Inquiry had to be conducted in an open forum, thereby ensuring that it would be transparent and open to public scrutiny. To ensure fairness, procedural safeguards had to be put in place and the Commission and the parties had to observe them. And finally, although the principles of thoroughness, openness to the public, and fairness were to be paramount throughout, the Inquiry had to be as expeditious as possible.

Throughout the process, my explicit and primary goal was to fulfill the two-part mandate as set out in the Order-in-Council. However, I also hoped to achieve

two additional goals through the Inquiry process. The first was to further public education and understanding regarding the issues surrounding the shooting death of Dudley George. The second goal was to contribute to the healing of those affected by the tragedy.

It should also be noted here that in light of the broad mandate of the Order-in-Council, I also committed to addressing the considerations of section 20 of the *Coroner's Act* in order to avoid unnecessary duplication of time and effort by the Office of the Chief Coroner for Ontario, which had the power to call an inquest into the circumstances of Mr. George's death.

1.1.3 Approach to the Investigation

In most investigative inquiries, the complexity of the task may not be apparent at the outset. Carrying out the investigation is not the difficult part. The difficulty lies in defining the task — articulating the "what" of it. Beneath an apparently straightforward set of circumstances might lie a multitude of matters which merit investigation.

The first part of my mandate was to investigate and report on the events surrounding the death of Dudley George. How narrowly or broadly I interpreted the requirement to investigate the events "surrounding" the death of Dudley George was critical.

The narrowest interpretation might have led me to investigate only the sequence of direct events and decisions in the immediate vicinity of Ipperwash Provincial Park, during the hours on September 6 immediately preceding the shooting in which Dudley George was killed. On the other hand, the broadest interpretation of events "surrounding" his death might have led me to an extensive investigation of the events and decisions which, in the years, decades, and even centuries before, might have directly or indirectly led to tragedy. Neither of these extremes would have been satisfactory. Nonetheless, defining the scope of the investigation was far from simple. In my view, the task was made more difficult by the number of years that had passed. In the years following the death of Dudley George, more and different issues and interests meriting consideration arose, beyond the facts of the shooting, which might not have arisen immediately after the event.

My decision regarding the scope of the investigation had an impact on many of my subsequent decisions, including my decisions on which individuals and organizations should be granted standing, which witnesses should be called to testify, and the extent to which examination and cross-examination by counsel would be helpful or relevant.

Although the precise limits of the investigation were not easy to define, commission counsel and I recognized at an early stage that the investigation would have

to take into account some of the history and circumstances of the Aboriginal people claiming title to Ipperwash Provincial Park. We began the investigation by calling two experts to provide an overview of the systemic or historical circumstances which may have contributed to the actions and decisions under investigation. Although many of these circumstances pre-dated the events that gave rise to calling the Inquiry, or could have appeared to fall outside its jurisdiction or mandate, my view was that they would shed light on and provide context for why those events occurred. I believed that this was the appropriate starting point for the parties and the public.

Following the historical overview of the land and the Aboriginal people, spanning the years from 1763 and the *Royal Proclamation* to 1942 and the appropriation of the Stoney Point Reserve for military purposes by the federal government, the investigation of the events "surrounding" the death of Dudley George moved to 1993 and the occupation of the federal army camp and barracks. The focus of the investigation then narrowed significantly, to the summer of 1995, and in particular the Labour Day weekend in September 1995 when Mr. George was killed, and also to examining some significant and relevant events in the days and weeks following the shooting.

Another challenge was to define the perspectives to be sought in the course of the investigation.

Commission counsel began by grouping the seventeen parties with Part 1 standing, and the witnesses to be called, into three broad categories of interests: Aboriginal, Ontario government, and OPP. This was intended to assist in determining the sequence of the witnesses and the order of cross-examination by the parties. Additional witness categories included emergency personnel directly involved with the events of September 1995, local cottage-owners, and federal government officials.

