

FORSAKEN

The Report of the Missing Women Commission of Inquiry

VOLUME IV

The Commission's Process

The Honourable Wally T. Oppal, QC
Commissioner

British Columbia
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PART ONE

THE COMMISSION'S PROCESS

PART 1 – THE COMMISSION’S PROCESS

This section provides a brief overview of the steps the Commission took in discharging its responsibilities. In part, recounting these steps will highlight how the Commission dealt with some of the procedural and other challenges it faced, but also an account of the Commission’s process might be of some assistance to future commissions.

The Nature of a Public Inquiry

Public inquiries are exceptional public institutions. They are appointed by the executive branch of the federal or provincial government. Public inquiries are often appointed to address an issue that has given rise to a good deal of public consternation, suspicion and even shock, and that cannot be dealt with through the normal governmental channels. Thus, in many instances, commissions of inquiry themselves are cloaked in controversy.

The primary objective of most commissions of inquiry is, in relation to the matter being examined, to establish what happened, why it happened and how it can be prevented from happening again. But in addition, and complicating the discharge of their mandate, public inquiries may also assume responsibilities for providing opportunities for reconciliation, restoring confidence in public institutions, and holding individuals and organizations to account.

Principles that govern public inquiries

Commissions of inquiry are subject to the powers granted by either the federal or provincial inquiry acts, depending upon the executive body that appointed them. However, because of the unique nature of each public inquiry, commissions are empowered to create rules and procedures that will best serve their specific mandates and advance their particular goals. The rules and procedures that govern inquiries must conform to the basic principles that underlie all administrative decision-making bodies such as fairness, accessibility, openness to the public and efficiency.

In this Inquiry the principles of adaptability and proportionality were also of fundamental importance. The task of this Commission was enormous. This inquiry dealt with police investigations of more than 65 missing and murdered women that spanned over five years. As well, it dealt with Crown Counsel’s decision to enter a stay of proceedings against Robert Pickton.

The magnitude of the mandate, coupled with the time constraints, meant that although we needed to be thorough, we could not be exhaustive. This important distinction was made by Commissioner Goudge in the *Inquiry into Pediatric Forensic Pathology in Ontario*.¹ Thus, our document collection, witness identification and hearing schedule were governed by proportionality. We focused on the core issues. This meant that not every possible lead was followed, not every possible witness was called, nor was

every potentially relevant document reviewed. We applied a principle of proportionality to the issues we faced and focused on what was significant.

The unique processes of public inquiries

Although public inquiries are established by government, they are independent of government. Their independence is essential if they are to discharge their institutional responsibilities in democratic governance. After the terms of reference are established, government cannot tell commissioners how to interpret their mandate or what procedure to follow in carrying it out. Although inquiries often adopt (or default to) court-like procedures, they are not a branch of the judiciary. They are neither a civil nor a criminal trial, nor should they be analogized to one. Mr. Justice Cory elaborated on this difference in the following terms:

A commission of inquiry is neither a criminal trial nor a civil action for the determination of liability. It cannot establish either criminal culpability or civil responsibility for damages. Rather, an inquiry is an investigation into an issue, event or series of events. The findings of a commissioner relating to that investigation are simply findings of fact and statements of opinion reached by the commissioner at the end of the inquiry. They are unconnected to normal legal criteria. They are based upon and flow from a procedure which is not bound by the evidentiary or procedural rules of a courtroom. There are no legal consequences attached to the determinations of a commissioner. They are not enforceable and do not bind courts considering the same subject matter.²

Inquiries are not required to follow the rules of procedure or evidence of criminal or civil trials. Indeed, given the different values at stake, they often follow different procedures. For instance, although their attention must be directed to the past, ultimately their responsibility lies in focusing on the future. They seek to ensure any learned failures will not occur again. Further, as stated earlier, although their findings might result in holding individuals and organizations to account, they often assume responsibilities for providing opportunities for reconciliation and restoring confidence in government processes. The complex but vitally important role that inquiries serve in our democratic society was underlined by Commissioner Le Dain:

[A commission] has certain things to say to government but it also has an effect of perceptions, attitudes and behaviour. Its general way of looking at things is probably more important in the long run than its specific recommendations. It is the general approach towards a social problem that determines the way in which a society responds to it. There is much more than law and government action involved in the social response to a problem. The attitudes and response of individuals at the various places at which they affect the problem are of profound importance.

What gives an inquiry of this kind its social function is that it becomes, whether it likes it or not, part of this ongoing social process. There is action and interaction... Thus this instrument, supposedly merely an extension of Parliament, may have a dimension which passes

beyond the political process into the social sphere. The phenomenon is changing even while the inquiry is in progress. The decision to institute an inquiry of this kind is a decision not only to release an investigative technique but a form of social influence as well.³

We used our best efforts to design a process that meets the guiding principles outlined earlier and to produce a report that serves the multiple functions of the Commission, and establishes what happened, why, and what can be done to prevent it from happening again.

The Commission's Mandate

The events leading up to the Missing Women Inquiry are set out in my Ruling on Participation and Funding Recommendations (attached as Appendix G-1). To summarize, the issue of missing and murdered women in British Columbia was in crisis. Since the early 1990s, the disappearances and murders of women in British Columbia had reached a crisis level; women were disappearing in record numbers. This escalation was seen prominently in the Downtown Eastside (DTES). Many of the missing women were members of marginalized groups in society. Many were Aboriginal. Many were involved in the survival sex trade and were particularly vulnerable to violence.

The government of British Columbia established this Inquiry by Order in Council on September 27, 2010. The Terms of Reference direct the Commission to conduct the inquiry as follows:

4 (a) to conduct hearings, in or near the City of Vancouver, to inquire into and make findings of fact respecting the conduct of the missing women investigations;

(b) consistent with the *British Columbia (Attorney General) v. Davies*, 2009 BCCA 337, to inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;

(c) to recommend changes considered necessary respecting the initiation and conduct of investigations in British Columbia of missing women and suspected multiple homicides;

(d) to recommend changes considered necessary respecting homicide investigations in British Columbia by more than one investigating organization, including the co-ordination of those investigations;

(e) to submit a final report to the Attorney General on or before December 31, 2011.*

*The Commission was granted an extension and the revised date for final report submission to the Attorney General is on or before November 30, 2012.⁴

The missing women investigations that the Commission was specifically directed to study are defined as “the investigations conducted between January 23, 1997 and February 5, 2002, by police forces in British Columbia respecting women reported missing from the Downtown Eastside of the city of Vancouver.” However, it was necessary to examine events extending back as far as 1991 (when Project Eclipse was formed to examine the circumstances of 26 missing or murdered women).

My mandate meant that this Inquiry had both a fact-finding mandate as well as a separate policy-based mandate. I was directed to investigate and report on what happened in the missing women investigations and the Crown decision to stay the charges against Pickton in 1997. In addition, I was directed to make recommendations to improve investigations of missing women and multiple homicides in British Columbia.

A commission is “captive of its Terms of Reference” and must act within the confines of the legal authorities under which it is created.⁵ My powers were therefore subject to the limits set out in the Commission’s Terms of Reference and the provisions of the Public Inquiry Act.⁶ I had no discretion to expand the Terms of Reference. However, terms of reference require interpretation. Therefore, to better understand my mandate, and in the public spirit of an inquiry, I determined early on to engage the community through pre-hearing conferences. The purpose of the conferences was to solicit feedback from community members on matters that would shape both the content of the inquiry and the way it would be carried out.

The pre-hearing conferences were held in the DTES and Prince George in January 2011. I heard general disappointment about the narrow Terms of Reference and participants in these conferences emphasized the need for me to take as broad an approach as possible to my mandate. In the future I would strongly urge the government to consult with key stakeholders when developing its terms of reference, particularly on matters that engage complex social issues.

Another initial restriction on my mandate was that, despite my policy mandate, I was granted only the powers of a “hearing commission.” The *Public Inquiry Act* contemplates two types of commissions of inquiry: hearing commissions and study commissions. Hearing commissions can only consider information and recommendations that are presented to the commissioner through evidentiary hearings; whereas study commissions can gather material from independent research, interviews and public consultation.

As a result of the input I received from the pre-hearing conferences, and from the applications for participation in the Inquiry (which indicated that many groups were primarily interested in policy matters), I determined that it would be in the public interest if participation in the Inquiry could also be achieved through the more informal processes provided by a study

commission. Therefore, I requested that the provincial government extend my powers to a joint hearing and study commission. This request was granted.

As I stated in my Status Update dated March 3, 2011, the designation as a joint study and hearing commission allowed me to create forms of participation that were more far-reaching and appropriate to the interest individuals and organizations had in the Inquiry. The forms of public participation in the evidentiary hearings and study processes are described below.

The Phases in the Inquiry

The Inquiry proceeded in the following phases: setting up, establishing rules of procedure, granting Participant status, collecting documents, identifying witnesses, holding evidentiary hearings, receiving submissions and holding policy forums. These phases will be discussed in turn.

Setting Up

a. Appointment of commission counsel

The appointment of commission counsel is one of the most important decisions a commissioner can make. As the commissioner's lawyer, his or her role is to assist the commissioner in carrying out his or her mandate. It has been said that commission counsel is often the alter ego of the commissioner.⁷

I retained Art Vertlieb, QC to act as Senior Commission Counsel. In addition to being a senior and highly respected member of the British Columbia Bar with a broad range of legal experience, Mr. Vertlieb had recently acted as Senior Commission Counsel to the Braidwood Commission, a public inquiry established by the Province to investigate the use of conducted energy weapons, as well as the death of Robert Dziekanski at Vancouver International Airport. I retained Karey Brooks to act as Associate Commission Counsel. Ms. Brooks practices primarily in the areas of administrative, constitutional and Aboriginal law. I acknowledge the exceptional work and commitment of Mr. Vertlieb and Ms. Brooks later in this section.

Many administrative tasks had to be completed at the outset including hiring staff, securing office space, developing a budget, finding a hearing room and arranging for a document management system.

b. Hiring staff

Five core staff appointments were made: Aboriginal Advisor, Executive Director, Communications Officer, Document Manager and Analysts, and Administrative Support. I adopted a small core team approach, and assembled a team of committed, talented individuals. I was of the view

there are many advantages to having a small core team, including more time spent on work and less time on administration; efficient communication and meetings; and increased interaction between team members. In short, it promotes a high level of performance. Having a small core team also meant that team members were required to assume significant responsibilities. Many members of the team worked seven days a week and took no holidays during the term of the Inquiry. The entire team worked at its full capacity. Internal and external challenges no doubt had an impact on the team in terms of the strain and stress it placed on individuals. However, I am proud of the way our team faced these challenges and what we have achieved. Ultimately, the commitment of the team to producing an outstanding report kept everyone on track. I acknowledge the work and efforts of the entire Commission team at the end of this section.

c. Website

We launched a website on November 1, 2010 at www.missingwomeninquiry.ca. The website provided information about the Commission's activities. The evidentiary hearings and policy forums were live-streamed and accessible from our website.

From its launch until October 8, 2012, our website had 74,210 visits and 25,866 unique visitors. Returning visitors to the Commission website accounted for 65.7 per cent and new visitors accounted for 34.3 per cent. Website traffic peaked during the live streaming of the evidentiary hearings, which began on October 11, 2011, reaching almost 900 visits on one hearing day.

Practice and Procedure

Commissions have the luxury of creating their own rules and procedures subject, of course, to the guiding principles that apply to all public inquiries, described above. Our rules and procedures, which were set out in the Practice and Procedure Directive for Evidentiary Hearings (included as Appendix B), drew heavily on the work of other commissions and dealt with the following topics:

- Access to the evidentiary hearings;
- Recording and reporting of the evidentiary hearings;
- Participation in the evidentiary hearings;
- Production, confidentiality and public access to records;
- Witnesses;
- Applications to the Commissioner for standing to participate, funding recommendations, and disclosure;
- Powers to accept information;
- Final submissions;
- Commission process and Commissioner's discretion; and
- Participants' failure to comply with the directive.

The Participants

The nature of an inquiry is inquisitorial. The designation of those taking part as “Participants” and not “parties” flows from this distinction between an inquiry and a trial. Under the *Public Inquiry Act*, a commissioner may accept an applicant as a participant after considering all of the following:

- a. whether, and to what extent, the person’s interests may be affected by the findings of the commission;
- b. whether the person’s participation would further the conduct of the inquiry; and
- c. whether the person’s participation would contribute to the fairness of the inquiry.⁸

On January 31, 2011, a hearing was held in Vancouver to hear applications for standing and funding of participants. On May 2, 2011, the Commission released the Ruling on Participation and Funding Recommendations (included as Appendix G-1; my Ruling was delayed as a result of my request for study commission powers). In the Ruling, I granted participation status to 18 applicants, consisting of individuals, organizations or coalitions. (In response to later applications, I granted participant status to two further individuals). To recognize the differences among the applicants and their interests and to promote their efficient participation in the evidentiary hearings, applicants were granted either full or limited participation status.

As explained in my Ruling (and later Rulings for certain individuals), the full participants shared a common interest: they were primarily focused on the factual issues under Terms of Reference 4(a) and (b). Generally, they also shared a common characteristic: many were grassroots advocacy and service organizations that had direct and daily contact with the relevant community, including many of the women who were reported missing. In the end, those who were granted full participant status were:

- Families on behalf of the following women: Dianne Rock, Georgina Papin, Marnie Frey, Cynthia Dawn Feliks, Cara Ellis, Mona Wilson, Helen Mae Hallmark, Dawn Crey, Angela Hazel Williams, Jacqueline Murdock, Brenda Wolfe, Andrea Joesbury, Elsie Sebastian, Heather Bottomley, Andrea Borhaven, Tiffany Drew, Angela Jardine, Stephanie Lane, Tanya Holyk, Olivia William, Debra Jones, Janet Henry, Marie Lorna Laliberte, Sereena Abotsway, Dianne Melnick, Marcella Creison, and Patricia Johnson;
- Vancouver Police Department (VPD) and Vancouver Police Board (VPB);
- Royal Canadian Mounted Police (RCMP);
- Criminal Justice Branch (CJB);
- Vancouver Police Union (VPU);
- Coalition of Sex Worker-Serving Organizations;

- Committee of the February 14 Women’s Memorial March and the Downtown Eastside Women’s Centre;
- Vancouver Area Network of Drug Users (VANDU), Walk4Justice and Frank Paul Society;
- Native Women’s Association of Canada;
- Dr. Kim Rossmo;
- Cst. Doug Fell; and
- Ms. Marion Bryce.⁹

The limited participants were those organizations primarily focused on the policy issues within the Commission’s mandate. They also shared a common characteristic: many were experienced political or policy organizations that had demonstrated a long-standing commitment to many of the policy issues the Commission would confront. Neither full participants nor limited participants were excluded from the two distinct processes of the Commission – the hearing and study commission portions – but the nature of their participation was different. Full participants were granted the right to participate in all phases of the evidentiary hearings and to exercise all rights of participation during those hearings, including cross-examining witnesses and making submissions. They were also granted access to the documents disclosed to the Commission. Limited participants were granted the same right of access to documents as full participants. They were not granted an automatic right to cross-examine witnesses, but were granted the right to apply for leave to cross-examine on an individual witness basis. They were also granted the right to make final submissions at the conclusion of the evidentiary hearings. (I note that no limited participant was denied the right to cross-examine or make final submissions during the hearings.)

In addition to granting participation status, the Ruling also addressed applications for funding. I was satisfied that the 13 applicants who sought funding recommendations would not be able to participate in the hearing portion of the Commission without funding; therefore, I recommended to the Attorney General of British Columbia that they receive financial assistance to pay for legal counsel to facilitate participation appropriate to the extent of their interest and that grants of funding be tailored to the level of participation that each applicant was granted.

Government Funding Decision

By press release, dated May 19, 2011, the Attorney General announced it would provide funding for only one participant group: the families of missing and murdered women as represented by Cameron Ward (the “Families”). The other 12 participant groups that I had recommended receive funding did not receive financial assistance to participate in the Inquiry.

On June 30, 2011, I asked that the provincial government re-consider its decision. On July 22, 2011, the government confirmed its decision to deny funding for legal representation. In my view, it was not in the public interest to deny funding to these groups. Understandably, the groups who were denied funding raised concerns regarding their ability to participate in

the Commission without financial assistance, and in statements to the press and letters to the government, challenged the Attorney General's decision. Ultimately, many of the groups that were denied funding withdrew from the Commission process. Some groups also withdrew because they viewed the Commission's Terms of Reference to be too limited. This was unfortunate. It would have been of assistance to have heard their views. I note, however, that many of these groups were granted participant status to assist the Commission with its policy mandate, rather than its fact-finding mandate relating to the missing women investigations or Crown Counsel's decision to stay the charges against Robert Pickton. We are grateful that we heard from many of the individuals, particularly the families of the victims, who were directly impacted by these tragedies.

Two community organizations did participate throughout the evidentiary hearings, without government funding or legal representation: VANDU and CRAB – Water for Life. On behalf of VANDU, Ann Livingston and Marlene Basil cross-examined several witnesses and made opening and closing submissions. On behalf of CRAB – Water for Life, Don Larson cross-examined one witness and he and Kelly White made opening and closing submissions. I was very appreciative of their involvement and applaud them for participating.

As I stated in Volume I, the provincial government's decision to deny public funding to the majority of participants to whom I had granted standing was a significant hurdle that the Commission had to overcome, and no doubt made the work of the Commission more difficult. It meant that not all groups, communities and individuals that had an interest in the Inquiry participated in the inquiry process. The Commission attempted to fill that gap by engaging Independent Counsel for Aboriginal Interests (Robyn Gervais until March 2012 and Ms. Suzette Narbonne and Ms. Elizabeth Hunt thereafter) and DTES Interests (Jason Gratl). Although unique to public inquiries, these appointments were, in some ways, akin to the role of *amicus curiae*. The mandate of independent counsel was to present the perspectives of the Aboriginal and DTES communities.

Document Collection

All Participants and witnesses who appeared before the Commission were required, either by summons or under our Practice and Procedure Directive for Evidentiary Hearings, to produce all relevant documents.¹⁰ Almost immediately after being established, the Commission requested that the primary investigation agencies – the RCMP and VPD, as well as the Criminal Justice Branch – produce all relevant documents. Considerable time was spent preparing for the hearings, this involved examining documents and interviewing witnesses. Although they predated the terms of reference, it was necessary to examine documents from as far back as 1991 because women were being reported missing at that time.

Collecting and reviewing relevant documents took a significant amount of time and resources. Additional time was also required to comply with the

legal requirements to redact confidential and privileged information. (With respect to the documents they submitted, the institutional participants undertook this task, pursuant to a redaction protocol developed with the Commission. This is discussed in more detail below.) However, generally the document disclosure proceeded in a timely fashion. On occasion, some Participants provided disclosure shortly before a witness appearance. In those instances, to overcome any prejudice caused by late disclosure, requests for brief adjournments (or for witnesses to be recalled) were allowed.¹¹

By the end of the evidentiary hearings, over 173,500 pages of documents were disclosed. Digitized, this is equivalent to 94.2 GB on the hard drive of a computer. Although document disclosure in inquiries is rarely perfect, I am satisfied that the Commission had the documents it needed to fulfill its mandate.

Protecting confidential and privileged information

The *Public Inquiry Act* requires documents be redacted for privileged information.¹² Documents were also redacted for confidential information. The Commission and institutional participants (the primary sources of document disclosure) developed a vetting protocol to ensure that privileged information (for example, information subject to solicitor-client litigation privilege or a publication ban), information relating to ongoing investigations (for example, information relating to persons of interest or information that may have raised security concerns), and confidential information (for example, information that might have compromised the privacy of third parties such as the names of former and active sex trade workers or other personal identifying information) would be protected. The vetting protocol is in Appendix D.

Vetting occurred in two stages. First, the individual or organization producing the document redacted the document based on the vetting protocol when the document was first disclosed to the Commission. (Redactions could be challenged by Commission Counsel or Participants.) Second, once it was determined the document would become a public exhibit, the document was vetted again for confidential information.

In the circumstances of this Inquiry, these issues were particularly important because the investigative documents contained names of parties who were either not charged with any offence or were entitled to privilege for other reasons.

The vetting process was time-consuming and involved large teams of workers due to the volume of pages disclosed. This meant there were often substantial delays between the time a document was tendered as an exhibit and the time it was posted on the website. My suggestions for minimizing these delays in the work of future commissions are made below in the section: Making the Documents Public.

Document management

To manage the documents, we retained an independent document management company. As documents were received by the Commission, they were delivered to the document management company who imported them into Concordance, an electronic database. Concordance provided the means by which all Commission documents could be securely stored, searched and retrieved. Each document was assigned a unique identifying number that was referred to during the evidentiary hearings. Documents were made accessible to Participants through Concordance.

Document analysts

Although we outsourced importing the documents into the database, it was too costly to outsource the document indexing. Indexing involved coding the documents for their unique information and for their relevancy. Law students were hired to analyze and index the documents. These document analysts indexed the documents during the late spring and summer of 2011. As a result of this exercise, an Excel Document Index was created that allowed for searches by keyword, name, date, and so on. The Document Index supplemented the keyword searches on Concordance and allowed for easier retrieval of documents. The Document Index was provided to all counsel participating in the hearings to assist them in their document searches.

Document access

Both full and limited Participants (through their counsel) were entitled to access documents disclosed to the Commission via Concordance. Each Participant accessed the database through a user ID and password provided by the Commission.

Under the Commission's Practice and Procedure Directive for Evidentiary Hearings, documents produced to the Commission are confidential until they are entered as an exhibit in the evidentiary proceedings.¹³ Thus, to view documents, counsel were required to sign an undertaking of counsel and participants and witnesses were required to sign a confidentiality agreement (see Appendix C). To ensure the highest protection of confidentiality, Participants could only access the documents through their counsel. Unrepresented Participants were able to access documents through independent counsel. To provide copies of documents to persons listed in the undertaking, Participants' counsel had to obtain approval from the Commission. The purpose of these limitations was to safeguard against document leaks and to ensure that no document became public until the document was marked as an exhibit in the evidentiary hearings.

Making the documents public – marking exhibits

Although documents were managed electronically, hard copies were

used during the evidentiary hearings. Generally, the following process was followed to make the document part of the public record. Before a witness (or panel) testified, each Participant wishing to cross-examine that witness circulated a list of the documents he or she intended to put to that witness. Commission Counsel, who led the evidence of most witnesses, endeavored to assemble a comprehensive brief for each witness, as well as a timeline of key events that related to that witness's involvement in the investigation. Many Participants relied on Commission Counsel's witness brief, while others assembled their own. When a document became an exhibit, it was first marked with an "NR" designation (not-redacted), so that it could be vetted pursuant to the second stage of the vetting protocol. Once the redactions were made, the NR was removed and the exhibit was posted on the Commission's website.

Inevitably, the process of having a brief prepared for each witness (often by different Participants) meant there was considerable duplication of documents. Looking back, it would have been preferable to have either a core set of documents (in chronological order) or briefs based on subject matter prepared in advance of the evidentiary hearings. This would have reduced the number of briefs and avoided duplication. Further, while paperless hearings can be considerably more costly given the number of hearing days, volume of documents and potential for duplicate exhibits, I would urge future commissions to give paperless hearings serious consideration.