However, simply identifying these broad categories of interests did not diminish the complexity of the task. For example, there was not only one Aboriginal perspective on the events surrounding the death of Dudley George. Six parties had interests broadly defined as "Aboriginal," all of which required exploration. Seven parties fell into the category of the Ontario government and two parties represented the separate management and association interests of the OPP. It was a challenge throughout to maintain the balance between the need to proceed efficiently and the need to elicit evidence which added details to the investigation or helped me test or verify the evidence of others.

In making these decisions, I was always mindful of the less tangible, but in my view, equally important attribute of a public inquiry; that is, healing. While

my main task was to conduct a thorough investigation, the process offered an opportunity for points of view to be shared, sometimes for the first time. This sometimes had a cathartic effect and I thought it was important for us to encourage this.

1.2 Process of Part 1 of the Inquiry

1.2.1 Commission Counsel

Soon after my appointment, I appointed commission counsel. The primary responsibility of commission counsel is to assist the commissioner in carrying out his or her mandate by representing the public interest at the inquiry and ensuring that all perspectives bearing on the public interest are brought to the commissioner's attention. Commission counsel provides advice to the commissioner throughout the inquiry and conducts and supervises the investigation from beginning to end.

In a public inquiry, an effective investigation requires considerable planning and preparation before the hearings can begin. I worked with my lead counsel, Derry Millar, to establish our team of lawyers and investigators. We chose a legal and investigative team that collectively had the knowledge, skills, and experience to deal with the issues we expected to cover in the Inquiry and to accomplish our objectives.

1.2.2 Rules of Procedure and Practice

Subject to fairness, a commissioner has broad discretion in conducting a public inquiry in a manner that best meets the mandate. This discretion extends to defining the rules that underlie the conduct of the inquiry.[1] Typically, these rules, commonly known as rules of procedure and practice, are developed early in the inquiry process so that the public and participants will know the "rules of the game."[2] They address procedural matters such as the granting of standing and funding for interested parties, the disclosure of documents, and the calling of witnesses. The rules may also address practical matters such as the location and schedule of inquiry hearings and other activities.

We modeled our Rules on those of similarly structured public inquiries and in keeping with the general principles I had articulated for the Inquiry. Commission

1 For example, *Public Inquiries Act, supra* note 5 at c.P.41.s.3.

2 *A Handbook on Public Inquiries in Canada, supra* note 4 at 69.

counsel invited the parties with standing to comment on the draft Rules and we posted the final version on our website.

1.2.3 Standing and Funding Applications and Decisions

To be thorough and to obtain all relevant information and perspectives, public inquiries invite potential parties (interested individuals and groups) to apply for standing in the inquiry. Our Notice of Hearing, which was published in a number of national and local print media and on our website, invited applications for standing in one or both parts of the Inquiry. I assessed all of the applications for standing, and applications for funding from parties granted standing, against the test for standing and funding set out in our Rules. I heard the applications over four days in late April 2004, in the small town of Forest, Ontario, which is near Ipperwash Provincial Park.

I granted standing in the fact-finding phase to parties who demonstrated "an interest which is directly and substantially affected by the subject matter" in Part 1 of the Inquiry, or to parties who represented "distinct ascertainable interest and perspectives … essential to the discharge of the Part 1 mandate."[3] Seventeen parties met the criteria for standing in Part 1.

Seven of the seventeen parties granted standing in the evidentiary hearing phase of the Inquiry applied for funding, on the basis that without it, they would not be able to participate in the proceedings. Funding covered counsel fees and reasonable disbursements such as travel and accommodation expenses, as set out in the Ministry of the Attorney General's fee schedule for outside counsel and the guidelines for disbursements established by Management Board of Cabinet. In accordance with the Order-in-Council, I recommended to the Attorney General that these seven parties be granted funding to make possible their participation in the Inquiry and he accepted my recommendations.