Witnesses

A good deal of information was obtained in reviewing the thousands of pages of documents the Commission acquired. However, the most important aspect of the Commission's inquiry involved calling individuals with personal knowledge of the relevant events and assessing the evidence they gave at the hearings. These individuals included lay, expert and police witnesses.

Lay witnesses

Any victim's family member who wished to give evidence at the hearings could do so. The Commission took steps to contact unrepresented family members to invite them to give evidence. Commission staff, at the request of Mr. Ward, also referred unrepresented family members to Mr. Ward's office. The Commission heard from 21 family members. This Commission was the first opportunity for many of the victims' families to be heard.

Potential community witnesses were identified through information provided by Participants, document disclosure, media articles on the investigation, and by interested individuals contacting the Commission directly. Often individuals who were interviewed provided the names of other people with relevant information.

Helpful information about the matters mentioned above would have come from women involved in the survival sex trade at the relevant time and other members of the DTES community. However, identification of these witnesses created challenges for Commission staff. Due to lack of funding, many of the Participants were unable to devote the time and resources to identifying potential witnesses for the Commission. As a result, the Commission had to identify and find potential witnesses without these Participants' valuable advice and experience. This was particularly challenging with regard to community witnesses since the Commission lacked the long-standing relationships of trust that some participant organizations had established with community members of the DTES. Some potential witnesses were unwilling to speak to Commission staff and testify during the Commission's hearings. Without the expertise and support of participant organizations, the Commission faced challenges in identifying, contacting, interviewing and ultimately examining witnesses from the DTES community during the evidentiary hearings.

Through its own investigation, the Commission learned about the extreme distrust and fear that many women in the survival sex trade had toward, not only the police, but also any institution associated with government. To be sure, this population is one of the hardest to reach by any means or for any purpose. Dr. Shannon, who is the lead researcher for a major longitude study on health outcomes for survival sex workers in the DTES, testified at length about the process her research team used to engage marginalized communities, including women involved in the survival sex trade in the DTES. Although some might even question the appropriateness of a commission, a specialized unit of government investigating an issue that raises complex social issues such as addictions, homelessness, poverty, and violence against women involved in the survival sex trades, there is no doubt the Commission could have benefited from having a community insider on staff or serving as a consultant; someone who had developed a close, collaborative relationship with members of the DTES.

To a certain extent, we tried to overcome these barriers with the appointment of Independent Counsel to present the perspectives of the Aboriginal and DTES communities. We had hoped that they would be able to develop relationships with those populations and suggest witnesses and otherwise provide advice and assistance. However, there is no question it can take many years to develop the trust needed to engage with persons who have a long history of distrust for government institutions (and lawyers). Therefore, I would suggest that future commissions tasked with looking into issues that affect marginalized populations appoint an advisor or group of advisors with experience working with the specific communities involved to assist with matters relating to community outreach and accommodation.

Although we were likely unable to hear from some witnesses who might have been helpful simply by virtue of our limited capacity to connect with the vulnerable DTES community, at least one such potential witness declined to participate in the evidentiary hearings due to her strong privacy

concerns. Although we would have likely benefitted from her evidence, we respected her decision not to participate. The significant barriers to participation from this population are also underscored by the fact that while I granted Mr. Gratl's application to receive evidence from vulnerable witnesses by anonymous affidavit, no evidence was adduced in this manner.

In spite of the challenges, Commission Counsel interviewed over 45 community witnesses. Some of these interviews were conducted in advance of the evidentiary hearings, but many were conducted in the evenings and on weekends during the hearings. Ultimately 10 community witnesses testified. A number of witnesses, including for example Grand Chief Ed John (in his opening statement), Ernie Crey, Freda Ens, Lisa Bigjohn, Bonnie Fowler, Margaret Ann Green, Jamie Lee Hamilton, Chris Joseph, Elena Papin, Daphne Pierre, Lila Purcell, Donnalee Roberta Sebastian, Ashley Smith, Angel Wolfe, Morris Bates, and Cst. George Lawson, discussed the strained relationship between the Aboriginal community and police, in part due to the ongoing legacy of colonization and the residential schools. This information was in addition to the submissions that were made in the Northern Community Forums which I discuss in more detail in this report. I am grateful for the participation of these witnesses.

Expert witnesses

Commission staff identified experts through requests to all Participants, researching leading scholars in the field of health and the survival sex trade and obtaining referrals through discussions with experts. Ultimately, the Commission tendered reports from Professor John Lowman, Dr. Kate Shannon and Dr. Thomas Kerr. Their evidence was most helpful in laying the necessary foundation to make findings of fact with respect to the missing women investigations and the CJB's decision to stay charges against Robert Pickton; and, in addition, their evidence was helpful in making recommendations that will benefit future investigations. Although all of the experts we engaged volunteered to produce their reports and testify pro bono, the Commission paid each expert a small stipend. I am very appreciative of the many hours they spent preparing their reports and giving evidence at the hearings.

Some criticized the Commission for relying on experts who advocate for the decriminalization of prostitution as a way of addressing the extreme violence faced by women involved in the sex trade. Whether or not these experts hold those views, it is important to note that the Commission did not elicit any opinions on whether the prostitution laws should stand. That issue is beyond the jurisdiction of this provincial inquiry and I have expressed no opinion on the matter. The instruction letters to the experts are attached as Appendix E.

One of the experts retained to provide an opinion on the missing women investigations was Deputy Chief Jennifer Evans (now Chief Evans), from Peel Regional Police Service. As a result of Peel's belief that the Commission

is addressing a national policing issue, her services were provided at no cost to the Commission. DC Evans brought considerable experience to her assignment. She was a homicide investigator, Inspector in Charge of Peel Homicide Unit, and she had been seconded to the Bernardo Inquiry in Ontario. She is also a senior police officer with executive knowledge about the management and allocation of police resources. She provided a comprehensive review of the missing women investigations and was highly critical of both the RCMP and the VPD. She testified for five days.

There was a suggestion that it was inappropriate for the Commission to have retained a police officer to conduct an independent review of the missing women investigations. Debates around police investigating police typically arise in the context of police acting as oversight bodies in investigating complaints against themselves. The primary argument is that police cannot provide an impartial investigation into their own misconduct because the police are a protective organization. According to this argument, demands for solidarity against external criticism mean that the police investigations into themselves are ineffective.

A blanket criticism without regard to this particular case should be made with caution. There are several reasons such concerns do not apply here. First, DC Evans is not a member of the police agencies under scrutiny. Second, she had the skills, knowledge and experience required to effectively carry out this assignment. Not only did her background enable her to obtain candid accounts from the police during her review, but it also meant she was able to review and assimilate the vast amounts of documentation and information quickly. Her familiarity with the institution of policing meant she stayed focused on the core issues. Third, she merely provided her opinion on the conduct of the missing women investigations. She was not the investigator. I determined the findings of fact. My conclusions were based on my findings. It is not uncommon to retain an expert in the field under investigation in most proceedings. Fourth, her report shows she provided a fair and impartial opinion. Indeed, she criticized many police officers involved in the investigations.

Some Participant Counsel suggested that the Commission had delegated the responsibility for interviewing police witnesses and reviewing documents to DC Evans. There is no evidence to substantiate that allegation. In her independent investigation, DC Evans conducted interviews with all relevant police personnel. The interviews were transcribed. All counsel made use of the statements given by various police witnesses to DC Evans in their examinations. Although DC Evans' interview transcripts provided Commission Counsel and the Participants with an extremely helpful account of the involvement of each police witness, Commission Counsel were not present for any of her interviews and conducted separate interviews of every witness called to give evidence. Further, as stated above, the Commission employed a number of document analysts to review documents. Therefore, although her chronology of events based on the documents was extremely helpful to the Commission and all Participants, the Commission did not rely solely on DC Evans' document review.

Police witnesses

Naturally, since the Inquiry was looking into policing practices, a large number of police witnesses were interviewed and testified. Ultimately 43 police witnesses gave evidence. In addition to hearing from the individual police officers who were involved in the investigations relating to the missing women, two police officers who had conducted prior reviews of the missing women investigations also testified. They testified about the nature of their reviews and their findings. Those witnesses were:

- Deputy Chief Doug LePard – he prepared a 410-page internal review of the Missing Women Investigation for the VPD; and
- Superintendent Robert Williams – he prepared a 28-page review of the Pickton investigation and the Missing Women Investigation for the RCMP.

The prior investigations conducted by these police officers were particularly helpful to the Commission in initially identifying some of the key players and documents.

Whether all material witnesses were called

This was a lengthy and comprehensive Inquiry. The Commission called 86 witnesses over 93 days of hearings between October 11, 2011 and June 6, 2012. I want to reiterate that this is an Inquiry and *not* a trial. In any inquiry, it is for the Commissioner to determine whether he or she has heard all the relevant evidence to answer the questions set out in the terms of reference. I am satisfied, beyond any doubt, that all relevant evidence was called and met the mandate set out in the Terms of Reference.

Mr. Ward argued that the decision not to call certain witnesses impacted the fairness of the Inquiry. I provided comprehensive reasons for not calling certain witnesses in my Process Management Directive #6, found in Appendix F-6. In brief, I decided not to call those individuals on the grounds that they could only provide evidence of marginal relevance to the Commission's mandate or the focus of their evidence had already been addressed by persons who were more actively involved in the investigations. Thus, their testimony was not necessary for me to fulfill the mandate set out in the Terms of Reference. Moreover, the calling of those witnesses would not have been an effective or efficient use of hearing time, and would have unnecessarily extended the Inquiry.

Conduct of the Hearings

An opening prayer by Elder Eugene Harry of the Squamish Nation started the hearings on October 11, 2011. Each Participant was allowed to make an opening statement in which they reviewed the points and material they expected to cover over the course of the hearings. The opening statements revealed the agendas of some of the Participants. It bears repeating that it

was not the intention or within the Terms of Reference of this Commission to re-investigate the crimes of which Pickton was convicted.

The hearing process was divided generally into four phases. The first phase laid the context for the Missing Women Inquiry. We heard extensive evidence about the conditions of the lives of the women involved in the survival sex trade. The second phase concentrated on the reviews of the missing women investigations conducted by the police themselves, including those of DC LePard (VPD), Superintendent Williams (RCMP) and the Commission's independent expert DC Evans. Their evidence was of great assistance to the Commission because they provided a detailed chronology of the events, as well as their views on what went wrong. The third phase involved extensive evidence from members of the victims' families. The fourth phase was comprised of evidence of individual police officers and community members who could speak directly to events of the missing women investigations. Other family members also testified during this phase.

Examinations

The general procedure in inquiries is for Commission Counsel to call witnesses.¹⁴ Commission Counsel prepared a witness list that included all of the significant and available witnesses who could contribute to the Inquiry. The list was circulated to all counsel. Counsel were asked if there were other witnesses who they wished to be called. They were asked to provide Commission Counsel with will-say statements so that Commission Counsel could determine whether the evidence being sought was necessary or whether it would be duplicative or peripheral. After all witnesses were called by Commission Counsel, Participants were able to apply to the Commissioner for permission to call additional witnesses.¹⁵ I dealt with applications that were made in that regard in my Process Management Directives #5 and #6. As stated above, I denied several requests from the Participants to call additional witnesses on the basis that the evidence would be outside my mandate, duplicative or only peripherally relevant. The purpose of the evidentiary hearings was to address the conduct of the police and their investigations and Crown Counsel's decision to enter a stay of proceedings. (The policy forums were designed to address different aspects of the women's lives and also to hear from members of the community on matters of future policy.) To the extent witnesses had something to say about these issues, I am satisfied I received a full account.