1.2.4 Location for Evidentiary Hearings

The principle of public accessibility informed one of my earliest decisions regarding the Inquiry: where to hold the evidentiary hearings. With the benefit of input from counsel, staff, and the parties, I decided that the Inquiry should be held near the community most affected by the events being investigated. Accordingly, the hearings were held in the auditorium (Kimball Hall) of the Forest Memorial Community Centre, near Ipperwash Provincial Park.

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3 The entitlements and obligations of parties with standing are set out in sections A.II (Part 1) and B.II (Part 2), Appendix 2, Rules of Procedure and Practice.

1.2.5 Broad Public Access to Hearings

The technology available today affords great opportunity to ensure public access to the proceedings of a public inquiry. Our website was designed to offer current and complete information on all aspects of the Inquiry.

The website provided information on the parties with standing. During the evidentiary hearings, we also posted hearing schedules, transcripts of testimony, and my public statements and decisions on motions. The transcripts were posted on our website the same evening as the testimony was heard, and they were therefore available to counsel to assist them in preparing for the next day.

The website also included a "feedback" link to allow visitors to the site to convey their views and to share or seek information. In terms of public access, however, the addition of a link from our website to a live webcast of the hearings had the greatest impact. It became possible for interested individuals, anywhere in the country and beyond, to see and hear the proceedings of the Inquiry in real time. I am grateful for the assistance of counsel for the Estate of Dudley George and George Family Group for helping us to make this service available.

The webcast offered other benefits to the Part 1 process. Commission counsel and other commission staff could follow the proceedings, even when other responsibilities or cost considerations made it impractical for them to travel to Forest. The same advantage applied to counsel for the parties with standing.

In view of the importance of public access to the proceedings of a public inquiry, we also arranged for broadcast-quality taping of the hearings, from start to finish, by a local audiovisual company. This served as a pool feed for the electronic media covering the hearings.

1.2.6 Disclosure and Management of Documents

A public inquiry is afforded wide-ranging investigative powers. Among them is the power to collect or require disclosure of documents, and if necessary, to compel the production of documents through a summons or a search warrant from the court.

Parties with Part 1 standing were required to provide all relevant documents (defined broadly to include materials in written, electronic, audio, video, and digital form, as well as photographic or other visual materials such as maps and graphs) in their possession or to which they had access. The Commission treated documents received from parties or other sources as confidential until and unless they were made part of the public record.

More than 23,000 documents were scanned into the Inquiry database, assigned an Inquiry document number, and made available to the parties in electronic

format. Where appropriate and relevant, we had audio materials transcribed and made available to the parties. Counsel for the parties with standing were required to sign a confidentiality undertaking with respect to documents.

1.2.7 Issues of Privilege

During the hearings, the Inquiry dealt with many documents that were the subject of a privilege or privacy claim. A protocol for handling documents that were the subject of any kind of privilege or privacy claim was included in our Rules.[4]

Where a party asserted privilege of any kind, I directed the party to disclose the subject documents, in unsevered form, to commission counsel for review, with an explanation of the grounds on which privilege or privacy was asserted and the basis for the assertion. The review of these documents took place in the presence of counsel for the party asserting privilege, if requested by the party. On the few occasions where a party asserted privilege, I issued a summons[5] to the party to produce documents.[6]

In the course of reviewing documents over which privilege was asserted, commission counsel first considered relevance. If the document was not relevant and helpful to the discharge of the mandate of the Inquiry, then the document was returned to the party. If the document was deemed potentially relevant, but commission counsel agreed that the claim for privilege had been properly asserted (and not waived at law), then the document would either be returned in its entirety or maintained with the privileged sections severed (where feasible). Two options were available in the event of disagreement between commission counsel and a party regarding the validity of the privilege claimed (assuming relevance had been established): I could either order production of the subject documents for my inspection and ruling, or I could direct that the issue be resolved on application to the Regional Senior Justice in Toronto or his designate. Fortunately, no disputes arose which required this form of adjudication.