The general process for examining witnesses was as follows: Commission Counsel, Mr. Vertlieb, QC, or Ms. Brooks, would lead the evidence from the witness, except on the few occasions where counsel for a witness requested to do so. Under the Practice and Procedure Directive for Evidentiary Hearings, they could ask leading or non-leading questions.¹⁶ After Commission Counsel completed their examination, counsel for the Participants were able to conduct cross-examinations. The order was based on whose interests were generally seen to be most affected. The

interests of the Families were germane to the Commission, and it was just and proper that counsel for the Families (Mr. Ward or Mr. Chantler, then Mr. Roberts, QC) would have the opportunity to cross-examine the witness immediately following any examination by counsel for that witness. After each Participant examined the witness, Commission Counsel would conduct any re-examination.

In both trials and inquiries, it is necessary to strike a balance between giving parties/Participants an opportunity to be fully heard and, at the same time, being cognizant of time. As the proceedings progressed, it became increasingly apparent that some form of reasonable time limits had to be imposed. Aside from the large number of counsel who insisted on the right to cross-examine witnesses, it became evident that competing agendas were starting to derail the hearing process. Witnesses were testifying for days. DC LePard, for example, was on the stand for 14 days. As the hearings progressed, the issues came into sharper focus and I developed a strong sense of what was relevant or helpful to me in terms of fulfilling my mandate.

A public inquiry is more inquisitorial than adversarial. In his landmark paper on public inquiries, Mr. Justice O'Connor warned of the dangers that follow when inquiries begin to operate like trials:

Unlike criminal or civil trials, inquiries do not need to be conducted within the confines of the fixed rules of practice and procedures. Inquiries are not trials: they are investigations. They do not result in the determination of rights or liabilities; they result in findings of fact and/or recommendations. Subject to what I say below about the need for procedural fairness for those who may be affected by the report of an inquiry, a commissioner has a very broad discretion to craft the rules and procedures necessary to carry out his or her mandate.

...

Traditionally, fact-finding inquiries have used public, evidentiary, court-like hearings to gather and test information. Commission counsel collects and review relevant documents, interview witnesses and then introduce the relevant information through sworn testimony in a court-like setting. Lawyers for parties with an interest in the inquiry are granted standing and are entitled to cross-examine witnesses, and make closing arguments.

These types of hearings can be very complex, time consuming and expensive. When public inquiries are criticized, criticisms are frequently directed at the inefficiency of the process, the time involved, and the expense incurred. Indeed, criticisms of this nature are sometimes used as arguments against holding an inquiry in circumstances which otherwise warrant an independent examination and report.¹⁷

With the deadline for the report approaching, it was clear the hearings would not conclude in time. I tried to take advantage of the flexibility afforded to commissions to expedite the examinations and focus on the central issues

within the Commission's mandate. After extensive deliberation, I made the following changes to the hearing process:

1. Starting on January 11, 2012, I issued a series of Process Management Directives that set out the procedural steps I considered necessary to take to fulfill my mandate. Those Process Management Directives are found in Appendices F-1 to F-6.
2. I determined that I would receive some evidence in panels and that I would limit time for the examination of witnesses (see Process Management Directives #3 and #4, included as Appendices F-3 and F-4). These determinations were made as a result of three considerations:
 - The need to focus on my mandate and to make recommendations relating to police investigations that would make a real difference in practical terms;
 - The need to focus on the systemic dimensions of the police failures instead of searching for individual scapegoats; and
 - The need to carry out the hearing aspect of my mandate in an effective manner but, at the same time, to ensure that important attention was given to the study commission aspect of my mandate.

Panels

Starting on February 27, 2012, the Commission began hearing witnesses in panels. This is not a unique approach to hearing evidence. In fact, panels have been used in numerous Canadian public inquiries including the Goudge Inquiry, the Walkerton Inquiry and, most recently, the Cohen Inquiry. Currently, panels are also being used in the Northern Gateway Pipeline hearings. Evidence from panels (also termed "concurrent evidence") was noted by Ms. Freya Kristjanson, Commission Counsel in the Walkerton Inquiry, as being "particularly effective in dealing with sequential causation issues, multi-disciplinary issues, the evolution of policies, practices and procedures, and interactions among different branches of government or institutions."¹⁸ The use of panels is an effective means of focusing on issues and reducing repetition, thereby enhancing the understanding of complicated evidence and increasing its reliability. Further, the panel method of obtaining evidence is consistent with Justice O'Connor's advice about the need for greater creativity and flexibility in the fact-finding processes of inquiries:

There are alternatives to full blown evidentiary hearings, at least for some parts of the information gathering process. Tied to the idea that a commissioner can adopt a more informal, less evidentiary type of process for some parts of an investigation and for some issues is the notion that not all parts of the investigative process need to take place in public.

...the use of witness panels and independent expert reports in a fact-finding inquiry will often advance and expedite the process significantly. We do not use witness panels in our criminal and civil

courts but as a commissioner, I found them to be extraordinarily valuable. For example, at Walkerton the evidence respecting how the well became contaminated was presented by an expert panel consisting of a hydro-geologist, an environmental microbiologist and an engineer specializing in water treatment. As a panel, they explained the spread of contamination from the flow of water on the surrounding land and geological points of entry to the well, to the point the well-water entered the municipal drinking water supply. They commented on each other's evidence in the course of both direct and cross-examination. In so doing, all participants gained a valuable inter-disciplinary understanding of the issues in a very efficient manner.¹⁹

We heard from the following panels, which were grouped according to the nature of their involvement in the investigations:

- Vancouver Police & Native Liaison Society (Morris Bates, Freda Ens, Cst. Jay Johns, Cst. George Lawson);
- Community members (Maggie de Vries, Jamie Lee Hamilton, Wayne Leng);
- Community members (Bonnie Fournier, Jane Smith);
- VPD District 2 officers (Insp. Chris Beach, Cst. Dave Dickson, Insp. Gary Greer, Staff Sgt. Doug MacKay-Dunn);
- VPD Reporting and E-Comm (Sandra Cameron, Rae Lynn Dicks);
- VPD Major Crime Section managers (Insp. Fred Biddlecombe, Insp. Dan Dureau, Sgt. Geramy Field);
- VPD Major Crime Section senior managers (DCC Brian McGuinness, DCC John Unger);
- VPD Project Amelia investigators (Det. Cst. Doug Fell, Det. Cst. Mark Wolthers);
- VPD Project Amelia investigators (Det. Cst. Mark Chernoff, Det. Ron Lepine);
- RCMP Pickton investigation (Insp. Earl Moulton, Cpl. Frank Henley, Sgt. Darryl Pollock, Cst. Ruth (Yurkiw) Chapman);
- Government representatives (Ujjal Dosanjh, Maureen Maloney);
- Vancouver Police Board members (Philip Owen, Kinder Mottus, Elizabeth Watson);
- VPD Response Evidence (Sgt. Ted Yeomans, Sgt. Ron Joyce, Donna Marshall-Cope, Bonnie Thiele); and
- VPD Response Evidence (DC Doug LePard, Cst. Tamara Hammell).

I found the use of panels to be extremely effective. I concur with Mr. Gratl, Counsel for the DTES Interests, who stated the community members panel of Maggie de Vries, Jamie Lee Hamilton and Wayne Leng was “extraordinarily successful in communicating synergies.”²⁰

Hearing from witnesses as a group meant that the material witnesses were present to provide their respective views on various events, decisions and policies. Factual interdependencies could be explored in a logical sequential fashion. I agree with Ms. Kristjanson that the evidence of a panel of witnesses with different perspectives “aims to construct a coherent narrative ... The use of complementary witnesses on a panel can be a very powerful tool for putting together an explanation.”²¹ Having the key players

testify in groups promoted dialogue, helped to resolve discrepancies, and decreased the gaps in the evidence. This enhanced the clarity in the evidence and resulted in a more efficient fact-gathering process. Further, the panel format afforded the opportunity for more witnesses to be called before the Commission, providing a richer and more comprehensive evidentiary record. Panels also helped to diminish the adversarial tone of the hearings because the focus turned to systemic problems, rather than on individual blaming.

Ms. Kristjanson noted that panel evidence “takes lawyers outside their comfort zone: it is a departure from the traditional approach of examining and cross-examining witnesses, creating a much more dynamic and interactive forum.”²² To be sure, some counsel expressed concerns that the format did not provide adequate opportunity to examine individual witnesses. However, it is important to note that counsel were free to examine only one witness or ask questions of one witness at a time. The variation in how counsel conducted their examinations of the panels demonstrates this flexibility. Although panel members would often add to each other’s evidence (at the request of counsel examining the panel), I did not allow them to confer privately during the examination. Ultimately, the use of panels assisted me to develop practical recommendations for change because witnesses were better able to focus on what went wrong and why. Looking back, it would have been desirable to have used panels earlier.

Time limits

In an inquiry, it is not necessary for every Participant to question every witness. Very successful inquiries have been conducted in private, without any cross-examination of witnesses, including the Bernardo Investigation Review and the SARS Inquiry, both conducted by Justice Archie Campbell. In this Inquiry, almost every counsel cross-examined every witness. At the end of their testimony, a witness may have been examined by up to 15 different counsel. It is not in the public interest for inquiries to permit unlimited time for questions, particularly where the questions are often of limited relevance. Indeed, one of the greatest challenges our courts face is in managing time constraints. To overcome these challenges, inquiries (and courts) frequently impose time limits on counsel examinations.

Starting on May 14, 2012, I imposed time limits on examinations. Time allocations were designed to ensure that all interests were protected but, at the same time, that all issues were addressed. I note, while some counsel complained about being allocated time to cross-examine witnesses, on many occasions they did not use all of their time allocated. To ensure that counsel had as much time as possible, we commenced hearings earlier in the morning and would sit as late as 6 p.m.

I am satisfied that we achieved a balance whereby evidence was adduced in a manner that was proportional to its relevance and significance to the Commission’s mandate.

Affidavits

To further promote efficiency, some evidence was adduced by affidavits with Participants having the right to cross-examine the witness. Again, I found this to be a very effective way of introducing evidence and focusing the cross-examination.

Notices of misconduct

Whether or not a notice of misconduct is issued is confidential. Once a notice is issued to an individual or an organization, certain procedural rights are granted, including an opportunity to respond to the allegations.²³ Procedural rights may include retaining counsel, accessing information and documents, cross-examining witnesses, making submissions or having other witnesses called. By necessity, some of the details need to be worked out in confidence between Commission Counsel and counsel for those individuals who received notice.

Summary

The Commission heard 92 days of evidence and 86 witnesses. A total of 256 exhibits were entered into evidence, encompassing over 27,000 pages.

Closing submissions

Pursuant to Process Management Directive #4, I allowed each Participant one hour to make oral closing submissions (included as Appendix G-4). Participants were also invited to submit written closing submissions. No page length restriction was imposed. I received closing submissions (either orally or in writing) from the following:

- The families of Dianne Rock, Georgina Papin, Marnie Frey, Cynthia Dawn Feliks, Cara Ellis, Mona Wilson, Helen Mae Hallmark, Dawn Crey, Angela Hazel Williams, Jacqueline Murdock, Brenda Wolfe, Andrea Joesbury, Elsie Sebastian, Heather Bottomley, Andrea Borhaven, Tiffany Drew, Angela Jardine, Stephanie Lane, Tanya Holyk, Olivia William, Debra Jones, Janet Henry, Marie Lorna Laliberte, Sereena Abotsway, Dianne Melnick, and Marcella Creison;
- Ms. Marion Bryce, mother of Patricia Johnson;
- DTES Interests;
- Aboriginal Interests;
- CRAB – Water for Life;
- Vancouver Area Network of Drug Users (VANDU);
- Vancouver Police Department (VPD) and Vancouver Police Board (VPB);
- Royal Canadian Mounted Police (RCMP);
- Vancouver Police Union (VPU);
- Criminal Justice Branch (CJB);
- Retired Insp. Don Adam;
- Acting Sgt. Doug Fell and Retired Det. Cst. Mark Wolthers;

- Retired Deputy Commissioner Gary Bass;
- Retired Insp. Fred Biddlecombe;
- Retired CC Terry Blythe and Retired DCC John Unger;
- Retired DCC Gary Greer;
- Retired DCC Brian McGuinness;
- Ms. Sandra Cameron;
- Dr. D. Kim Rossmo; and
- Judge Richard Romano.