At the conclusion of the evidentiary hearing phase of the Inquiry, and in accordance with Rule 35, all parties were requested to return the electronic copy of the database, including any copies of any documents not made exhibits or belonging to the party. Only those documents made exhibits or those referred to during the hearings are part of the public record of the Inquiry. The originals of all documents disclosed over the course of the Inquiry were returned to the

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4 Rule 32, Appendix 2, Rules of Procedure and Practice. Note that section 11 of the *Public Inquiries Act* (*supra* note 5) precludes admission of privileged matters into evidence.

5 Appendix 8(a), Summons to Witness to Attend and to Produce Documents.

6 *Public Inquiries Act*, *supra* note 5 at sec. 7(1)(b).

parties. In keeping with the archiving requirements of the Province of Ontario, the Inquiry retained copies in its electronic database, which was transferred to the Archives of Ontario at the conclusion of the Inquiry.

1.2.8 Identifying and Preparing Witnesses

In carrying out its investigation, a public inquiry is empowered to call witnesses to appear and testify under oath, and to produce documents identified by the commission. Without this authority to compel testimony and to produce documents, inquiries would be required to rely on the willingness of individuals to volunteer information. This could make it difficult, if not impossible, to uncover the truth.

The principles of fairness and thoroughness informed the selection of witnesses, and witnesses were called to testify if they could provide relevant and helpful information. However, this did not mean that all *possible* witnesses who had relevant and helpful information were called. The challenge throughout was the need to balance efficiency with ensuring that the investigation was thorough and fair.

Prior to testifying, one or more commission counsel and one or more of our investigators interviewed each witness and a transcript of key witness interviews was made. Given the number of years that had passed since the events in question, witnesses were given copies of documents from the Inquiry database before the interviews, when possible, to help refresh their memories. Information from one witness sometimes led to interviews of further potential witnesses. Also, on occasion, members of the public offered suggestions with respect to relevant witnesses. We considered each of these, and pursued the line of inquiry if we deemed it to be potentially helpful or relevant.

Under the Rules, witnesses called to testify at the Inquiry had certain procedural rights. For example, they had the right to be accompanied by counsel during the interview and to be represented by counsel when they testified.[7] Several witnesses availed themselves of this right.

1.2.9 Summonses and Search Warrants

Pursuant to the Order-in-Council, the Inquiry was empowered to issue summonses[8] to witnesses in accordance with Part II of the *Public Inquiries Act*.[9]

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7 Rules 19 and 23, Appendix 2, Rules of Procedure and Practice.

8 Appendix 8(b), Summons to Witness to Appear.

9 *Supra* note 5 at sec. 7(1).

Pursuant to Part III of the *Act*, the Inquiry was also empowered to seek search warrants from a Justice of the Ontario Superior Court of Justice. On occasion, I issued a summons to a witness where the witness did not testify voluntarily, or when a witness requested a summons for other legitimate reasons such as to justify absence from work. It did not prove necessary to execute any search warrants.

The power to summons witnesses derived from a provincial statute, and while I had the power to issue summonses to individual employees or former employees of the federal government, I could not through them obtain documents relating to the areas of intended examination. These documents are in the control of the relevant Minister of the Crown in Right of Canada and, as a provincially appointed commissioner, I did not have jurisdiction to compel a Minister of the Crown in Right of Canada, in his or her official capacity, to appear and produce documents.[10] Although invited to do so, the federal government did not apply for standing in the Inquiry and was not subject to the obligations set out in the Rules. However, the federal government cooperated in providing documents. Also, the federal officials we called as witnesses testified voluntarily and gave evidence on matters relevant to the Inquiry involving Indian and Northern Affairs Canada and the Department of National Defence.