The hearings were closed on June 6, 2012, and ended with a closing prayer by Rick Harry from the Squamish Nation, the hereditary head of Xwalactun.

The Study Commission

As set out above, the Commission was originally established as a hearing commission and the government approved my request that I also be granted study commission powers in March 2011. The Commission was not granted additional time or budget allocation for this purpose; therefore, the study commission was developed to run parallel to the hearing process using existing staff resources. The parallel nature of the two processes brought additional challenges to my work. Again, the majority of the study commission research and consultation work was carried out by the small team of Commission staff. An external consultant was engaged to write the background report on policing in British Columbia and another was hired to develop and carry out a consultation program in the DTES.

Our first step was to define the two main objectives of the study commission:

- To gather information concerning current police initiatives and ongoing challenges in the police protection of vulnerable women including missing women and suspected multiple homicides; and
- To gather input on potential recommendations on issues within the Commission mandate.

The study commission activities were outlined in Volume III. Here, I reflect on how these processes unfolded.

We undertook three main initiatives: consultations, publication of policy discussion reports to solicit and facilitate public submissions, and research and interviews.

Staff carried out a broad review of the literature on issues within the Commission mandate and initiated a number of research projects, including a survey of 20 police forces across Canada concerning missing person policies and practices. In the fall of 2011, we developed and implemented consultation programs in the DTES and in seven communities along the Northwestern region of the Highway of Tears, building on what we had learned at the pre-hearing conferences. The Northern Community Forums gave me the opportunity to hear directly from individuals affected by the

ongoing tragedy of women missing from along the Highway of Tears and, in particular, their recommendations for change.

Based on the initial research and consultations, the Commission identified four main themes and, in December 2011, we announced that we would be holding policy forums on these themes in May 2012. Invitations to make written submissions and participate in the forums were sent to Participants and to a wide range of individuals and organizations with an identified interest in these issues. Notice was also posted on our website. The four themes were:

- Police protection of vulnerable and marginalized women;
- Towards more effective missing women investigations: police relationships with victims' families, the community and the media;
- Policies and practices in the investigation of missing persons and suspected multiple homicides; and
- Issues related to the structure and organization of policing arising from the missing women investigations.

Later on, we added the two following themes:

- The treatment of vulnerable witnesses in the criminal justice process; and
- From report to substantive change: healing, reconciliation and implementation.

Sixteen reports were prepared and published on the Commission's website, as they were completed over the course of our mandate, to enable further dialogue about these critical issues. These reports are listed in Part 2F.

Prior to the policy forums, we held three tailored sets of consultations. Commission staff met with individual victim's family members over the course of several months, and I met with a group of family members for an intense and moving session focused on recommendations for reform in late April 2012. Also in April, we held an expert roundtable on the structure and organization of policing in British Columbia. This event was co-sponsored by the Ting Forum on Social Policy, and I thank Professor Robert Gordon for co-hosting this event with me. In addition, Linda Locke, QC, conducted a private consultation with affected community members in the Northwest to gather further submissions on ensuring Aboriginal and rural women's safety, building strong police-community relationships, promoting community involvement, and healing and reconciliation.

In addition to providing me with process advice on the hearings, Barry Stuart and Glenn Sigurdson facilitated several meetings between representatives of the VPD, RCMP and members of the DTES community at the Aboriginal Mother's Centre. These meetings were co-chaired by Ernie Crey and Jen Allan. I thank them for these important efforts. Unfortunately, time restrictions meant that the Commission was unable to pursue this fruitful process. Even so, the information canvassed at these brief meetings informed my thinking about implementation and has been incorporated into the Commission report.

At the same time as the hearings were entering the final days, six policy forums were held in early May, some at the Vancouver Public Library and some at the Wosk Centre. The policy forums were extraordinary events, from the inspiring keynote presentation by Doreen Binder, Executive Director of the Transitions Project in Portland, Oregon, to the closing circle prayer and song by Elder Xwalacktun, who had assisted us during each of the sessions. The sessions were facilitated by Deborah Hanuse and Catherine Rockandel. Several experts provided introductory comments to assist in focusing us on the main theme of the session. Space was tight and there were many moments of direct exchanges between Participants and face-to-face dialogue between community members and police representatives. It was a rewarding experience for me and for the Commission staff.

The study commission process made a substantial contribution to my ability to carry out paragraphs 4c and 4d of my Terms of Reference. At the same time, the Commission faced enormous challenges because these activities were carried out in tandem with the hearing process. Time was extremely limited. The process would have been more effective if we could have carried out our work in three phases: initial research and consultations to assist in refining the issues for the hearing process, the evidentiary hearings, and focused research and consultations on reform options. Because of the limitations, many of my recommendations are framed as requiring additional research and consultation; there was simply not enough time to undertake all the tasks necessary to develop detailed recommendations.

The greatest challenge we faced with respect to the study commission process was undoubtedly the boycott by individuals and organizations representing two of the most affected communities, the DTES and Aboriginal communities. The boycott was not absolute: the Commission was welcomed in Northwestern BC for two series of consultations in September 2011 and April/May 2012. More than 50 people participated in the DTES consultation in the fall and early winter of 2011, and some individuals from that community provided written and oral submissions during the policy forum process. I am incredibly grateful for those organizations and individuals who did participate. Nevertheless, many of the organizations that have worked tirelessly in this field for many years did not participate. As I state within this report, the implementation process must be inclusive because collaboration is crucial to achieving substantial change. We must all work together to build a legacy in honour of the missing and murdered women: a legacy of greater safety for vulnerable women throughout British Columbia.

Acknowledgements

On September 28, 2010, I was appointed Commissioner for the Inquiry, which generally has been referred to as the Inquiry into Missing and Murdered Women.

This Commission of Inquiry was appointed to inquire into police

investigations of missing and murdered women and, in particular, it dealt with the investigation relating to the worst mass murder in Canadian history. At the outset, Commission Counsel was required to interview well over 100 witnesses and seek the production of documents in excess of 150,000 pages. In the end, the Inquiry held 93 days of public hearings during which 86 witnesses testified. Thus the work of this Commission was challenging on many levels – professionally, emotionally and personally. There were incredibly tight deadlines in light of voluminous evidence, extreme pressure and exceptional expectations and responsibilities placed on Commission staff, contractors and advisors. The people who came to work with me at the Commission each day worked extremely hard. They sacrificed much in their personal lives by working long hours, on weekends and holidays during the life of this Commission.

The job we were tasked with was not easy. We faced numerous issues, many of which were played out in a public forum through the media. The evidence heard was often emotional and heart wrenching. During these challenging times, every person on the Commission team stayed dedicated and focused on the work that we were doing.

I greatly appreciate and want to acknowledge the talents, abilities and the professionalism of this team. Their dedication and commitment to the work of this Commission is inspiring. No matter what area they worked in – as legal counsel, policy and research counsel and support, records and document review, administration, running the courtroom, in communications, media relations, web and report editing, proofreading and production, as advisors and consultants – every person I had the honour to work with on this Commission brought one key element to their role – they were dedicated to creating positive change through this report. Along with excellent professional skills, they brought heart to this work.

I am grateful to each individual for their unparalleled effort, support and their exceptional work on this Commission.

I am particularly grateful for counsel work provided by Darrel Roberts, QC, and Irwin Nathanson, QC, both of whom represented Marion Bryce, mother of murder victim Patricia Johnson. Mr. Roberts brought with him over 50 years of courtroom expertise and attended the hearings almost on a daily basis. Both Mr. Roberts and Mr. Nathanson, in the finest traditions of the bar, appeared on a pro-bono basis. As well, I am indebted to Bryan Baynham, QC, who appeared for Aboriginal Interests on a pro-bono basis. He too brought with him over 45 years of experience. I am indebted to these counsel who provided invaluable assistance to the Commission.

The Commission also wishes to acknowledge with thanks Project EDAN for permission to reprint the portraits of the women and to Wayne Leng for facilitating our access to them, and Leo Perra and Cathy Stooshnov for providing assistance and advice on Commission administrative processes.

APPENDICES

A. Terms of Reference

Definitions

1 In this order:

“**commission**” means the commission of inquiry established under section 2 of this order;

“**Criminal Justice Branch**” means the Criminal Justice Branch of the Ministry of the Attorney General;

“**missing women investigations**” means the investigations conducted between January 23, 1997 and February 5, 2002, by police forces in British Columbia respecting women reported missing from the Downtown Eastside of the city of Vancouver.

Establishment of commission

2 (1) A hearing and study commission, called the Missing Women Commission of Inquiry, is established under section 2 of the Public Inquiry Act.

(2) Wally Oppal, QC, is the sole commissioner of the commission established under subsection (1).

Purpose of the commission

3 The purpose of the commission is to inquire into and report on the conduct of the missing women investigations.

Terms of reference

4 The terms of reference of the inquiry to be conducted by the commission are as follows:

(a) to conduct hearings, in or near the City of Vancouver, to inquire into and make findings of fact respecting the conduct of the missing women investigations;

(b) consistent with the *British Columbia (Attorney General) v. Davies*, 2009 BCCA 337, to inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;

(c) to recommend changes considered necessary respecting the initiation and conduct of investigations in British Columbia of missing women and suspected multiple homicides;

(d) to recommend changes considered necessary respecting homicide investigations in British Columbia by more than one investigating organization, including the co-ordination of those investigations;

(e) to submit a final report to the Attorney General or before December 31, 2011.

**The Commission was granted an extension and the revised date for final report submission to the Attorney General is on or before November 30, 2012.*

B. Practice and Procedure Directive for Evidentiary Hearings

[Authorized by *Public Inquiry Act*, s. 9(1)]

October 26, 2010

Definitions

1. In this directive,

- a. **“Act”** means the *Public Inquiry Act*, S.B.C. 2007, c. 9,
- b. **“Commission”** means the Missing Women Commission of Inquiry, a hearing commission established pursuant to Order in Council 605/2010 under section 2 of the *Public Inquiry Act*,
- c. **“Participant”** means persons with a grant of standing,
- d. **“record”** includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise, and
- e. **“rule”** means a section in this directive.

Purpose of the evidentiary hearings

2. The Commissioner will inquire into those matters set out in section 4 of the Terms of Reference. On the basis of oral and documentary evidence tendered during the evidentiary hearings, the Commissioner will make findings of fact and may make a finding of misconduct against a person or make a report that alleges misconduct by a person. The Commissioner’s findings of fact or findings of misconduct cannot be taken as findings of criminal or civil liability.

General

3. Notice or service by email shall be considered adequate notice or service. All participants must identify to commission counsel the email address they wish to use for this purpose.

Public and media access to evidentiary hearings

4. Subject to Rule 5, the Commission must

- a. ensure that evidentiary hearings are open to the public, either in person or through broadcast proceedings (see *Public Inquiry Act* s. 25(a)) , and
- b. give the public access to information submitted in an evidentiary hearing (see *Public Inquiry Act*, s. 25 (b)).

5. The Commissioner may, by order, prohibit or restrict a person or class of persons, or the public, from attending all or part of an evidentiary hearing, or from accessing all or part of any information provided to or held by the Commission,

a. if the government asserts privilege or immunity over the information under section 29 of the Act (see *Public Inquiry Act*, s. 15(1)(a)),

b. for any reason for which information could or must be withheld by a public body under sections 15 to 19 and 21 to 22.1 of the *Freedom of Information and Protection of Privacy Act* (see *Public Inquiry Act*, s.15(1)(b)),

c. if the Commissioner has reason to believe that the order is necessary for the effective and efficient fulfillment of the Commission's terms of reference (see *Public Inquiry Act*, s. 15(1)(c)), or

d. if the Commissioner is satisfied that such an order would make available to the Commission evidence that would otherwise not be available due to a privilege under the law of evidence.