1.2.10 Notices of Alleged Misconduct

Fact-finding, a key aspect of most public inquiries, carries with it the possibility that the evidence heard will affect individual or organizational reputations, particularly if the commissioner makes a finding of misconduct. The *Public Inquiries Act* affords legal protection to anyone who may be found by an inquiry to have been involved in misconduct. Subsection 5(2) of the *Act* provides that no finding of misconduct against a person may be made in the commissioner's report unless the person had received Notice of Alleged Misconduct (sometimes referred to as a "5(2) Notice") and had been given an opportunity to respond to matters described in the Notice.

To minimize anxiety on the part of a recipient, commission counsel, as a practice, started interviews by informing the potential witness of the statutory obligation of the Inquiry to issue Notices of Alleged Misconduct where warranted, and by explaining the meaning of "alleged misconduct" in accordance with the statute. Equally important, my counsel also informed the potential witness of what the Notice did not mean; that is, receiving one did not represent any prejudgment of my findings (if any) concerning the witness. In drafting the Notices therefore, we were careful not to use language that might be confused with potential findings of civil or criminal liability. Notices were delivered in confidence

10 *Keable, supra* note 3.

to the persons or parties to whom they related and, whenever possible, we issued Notices before the individual gave his or her testimony, either directly or through counsel if the witness was represented. It is important to point out here, as did the Commissioner of the Walkerton Inquiry, currently the Associate Chief Justice of Ontario, the Honourable Justice Dennis O'Connor, that where I use terms such as "fault," "responsible," and "accountable," I do not intend, in this report, to reach any conclusions of law. Accordingly, readers should attach the normal, non-legal meaning to words of this nature.[11]

1.2.11 Hearing Schedule

Before the hearings began, and while the initial document analysis and the witness interviews were still in progress, commission counsel was already developing an overall framework for the hearings. Once again, the challenge was to develop an approach that would balance the need to fully understand the circumstances surrounding the death of Dudley George with our obligation to explore only what was necessary to meet the mandate of the Inquiry.[12] Throughout the hearings, commission counsel gave considerable attention to the hearing schedule, taking into account the need to achieve this balance, as well as a logical sequence for the witnesses and the likely time required for each.

We notified counsel of the witness schedule weekly and posted the schedule on our website. We began with a hearing week of Monday through Thursday, with two weeks of hearings followed by a one-week adjournment. The adjournment week allowed counsel for the parties to prepare for the witnesses scheduled for the next two-week session and to attend to other matters. It also allowed time for me and for commission counsel to address other inquiry business, including meetings related to the policy phase of the Inquiry, and to prepare for future witnesses. After several months, we adjusted the timetable by adding another hearing week to the cycle, so that the adjournment week followed three consecutive weeks of hearings. As time went on, hearing hours were added to each week. By the final month, we heard evidence every day, with only a few exceptions, in order to meet the ending date we had already announced.

1.2.12 Evidence/Examinations

Before each witness testified, commission counsel compiled a binder based on a comprehensive review and analysis of relevant documents in the Inquiry database and on the interviews our investigators and counsel conducted with the

11 The Honourable Dennis R. O'Connor, *Report of the Walkerton Inquiry*, Part 1, at 37, (Toronto: Queen's Printer for Ontario, 2002)

12 Appendix 14(n), Commissioner's Remarks, Final Day of Evidentiary Hearings, June 28, 2006.

witness. The binder included an outline of the anticipated evidence from the witness and all relevant Inquiry documents. Five copies of the binder were made: one for me, one for commission counsel conducting the examination-in-chief, one for the second commission counsel assigned to the witness, one for the registrar, and one for the witness. In accordance with the Rules,[13] commission counsel gave parties with standing an outline of the witness's anticipated evidence and a list of the documents likely to be referenced or filed as exhibits. We disclosed Inquiry documents to counsel for the parties electronically, which gave them electronic access to these documents in the hearing room.

Commission counsel called each witness and led the examination. In view of commission counsel's responsibility in a public inquiry to instil confidence in the impartiality of the inquiry in the parties and the public, it was important that this questioning be carried out fairly and even-handedly. On a number of occasions, counsel for a witness examined his or her own witness, after commission counsel's examination, to bring out issues in chief not led by commission counsel. Following commission counsel's examination, counsel for the parties had the opportunity to cross-examine the witness in an agreed-upon sequence. I made it a practice to canvass counsel for an estimate of the time needed for cross-examination. Counsel cooperated throughout in estimating and adhering to what I considered to be reasonable times. Following the cross-examinations, commission counsel re-examined the witness.

1.2.13 Confidential Hearings

The Inquiry hearings were generally open to the public. However, pursuant to the *Public Inquiries Act* (and also as set out in the Rules),[14] there were provisions for conducting hearing in private, if necessary, at my discretion.

There was one instance of in-camera proceedings during the Inquiry. This involved certain tapes of telephone conversations, which had not been made public and which commission counsel intended to introduce and did subsequently introduce through a witness who had been part of the conversation. Counsel for some of the parties brought a motion for the early public disclosure of these tapes. The motion was argued in public, but I heard the portion of the motion that dealt with the specifics of the conversations in camera so that the content of the tapes would not be disclosed prematurely.[15]

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13 Appendix 2, Rules of Procedure and Practice, Rule 37.

14 Rules 40 to 47, Appendix 2, Rules of Procedure and Practice.

15 Appendix 13(b), Commissioner's Ruling on a Motion by the Chiefs of Ontario and the Estate of Dudley George and George Family Group, October 12, 2004.

A witness could request that measures be taken to conceal his or her identity. If I found that a compelling reason existed, I could grant "confidentiality" status to the witness. Such measures could include referring to the witness by non-identifying initials rather than by name in the transcript, in other public records, and in my report.

There was one request for confidentiality regarding the identity of a witness. In the case of one OPP officer, counsel for the Ontario Provincial Police Association requested that the officer's face not be photographed or webcast. The officer was involved in sensitive police work, which would have been jeopardized otherwise, and I agreed to the request for that reason. The parties fully supported my decision.

1.2.14 Commissioner's Statements

I made public statements from time to time when I felt it necessary to convey my views or expectations regarding the progress of the Inquiry to the media, to the public, and to counsel for the parties.[16] Among other things, I expressed my views on the purpose of public inquiries, the principles guiding the Ipperwash Inquiry, my expectations with respect to procedure, and the process. I repeatedly returned to the theme of balancing fairness and thoroughness with efficiency, including cost-efficiency. The text of these statements was part of the transcript of the day's proceedings and was also posted separately on our website. Together, these statements provide a chronology of the progress of the Inquiry.

1.2.15 Closing Submissions and Replies in Part 1

On March 30, 2006, I informed the parties that the hearings would be completed by June 29, and I described the procedures for closing submissions and replies. I invited all parties with standing in Part 1 to submit written closing submissions and, if they wished, to also make submissions orally. Parties also had the option of replying to the submissions of other parties with Part 1 standing.[17]

I asked the parties to file written submissions, in both a hard copy and electronic format, and to distribute them electronically to the other parties who participated in the hearings within one month following the conclusion of the evidentiary hearings. If the parties in Part 1 chose to reply to submissions by other parties with Part 1 standing, they were to deliver the written replies within two

16 Appendix 14, Commissioner's Statements.

17 Appendix 15(a), Memoranda to Parties with Standing re Closing Submissions Process: from Lead Commission Counsel to Counsel for Parties with Standing in Part 1 and Part 1 and 2, May 19, 2006.

weeks of that date, filing and distributing them in the same manner as the submissions. We posted all written submissions and replies on the website on the first day of the oral submissions. In the interest of fairness, I directed parties not to publish their submissions or replies before that date.