6. In making an order under Rule 5, the Commissioner must not unduly prejudice the rights and interests of a participant against whom a finding of misconduct, or a report alleging misconduct, may be made (see *Public Inquiry Act*, s. 15(2)).

Video and audio recording of the evidentiary hearing proceedings

7. The Commissioner may impose restrictions on the video and audio recording of the evidentiary hearing proceedings and may, on application, order that there be no video or audio recording of some or all of a witness's testimony.

Reporting the proceedings

8. The public and media may report the evidentiary hearing proceedings that are open to the public, except for testimony and/or submissions in respect of which the Commissioner has ordered that they shall not be published.

Application for standing to participate in the evidentiary hearings

9. A person may apply to be a participant by applying to the Commission in the manner and form it requires. The application must set out the basis upon which participation is sought, and the extent and nature of the participation sought (see *Public Inquiry Act*, s.11(3)).

10. To apply for standing, a person must submit a written application to the Commissioner by 4 p.m. on November 30, 2010 or by such other dates as the Commissioner may determine.

11. The Commissioner may accept an applicant as a participant after considering all of the following:

a. whether, and to what extent, the person's interests may be affected by the findings of the commission (see *Public Inquiry Act*, s. 11(4)(a)). ,

b. whether the person's participation would further the conduct of the inquiry (see *Public Inquiry Act*, s. 11(4)(b)).,

c. whether the person's participation would contribute to the fairness of the inquiry (see *Public Inquiry Act*, s. 11(4)(c)).

12. Where persons are known to have shared interests in the subject matter of the Commission, they should make an application for standing, identifying those persons whose interests are reflected in their application.

13. The Commissioner may direct that a number of applicants share in a single grant of standing.

Application for funding recommendations

14. Where the Commissioner is satisfied on the evidence that a participant would not otherwise be able to participate in the Commission, the Commissioner may recommend to the Attorney General that a participant receive financial assistance to pay for legal counsel to facilitate participation appropriate to the extent of a participant's interest.

15. Applications for funding recommendations may be made concurrently with applications for standing. To apply for a funding recommendation, a person must submit a written application to the Commissioner by 4 p.m. on November 30, 2010 or by such other dates as the Commissioner may determine.

16. An application for a funding recommendation must be supported by an affidavit setting out the following:

a. facts that demonstrate the person seeking funding does not have sufficient financial resources to participate in the work of the Commission without financial assistance for legal counsel, and

b. facts in relation to any other sources of funds received, expected or sought by the person in relation to legal services rendered, or to be rendered, with respect to the Commission.

Affidavits must be in Form 1 to these rules, or in another form as the Commissioner may determine. Guidelines for application format and delivery will be posted on the Commission website: www.missingwomeninquiry.ca.

17. The Commissioner will determine the outcome of applications for funding recommendations on the basis of written applications, unless the Commissioner determines that an oral hearing is necessary.

18. Where the Commissioner's funding recommendation is approved, funding shall be in accordance with the terms and conditions approved by the Attorney General respecting rates of remuneration and reimbursement and the assessment of accounts.

Powers respecting participants

19. Subject to Rule 22, the Commissioner may make orders respecting

a. the manner and extent of a participant's participation (see *Public Inquiry Act*, s. 12(1)(a)),

b. the rights and responsibilities of a participant, if any (see *Public Inquiry Act*, s. 12(1)(b)), and

c. any limits or conditions on a participant's participation (see *Public Inquiry Act*, s. 12(1)(c)).

20. In making an order under Rule 17, the Commissioner may

a. make different orders for different participants or classes of participants (see *Public Inquiry Act*, s. 12(2)(a)), and

b. waive or modify one or more of his orders as necessary (see *Public Inquiry Act*, s. 12(2)(b)).

21. In making an order under Rule 17, the Commissioner must ensure that a participant who responds to a notice under section 11(2) of the Act has a reasonable opportunity to be heard by the Commissioner before the Commissioner makes a finding of misconduct against the participant, or makes a report that alleges misconduct by that participant (see *Public Inquiry Act*, s. 12(3)).

Rights of participants

22. A participant may

a. participate on her or his own behalf (see *Public Inquiry Act*, s. 13(1)(a)), or

b. be represented by counsel or, with the approval of the Commissioner, by an agent (see *Public Inquiry Act*, s. 13(1)(b)).

23. A participant

a. has the same immunities as a witness who appears before the court (see *Public Inquiry Act*, s. 13(2)(a)), and

b. is considered to have objected to answering any question that may

i. incriminate the participant in a criminal proceeding (see *Public Inquiry Act*, s. 13(2)(b)(i)), or

ii. establish the participant's liability in a civil proceeding (see *Public Inquiry Act*, s. 13(2)(b)(ii)).

Production of records

24. All records provided to the Commission shall be indexed in a form acceptable to the Commission.

Confidentiality of records

25. Commission Counsel shall not provide a record to counsel, a participant or a witness until that person has delivered to Commission counsel a signed undertaking, in a form approved by the Commissioner, that all records disclosed by the Commission will be used solely for the purposes of the Commission.

26. Counsel for a participant or a witness shall not provide a record to the participant or witness until the participant or witness has delivered to counsel a signed undertaking, in a form approved by the Commissioner, and counsel has delivered that signed undertaking to Commission counsel.

27. The Commissioner may:

a. impose restrictions on the use and dissemination of records,

b. require that a record that has not been entered as an exhibit in the evidentiary proceedings, and all copies of the record, be returned to the Commission, and

c. on application, release counsel, a participant or a witness, in whole or in part, from the undertaking in relation to any record, or may authorize the disclosure of a record to another person.

Records

28. A participant must, at the earliest opportunity and in any event at least ten days before using a record in an evidentiary hearing or tendering it as an exhibit, deliver a copy of the record to Commission counsel.

Public access to records

29. Unless the Commissioner orders otherwise:

- a. a record within the Commission's control that has not been entered as an exhibit is not available for public inspection or copying, and
- b. a record that has been entered as an exhibit may be inspected by the public and the media. The Commission will determine the circumstances in which a charge will be imposed for copying records.

Applications to the Commissioner

30. A participant may apply to the Commissioner for an order by:

- a. preparing the application in writing,
- b. attaching to the application any supporting materials, and
- c. delivering the application and supporting materials to the Commission by email, to applications@missingwomeninquiry.ca in Microsoft Word or *.pdf format.

31. An applicant must deliver the application for an order to the Commission at least four days before the application is to be heard.

32. A participant who wishes to receive notice of an application shall provide the Commission with an email address for delivery.

33. The Commission shall promptly deliver the application and supporting materials, by email, to each other participant who has provided the Commission with an email address for delivery.

34. Any other participant may file written materials in relation to an application made under Rule 30.

35. The Commissioner may make an order based on the written material filed or, at his discretion, after hearing oral argument.

Applications for further disclosure of a record

36. A participant may seek disclosure of a record from another person ("record holder") by asking Commission counsel, in writing, to use the powers of the Commission to obtain the record.

37. The request must state:

- a. the reasons the participant believes the record holder possesses the record, and

b. the reasons the participant believes the record is relevant to a matter before the Commission.

38. If Commission counsel accepts the request, Commission counsel will attempt to obtain the record.

39. If Commission counsel rejects the request, Commission counsel shall notify the participant, and the participant may apply to the Commissioner, in accordance with Rules 20 to 23, for an order respecting the request.

40. When the participant applies to the Commissioner under Rule 39, the Commission shall deliver the application and any supporting materials to the record holder, and to each other participant who has provided the Commission with an email address for delivery.

41. The record holder and any other participant may file written materials in relation to an application made under Rule 39.

42. Unless the Commissioner orders otherwise, the procedures set out in Rules 36 to 41, in relation to a particular witness, should whenever possible be completed before that witness commences his or her testimony.

Witnesses

43. Each participant shall provide to Commission counsel at the earliest opportunity the name and address of any person who the participant believes should be called as a witness during the evidentiary hearings, with a statement of the subject matter of their proposed testimony, their experience and background, and the estimated length of their testimony.

44. The following rules apply to witnesses:

a. Commission counsel shall decide who shall be called as a witness at the evidentiary hearings,

b. Subject to Rule 45, Commission counsel shall call and examine witnesses on behalf of the Commission, and may adduce evidence by way of both leading and non-leading questions,

c. each witness called shall, before testifying, be sworn or affirm,

d. each witness who testifies may during his or her testimony be represented by counsel or, with the approval of the Commissioner, by an agent,

e. the Commissioner may, on application by a participant, permit a participant to cross-examine a witness to the extent of that participant's interest. If the participants are unable to agree on an order of cross-examination, the Commissioner will determine the order,

f. subject to Rule 45, counsel for a participant is entitled to examine that participant last, regardless of whether or not counsel is also representing another participant,

g. after Commission counsel has called all witnesses on behalf of the Commission, a participant may apply to the Commissioner for permission to call a witness and, if permission is granted, subrules (c) to (e) apply to each witness called by a participant.

h. Commission counsel has the right to re-examine any witness who has testified.

45. Counsel for a witness may apply to the Commissioner for permission to lead that witness's examination in chief. If permission is granted, counsel will examine the witness in accordance with the normal rules governing the examination of one's own witness in court proceedings, unless the Commissioner directs otherwise.

Power to accept information

46. The Commissioner may receive and accept:

a. information that he considers relevant, necessary and appropriate, whether or not the information would be admissible in any court (see *Public Inquiry Act*, s. 14(1)), and

b. a witness's evidence by way of affidavit or written statement, or by audio or video conference.

47. Without limiting Rule 17, the Commissioner may exclude anything unduly repetitious (see *Public Inquiry Act*, s. 14(2)).

48. Nothing in Rule 46 overrides the provisions of any Act expressly limiting the extent to which or purposes for which any oral testimony, records or things may be admitted or used in evidence (see *Public Inquiry Act*, s. 14(3)).

49. A person cannot be compelled to disclose in an evidentiary hearing anything that, in any court, would be privileged under the law of evidence (see *Public Inquiry Act*, s. 22(2)).

Final submissions

50. Commission counsel, and each participant authorized to do so, may make final oral and written submissions to the Commissioner on any issue within the Commission of Inquiry's Terms of Reference.

51. The Commissioner may set time limits on oral submissions, and page limits on written submissions.

The Commission's process

52. Subject to the Act and the Commission's Terms of Reference, the Commission has the power to control its own process (see *Public Inquiry Act*, s. 9(1)).

Participant's failure to comply with this directive

53. Without limiting any other powers of enforcement, if a participant fails to comply with this directive, including any time limits specified for taking any actions, the Commissioner, after giving notice to the participant, may do any of the following:

- a. schedule a meeting or hearing (see *Public Inquiry Act*, s. 17(a)),
- b. continue with the inquiry and make a finding or recommendation based on the evidence before him, with or without providing an opportunity for submissions from that participant (see *Public Inquiry Act*, s. 17(b)),
- c. make any order necessary for the purpose of enforcing this directive (see *Public Inquiry Act*, s. 17(c)).

Commissioner's discretion

54. The Commissioner retains a residual discretion to amend, add to, vary or depart from any of the Rules in this Directive for the effective conduct of the evidentiary hearings.

C. Undertaking of Counsel and Confidentiality Agreement re: Documents

The Missing Women Commission of Inquiry

Undertaking of Counsel

I, _____, undertake to the Missing Women Commission of Inquiry (the “Commission”) that:

1. I will use any and all documents and information which are produced to me in connection with the Commission’s proceedings (the “Confidential Material”) solely for these proceedings.
2. I will not discuss or disclose, including providing copies, of the Confidential Material to any person except:
 - a. a person for whom I act in the Commission’s proceedings;
 - b. a person who represents or is a member of an organization for whom I act in the Commission’s proceedings;
 - c. an expert witness retained or consulted by me in relation to these proceedings;
 - d. to the extent necessary to interview a potential witness in the Commission’s proceedings;
 - e. my legal staff or assistants; or
 - f. as required by law.
3. I will only discuss or disclose, including providing copies, Confidential Material to a person set out in paragraphs 2(a)-(e) if the person has signed a copy of the attached Confidentiality Agreement which I shall retain.
4. If I choose to provide copies of Confidential Material in any form to any person allowed for in paragraphs 2(a)-(e), I will request approval in a Form provided by the Commission.
5. I will protect the Confidential Material provided to me by the Commission in accordance with the *Freedom of Information and Protection of Privacy Act*, 1996 R.S.B.C., c. 165, any court order and any publication ban such as that ordered in *R. v. Pickton*, 2010 BCSC 1198.
6. I will use and store the Confidential Material in a manner that will maintain its confidentiality.
7. I understand that I will no longer be bound by this Undertaking of Counsel:
 - a. in relation to any Confidential Material once it has become

part of the public record by becoming an exhibit during the Commission's proceedings unless the Commissioner orders otherwise; or

- b. to the extent that the Commissioner or Commission counsel release me in writing from this Undertaking of Counsel.
8. At the conclusion of the Commission's formal proceedings I undertake to do one of the following and will inform the Commission in writing of my choice:
- a. destroy the Confidential Material and provide confirmation of destruction to the Commission; or
 - b. return the Confidential Material to the Commission for destruction.

Signature

Date

Witness

Date

The Missing Women Commission of Inquiry

Confidentiality Agreement

I, _____, agree that:

1. I will use any and all documents and information which are produced to me in connection with the Missing Women Commission of Inquiry's (the "Commission") proceedings (the "Confidential Material") solely for these proceedings.
2. I will not discuss or disclose, including providing copies, of the Confidential Material to any person unless that person has also signed a Confidentiality Agreement or Undertaking of Counsel.
3. If I choose to provide copies of Confidential Material in any form to any person, I will request approval in a Form provided by the Commission.
4. I will protect the Confidential Material provided to me by the Commission in accordance with the *Freedom of Information and Protection of Privacy Act*, 1996 R.S.B.C., c. 165, any court order and any publication ban such as that ordered in *R. v. Pickton*, 2010 BCSC 1198.
5. I will use and store the Confidential Material in a manner that will maintain its confidentiality.
6. I understand that I will no longer be bound by this Confidentiality Agreement:
 - a. in relation to any Confidential Material once it has become part of the public record by becoming an exhibit during the Commission's proceedings unless the Commissioner orders otherwise; or
 - b. to the extent that the Commissioner or Commission counsel release me in writing from this Confidentiality Agreement.
7. At the conclusion of the Commission's formal proceedings I undertake to do one of the following and will inform the Commission in writing of my choice to:
 - a. destroy the Confidential Material and provide confirmation of destruction to the Commission; or
 - b. return the Confidential Material to the Commission or my legal counsel for destruction.

8. I understand that sanctions may result if I breach any term of this Confidentiality Agreement as per the Public Inquiry Act, 2007 S.B.C., c.9, s.12(1)(c) and the Practice and Procedure Directive for Evidentiary Hearings for the Missing Women Commission of Inquiry, rule 19(c) and 27.

Signature

Date

Witness

Date

D. Document Vetting Protocol

Missing Women Commission of Inquiry Vetting/Disclosure Protocol

February 17, 2011

1. This document is intended to set out the basis upon which the Government of Canada will disclose those documents in its possession that are relevant to the mandate of the Missing Women Commission of Inquiry.
2. The Commission wishes to receive documents in a state that can be disclosed to all participants.
3. The Government of Canada is committed to assisting the Commissioner to fulfill his mandate in a timely manner but must disclose documents consistent with applicable privileges and immunities and in a manner which will not jeopardize any ongoing criminal investigations or compromise the safety, privacy or other legitimate interests of sex trade workers, persons of interest and witnesses.
4. This will require that all documents be thoroughly reviewed before they are disclosed to the Commission in order to protect privileged information and ongoing criminal investigations as well as information which may compromise the safety of current and former sex trade workers and the privacy of persons of interest and other witnesses.
5. The documents to be disclosed to the Commission will be reviewed and either withheld or redacted in order to protect the following types of information from disclosure. Each redaction will be identified with the corresponding code.

Type of Information	Description	Code
Publication Ban	Information that may identify Pickton 1997 attempted murder victim.	VIC97
Solicitor-Client Privilege	Where legal advice is sought and/or provided from DOJ or Crown Counsel.	SCP

Type of Information	Description	Code
Litigation Privilege	Information created in contemplation of litigation commenced on April 23, 2002 in respect of the murder of Angela Joesbury and on September 19, 2002 in respect of the disappearance of Marcella Creison and in respect of any other litigation commenced during the course of the inquiry.	LP
Police Informer Privilege	Any information that might compromise the identity, safety or security of a confidential informant, police agent or protected witness.	PIP
Police Investigative Techniques	Such as location or type of audio or surveillance and the manner of surreptitious entry to install; aerial surveillance.	PIT
Ongoing Investigation	Information that may reveal or compromise other ongoing investigations and/or identify persons of interest in those investigations.	OI
Section 37, <i>Canada Evidence Act (CEA)</i> : Information not in Public Interest to Disclose – Sex Trade Worker Names	The safety and privacy of current and former sex trade workers may be compromised if their names are disclosed. The names of women associated with the sex trade should be removed in a manner that allows each particular sex trade worker to be identified by a unique id number.	STW
Section 37, <i>Canada Evidence Act (CEA)</i> : Information not in Public Interest to Disclose – Sex Assault Victim Names	The security and privacy of former sex assault victims who are not associated with the sex trade may be compromised if their names are disclosed. Accordingly, these names will be redacted.	VICTIM

Type of Information	Description	Code
Section 37, <i>CEA</i> : Information not in Public Interest to Disclose ~ Persons of Interest	The names of persons of interest should be removed in a manner that allows each person of interest to be identified by a unique id number. There are significant concerns with publicly identifying those individuals who have been identified as potential persons of interest in a criminal investigation, especially when those individuals were proved not to be relevant to the investigation.	POI
Section 38, <i>CEA</i>	Information that would be injurious to international relations, national defence or security.	NS
Section 39, <i>CEA</i>	Information that would reveal a cabinet confidence.	CC
Other Statutory Exemptions	<p>The following statutes prohibit the disclosure of:</p> <p>(a) information submitted to the court to obtain a wiretap authorization as well as any information that may identify the targets, the content of the intercepted communications or the existence of such communications; ss. 187 and 193 of the <i>Criminal Code</i></p> <p>(b) in respect of sealed search warrants, any information relating to the warrant, production order or authorization; s.487.3 of the <i>Criminal Code</i></p> <p>(c) any information that is contained in the national DNA Data Bank; ss. 4 and 6 of the <i>DNA Identification Act</i></p> <p>(d) taxpayer information that directly or indirectly identifies the taxpayer to whom the information relates; s. 241 of the <i>Income Tax Act</i></p>	STAT

Type of Information	Description	Code
Irrelevant Database Query Results	Personal information obtained from queries to police databases (i.e. CPIC, PIRS, PRIME and NCDB) relating to individuals who are entirely unconnected with the investigation but may have a similar name to the person about whom information was requested will be redacted.	DTB
Irrelevant Personal Identifiers	The dates of birth, phone numbers, addresses, drivers license numbers, SINS etc. of any person in the database will be redacted. Only the digits themselves should be redacted so that the type of personal identifier is still apparent.	PID

6. The Commission recognizes that to avoid delay in the Inquiry process documents will be provided to the Commission in groupings as they become available rather than waiting for all document searches and reviews to be completed.

E. Instruction Letters to Experts

E-1. Prof. John Lowman

MISSING
WOMEN
COMMISSION OF
INQUIRY

1402 – 808 Nelson Street
Vancouver, British Columbia V6Z 2H2
Office: 604-681-4470
Facsimile: 604-681-4458

Email: info@missingwomeninquiry.ca
www.missingwomeninquiry.ca

John Lowman
School of Criminology
Arts and Sciences Building
8888 University Drive
Burnaby, BC V5A 1S6

May 30, 2011

VIA EMAIL

Dear Professor Lowman:

Re: Missing Women Commission of Inquiry - Expert Report

We write to request your independent expert opinion with respect to a number of issues relating to women involved in the sex trade in the downtown eastside of Vancouver and the missing women investigations conducted by police forces between 1997 and 2002 (the "Time Period"). We require your report by August 31st, 2011.

Background

The Commission was mandated to inquire into and report on the conduct of the missing women investigations. Specifically, the Terms of Reference direct the Commission to conduct an inquiry into the following matters:

- 4(a) to conduct hearings, in or near the City of Vancouver, to inquire into and make findings of fact respecting the conduct of the missing women investigations;
- (b) consistent with the British Columbia (Attorney General) v. Davies, 2009 BCCA 337, to inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;
- (c) to recommend changes considered necessary respecting the initiation and conduct of investigations in British Columbia of missing women and suspected multiple homicides;
- (d) to recommend changes considered necessary respecting homicide investigations in British Columbia by more than one investigating organization, including the co-ordination of those investigations.

The missing women investigations are defined as “the investigations conducted between January 23, 1997 and February 5, 2002, by police forces in British Columbia respecting women reported missing from the DTES.”

Format of Opinion

We ask that your independent expert report be set out under the following headings:

1. BACKGROUND (your name, address and area of expertise);
2. QUALIFICATIONS (a detailed statement of your professional qualifications relating to your area of expertise and the subject matter of your opinion);
3. ASSUMED FACTS, IF ANY, AND DOCUMENTS REVIEWED (including the instructions and documents you have relied on);
4. OPINION (your independent objective opinion regarding the questions set out below including the reasons for your independent objective opinion containing: a description of the factual assumptions if any on which the opinion is based; a description of any research conducted by you that led you to form your opinion; a description of any documents relied on); and
5. APPENDICES (a list of every document relied on by you in formatting your opinion, including this letter).

Scope of Opinion

As an independent expert you are not permitted to:

- express opinions beyond the scope of your expertise;
- allocate fault or responsibility to a particular participant in the Inquiry; or
- advance arguments in the guise of opinions for or against a particular interest.

Questions:

What follows are the specific questions we would like you to answer. Unless otherwise indicated, **please answer these questions as they relate to the Time Period (1997-2002).**

Sex Trade Laws in Canada

- 1) Describe the *Criminal Code* (R.S.C. 1985, c. C-46) provisions affecting street sex trade prior to 1972.
- 2) Describe the *Criminal Code* provisions affecting street sex trade between 1972 and 1985.
- 3) Describe the *Criminal Code* provisions affecting street sex trade from December 1985 to date.
- 4) Please describe the enforcement policies that were in place during the above noted Time Period.

The Sex Trade in Vancouver (1997 – 2002)

- 5) What are the distinct ways women were involved in the sex trade industry in Vancouver during the Time Period?
- 6) For any categories identified in question 5, describe the conditions for each during the Time Period.
- 7) What were the locations of the street level strolls during the Time Period?

Street Level Sex Trade in the Downtown Eastside (1997 – 2002)

- 8) How many women were involved in street level sex trade in the DTES during the Time Period?
- 9) What percentage of the women identified in question 8 were Aboriginal?
- 10) What were the common characteristics of the women involved in the street level sex trade in the DTES during the Time Period?
- 11) Were women involved in street level sex trade in the DTES transient or entrenched in that community during the Time Period?

Violence against Women in the Street Level Sex Trade in the DTES

- 12) What types of violence do women involved in the street level sex trade experience?
- 13) And at what rate do they experience that violence?
- 14) Who are the perpetrators of violence against women involved in the street level sex trade? Do they share any common characteristics?
- 15) What personal characteristics make women involved in the street level sex trade vulnerable to violence?
- 16) What external conditions make women involved in the street level sex trade vulnerable to violence?