Once the parties choosing to make oral submissions had advised the Commission of their intention, we determined and circulated the order of presentation. I advised the parties that I would not allocate the unused time of one party to another party, and that at the conclusion of each party's submission, I would call the next party scheduled.[18]

All parties with Part 1 standing chose to make oral submissions, and I assigned each a maximum of either one or two hours to do so, depending on the nature and scope of the party's interest or perspective. They divided the time as they chose: to address the main points of their written submissions and/or to reply to the submissions of other parties. I heard oral closing submissions over the course of four days, August 21-24, 2006, in Forest.

At the conclusion of our investigation into the events surrounding the death of Dudley George, we had a database of 23,000 documents. The investigation lasted 229 hearing days (followed by the four days of oral closing submissions), during which we heard testimony from 139 witnesses, catalogued 1,876 exhibits, and produced over 60,000 pages of transcripts.

1.2.16 Aboriginal Traditions

One of the procedural adjustments I made to the conventional public inquiry process was to add a traditional opening to our hearings for standing and funding to acknowledge the importance and significance of the traditions of Aboriginal Peoples. At the hearings, Aboriginal witnesses were offered the choice of being sworn to testify while holding an eagle feather, a symbol of truth, or while placing a hand on a bible.

To formally mark the conclusion of the hearings and as a symbolic conclusion of an important chapter in the events surrounding the death of Dudley George, we arranged a closing at Kimball Hall to bring together those who participated in the process. I invited Elder Lillian Pitawanakwat to conduct a traditional ceremony, as she had done at the opening of the hearings on standing and funding. At the closing, Aboriginal drumming groups representing three of the parties with standing at the Inquiry, the Chippewas of Kettle and Stony Point First Nation,

18 Appendix 15(b) Memoranda to Parties with Standing re Closing Submissions Process: from Lead Commission Counsel to Counsel for Parties with Standing in Part 1 and Part 1 and 2, July 14, 2006.

the Residents of Aazhoodena and the OPP, performed together, as they had done spontaneously at another Inquiry event, the Indigenous Knowledge Forum organized by the Inquiry in September 2005. In my view, this was a meaningful and symbolic event.

1.3 Acknowledgements

As is the case with any public inquiry, I owe considerable gratitude to a very long list of individuals who contributed to or participated in the investigative phase of the Inquiry. Although I acknowledged them by name and in some detail in the Inquiry Process volume of this report, I want to reiterate here my heartfelt thanks to all of them for their dedication, professionalism, and skill. However, I would like to mention again a few people who were key to the investigation phase of the Inquiry and to writing this volume of my report.

I am deeply appreciative of the exceptional leadership ability of my lead commission counsel, Derry Millar, and I am grateful to commission counsel Susan Vella and Don Worme. Each of them performed their duties with skill and professionalism throughout. They were assisted by associate counsel Katherine Hensel, Megan Ferrier, and, for a shorter time, Jodie-Lynn Waddilove and Rebecca Cutler. The counsel team had invaluable help from our investigators: lead investigator RCMP Inspector Rick Moss, retired RCMP officer Jerry Woodworth, and Detective Sergeant Anil Anand of the Toronto Police Service.

The experience and skill of my senior legal analyst, Ronda Bessner, were instrumental in assisting me to analyze the large volume of evidence heard and in preparing my report. Erin Stoik, Suzanne Sinammon, Julia Milosh, and Deirdre Harrington helped her at various times.

I also appreciated the cooperation of the parties, their counsel, the press, and the community for their contribution to the process and outcome of the Inquiry. While the process was challenging, and at times particularly demanding, I hope everyone involved found the experience to be as rewarding as I did.

1.4 Organization of this Volume

This report begins with a history of Stoney Point and Kettle Point. Knowledge of the historical context is essential to understanding the reasons the Aboriginal people decided to occupy Ipperwash Provincial Park. This historical overview can be found in Chapters 2 to 5. The ancestors of the Kettle and Stoney Point people as well as what life was like on the Stoney Point Reserve are described. These chapters also review the historical relationship between the Aboriginal

people and the government, as well as the effects of the appropriation of the Stoney Point Reserve by the federal government in 1942 to establish an army training camp.

There were several attempts by Aboriginal people over subsequent decades to negotiate return of the Stoney Point Reserve but the Department of National Defence maintained that it needed the camp for military training. After decades of growing frustration, the former residents of the Stoney Point Reserve and their descendants decided to occupy the military ranges of Camp Ipperwash in May 1993 – described in Chapter 6. Meanwhile they persisted in their efforts for the return of the land.

In 1995, the occupiers' frustration increased because of the military's persistence in remaining on the land. At the end of July 1995, the Stoney Point people decided it was time to reclaim the army barracks which was done on July 29, 1995. This occupation is discussed in Chapter 7. Chapter 7 also discusses the reaction of the military, Kettle and Stoney Point First Nation, the OPP, and the government to the occupation of the army barracks and the potential occupation of Ipperwash Provincial Park after July 29, 1995 and during August 1995. It also includes the convening of a meeting of the provincial government's Interministerial Committee on Aboriginal Emergencies, placing undercover OPP officers in the park, the OPP meeting with MPP Marcel Beaubien and the activities of the MNR.

Chapter 8 deals with the planning by the OPP at the end of August 1995 and early September 1995 for the occupation of Ipperwash Provincial Park. The chapter describes the meetings held to develop the operation plan "Project Maple" to respond to the potential occupation of Ipperwash Provincial Park by Aboriginal people.

Chapter 9 examines the events that occurred on Monday September 4, 1995, when the Aboriginal people occupied the park.

Throughout the day on September 5, 1995, other Aboriginal people arrived at the park to support the occupiers. There was also an increase in police presence. That evening there was an altercation between police and occupiers over picnic tables the occupiers had brought into the sandy parking lot outside the park. These and other occurrences that day are documented in Chapter 10. Chapter 10 also examines the activities of the OPP and politicians and the Interministerial Committee meeting on September 5, 1995.

Chapters 11 to 18 examines the events of September 6, 1995: the day Dudley George was killed in a confrontation between the police and the Aboriginal occupiers.

Chapters 11 and 12 chronicle events during the day and early evening of September 6, including the removal by the police of picnic tables from the sandy parking lot, unsuccessful attempts by the OPP to communicate with park occupiers. Chapter 11 also reviews the activities at Queen's Park of the responsible ministers and civil servants and the Interministerial Committee meeting on Aboriginal Emergencies. It examines the meeting held in the Premier's dining room attended by the Premier, the Attorney General, the Solicitor General, the Minister of Natural Resources, their deputy ministers, political aides and seconded OPP officers.

The events of the evening of September 6, including the confrontation between the police and occupiers during which Cecil Bernard George was arrested and injured and Dudley George was shot and killed, are examined in Chapters 13 and 14.

Chapters 15 to 17 details the stories of some Aboriginal people, including Marcia Simon, Nicholas Cottrelle and Cecil Bernard George, immediately following the confrontation with the police.

After Dudley George was shot, his brother, sister and a teenager transported him to the hospital. Chapter 18 describes this drive and the arrest of the car occupants upon arrival at the hospital. Dudley George was "vital signs absent" when he arrived and could not be resuscitated. The findings of the autopsy and the medical care provided to him are examined.

Chapters 19 and 20 provide an overview of the events that occurred during the hours, days and weeks following the confrontation. I review the testimony of some of the Aboriginal people and police officers that spoke about the emotional and psychological impact of these events. Chapter 20 concludes with a review of the investigation into the inappropriate and culturally insensitive memorabilia that was procured and purchased by a number of police officers following the confrontation.

I conclude this volume with a summary of the answers to some of the more important questions raised by the events of September 1995, including the future of the land.