Missing Women Police Investigations (1997 – 2002)

- 17) Describe the relationship between police and the women involved in street level sex trade in the DTES during the Time Period?
- 18) Given the characteristics identified in question 10 and the relationship between the police and the residents of the DTES, what unique investigative techniques should the police have used when investigating missing and murdered women in the DTES during the Time Period?
- 19) In November 1999, you opined that 3-4 serial killers were responsible for the missing women in the DTES (source: Daniel Wood, "Vancouver's Missing Prostitutes" *Elm Street* 52:95 (November 1999) 2.) (copy attached). What was the basis for your opinion?
- 20) Did you have any information or contacts that would have helped the police in conducting the missing women's investigation during the Time Period?
- 21) If so, was this information in the public domain? If not, did you have any contact with the police with respect to this information during the Time Period?

Public Opinion of Women Involved in the Sex Trade (1997 – 2002)

- 22) What was the public perception of women involved in the sex trade during the Time Period? In answering this question, please describe how you assess public perception.

If you have any questions regarding the nature and scope of your engagement, please contact us.

Yours truly,

Missing Women Commission of Inquiry

Per:

"Karey Brooks"

Karey Brooks
Associate Commission Counsel

E-2. Dr. Kate Shannon

MISSING
WOMEN
COMMISSION OF
INQUIRY

1402 – 808 Nelson Street
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Office: 604-681-4470
Facsimile: 604-681-4458

Email: info@missingwomeninquiry.ca
www.missingwomeninquiry.ca

Kate Shannon
Director - Gender and Sexual Health Initiative
BC Centre for Excellence in HIV & AIDS
608 – 1081 Burrard Street
Vancouver, BC V6Z 1Y6

August 26, 2011

VIA EMAIL

Dear Dr. Shannon:

Re: Missing Women Commission of Inquiry - Expert Report

I write to you on behalf of the Missing Women Commission of Inquiry to request your independent expert opinion with respect to violence against women involved in street sex trade in the downtown eastside of Vancouver (DTES).

Your expert report relates to the Commission's mandate, in particular Term of Reference 4(a): "to conduct hearings, in or near the City of Vancouver, to inquire into and make findings of fact respecting the conduct of the missing women investigations."

The missing women investigations are defined as "the investigations conducted between January 23, 1997 and February 5, 2002, by police forces in British Columbia respecting women reported missing from the Downtown Eastside of the city of Vancouver."

We ask that your independent expert report be set out under the following headings:

1. Background (your name, address and area of expertise);
2. Qualifications (a detailed statement of your professional qualifications relating to your area of expertise and the subject matter of your opinion);
3. Opinion (your independent objective opinion including a description of the factual assumptions on which your opinion is based and a description of any research you conducted that led you to form your opinion); and
4. Appendices (a list of all documents, if any, you relied on including this letter).

Please be advised that as a qualified expert you are not permitted to:

- express opinions beyond the scope of your expertise;
- allocate fault or responsibility to a particular participant in the Inquiry; or
- advance arguments for or against a particular interest in the guise of opinions.

Please provide your written report by August 31st, 2011.

Questions

Unless otherwise indicated, please answer these questions as they relate to the time period 1997-2002.

Violence Experienced by Women in Street Sex Trade

1. What are the common characteristics of the women involved in street sex trade in the DTES?
2. Describe the violence faced by women involved in street sex trade.
3. What personal and external indicators increase the risk of violence for women involved in street sex trade? If possible, rank the indicia.
4. List the locations where women involved in street sex trade engaged in sex trade in the DTES and explain the safety concerns for each location.
5. Describe the impacts of policing on the safety of women involved in street sex trade.

Bad Date Sheets

6. What is a bad date sheet? When were they first created and by whom? Are they still created? Who has access to bad date sheets?
7. Have you reviewed any bad date sheets produced between 1997 and 2002? If so, what was the source and what did they reveal about:
 - a. level and types of violence
 - b. locations where violence is most likely to occur
 - c. frequency of bad date sheet reporting
 - d. the extent to which women rely on bad date sheets to govern their behavior
 - e. the reasons STW report/do not report through bad date sheets
8. What self-protection strategies do women report using when engaged in street sex trade?

Relationship with Police

9. To what extent do women involved in street sex trade report the violence they experience to the police? Are there any statistics specific to the DTES? If they do not report, what reasons do they give?

If you have any questions regarding the nature and scope of your engagement, please contact us.

Yours truly,

Missing Women Commission of Inquiry

Per:

"Karey Brooks"

Karey Brooks
Associate Commission Counsel

E-3. Dr. Thomas Kerr

MISSING
WOMEN
COMMISSION OF
INQUIRY

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Thomas Kerr
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608 – 1081 Burrard Street
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August 29, 2011

VIA EMAIL

Dear Dr. Kerr:

Re: Missing Women Commission of Inquiry - Expert Report

I write to you on behalf of the Missing Women Commission of Inquiry to request your independent expert opinion with respect to drug dependency and women involved in street sex trade in the downtown eastside of Vancouver.

Your expert report relates to the Commission's mandate, in particular Term of Reference 4(a): "to conduct hearings, in or near the City of Vancouver, to inquire into and make findings of fact respecting the conduct of the missing women investigations."

The missing women investigations are defined as "the investigations conducted between January 23, 1997 and February 5, 2002, by police forces in British Columbia respecting women reported missing from the Downtown Eastside of the city of Vancouver."

We ask that your independent expert report be set out under the following headings:

1. Background (your name, address and area of expertise);
2. Qualifications (a detailed statement of your professional qualifications relating to your area of expertise and the subject matter of your opinion);
3. Opinion (your independent objective opinion including a description of the factual assumptions on which your opinion is based and a description of any research you conducted that led you to form your opinion); and
4. Appendices (a list of all documents, if any, you relied on including this letter).

Please be advised that as a qualified expert you are not permitted to:

- express opinions beyond the scope of your expertise;
- allocate fault or responsibility to a particular participant in the Inquiry; or
- advance arguments in the for or against a particular interest guise of opinions.

Unless otherwise indicated, please answer these questions as they relate to the time period 1997-2002.

1. Describe the research you have conducted in the DTES with respect to drug dependent women involved in street sex trade.
2. What were the common characteristics of the women involved in street sex trade in the DTES?
3. Which drugs were used by women involved in street sex trade in the DTES?
4. What is drug dependency?
5. What is the treatment and prognosis for drug dependency?
6. To what extent were women involved in street sex trade as a result of drug dependency?
7. What is drug withdrawal and what are the symptoms?
8. Does drug withdrawal increase the risk of violence for women involved in street sex trade? If so, how?
9. Is there any correlation between the type and level of drug use and the vulnerability to violence?

Please provide your written report by August 31st, 2011.

If you have any questions regarding the nature and scope of your engagement, please contact us.

Yours truly,

"Karey Brooks"

Missing Women Commission of Inquiry

Per:

Karey Brooks

Associate Commission Counsel

F. Process Management Directives

F-1. Process Management Directive 1 (January 11, 2012)

Process Management Directive #1

1. The Terms of Reference of the Missing Women Commission of Inquiry designate this Commission as a hearing and study commission whose work was to be concluded by December 31, 2011, a deadline which has been extended to June 30th, 2012.
2. As Commissioner, my responsibilities include determining the facts in relation to the missing women investigations and the decision of the Criminal Justice Branch to stay the 1997 charges against Robert Pickton as well as providing recommendations with a view to ensuring that what happened will not happen again.
3. I am to discharge these responsibilities based on what is set out in the *Public Inquiry Act*. This legislation provides that the Commission:
 - a) has the power to control its own processes and may make directives respecting practice and procedure to facilitate the just and timely fulfillment of its duties; and
 - b) as a hearing and study commission, may engage in any activity necessary to effectively and efficiently fulfill the duties of the commission
4. To fulfill my mandate efficiently, effectively and in a timely way, I will be issuing Process Directives which will set out procedural steps I consider necessary to fulfill my responsibilities. This is the first Directive.
5. In respect of cross examination of the witnesses under oath the procedure will be as follows:
 - a) After the witness is led in direct evidence, reasonable time limits will be imposed on cross examination, which will only be extended with leave.
 - b) Counsel will not duplicate ground covered in prior cross examination.
 - c) Counsel will not ask questions that are inappropriately intrusive and disrespectful to the witnesses having regard to the purpose and nature of their evidence.
 - d) I may direct Commission Counsel as to the order in which cross examination is to be conducted.

6. I am continuing to develop the manner in which I intend to fulfill my mandate. This will include consideration of the information that will enable me to develop recommendation and the most efficient, effective and inclusive processes through which to do so. Some such processes have already been undertaken. As set out in detail in my status reports, the Commission has held pre-hearing conferences and northern community forums. Further Policy Forums are scheduled this Spring.
7. This Commission has been established as a result of tragic events that have caused much pain to so many. To that extent we have already fulfilled part of our mandate by giving an opportunity to hear the voices of persons who have not previously been heard. In my view, it is an important part of our work to listen to the impact these crimes have had on the families, on the community, and on our province. We are grateful to the many families who have come forward and provided assistance to the Inquiry. No meaningful reform can take place without their information and advice. As well, deepening our understanding of these past events and the circumstances around their occurrence provides a foundation from which to make recommendations that will speak to the future. These recommendations will cover a range of topics including: the role of institutions and the responsibilities and conduct of those working within them as it relates to the victims, their families and the community at large.
8. This is a public inquiry and not a trial. It is my job to protect the integrity of the process and ensure this Commission does not become stymied through court like procedures. I have in the past been critical of the somewhat cumbersome nature of our court process which at times becomes rule bound and laborious. To be sure, one of the intentions of the new *Public Inquiry Act* was to create flexible processes that allow inquiries to search for the truth in an efficient, effective and timely manner.
9. I expect all those involved in this Commission will assist me in managing these proceedings efficiently and effectively consistent with the public purpose I am mandated to discharge and in service of the public interest. Commission Counsel is available to meet with any of the participants with respect to this Directive, and to answer any questions that any interested party or the media may have in relation to this or the overall work of the Commission.

F-2. Process Management Directive 2 (January 24, 2012)**Process Management Directive #2**

1. In furtherance of Process Management Directive 1, issued on January 11, 2012, this is Process Directive 2.
2. Speaking to the future through recommendations is a fundamental aspect of my mandate which I am empowered to exercise through a process which will enable me to do so effectively and efficiently.
3. Understanding past events is important to properly discharge the Commission's responsibility to make findings and recommendations.
4. In informing and framing recommendations, I must have regard to a wide range of considerations including:
 - a. The tragic circumstances of the victims and the profound impact that has had on family, friends and their communities, as well as the abhorrence that these crimes have had in the minds and hearts of the public, in this region, in the country and to the world.
 - b. The protection of many women and children within marginalized communities, who, for many reasons and circumstances are, involved in the sex trade.
 - c. The structures and operation of policing authorities whose integrity and effectiveness have been questioned and the individual officers working within them whose reputations, careers and lives which have become implicated in these events.
 - d. The implications of these events in undermining the public's confidence in the policing institutions and its leaders and officers in the discharge of its responsibilities into the future, within the community at large and especially with respect to those most vulnerable within marginalized communities.
5. Sadly, grotesque serial crimes have happened before in BC, in Canada, and in many other countries including the US and the UK. Many reviews of these notorious serial crimes have produced important reports. I am particularly mindful of the guidance offered by the late and distinguished Mr. Justice Archie Campbell following a review of the Bernardo case:

It is often the case that systemic failures, as opposed to individual mistakes are the real cause of public disasters and the most appropriate focus of public inquiries. The public identification of individual mistakes or wrongdoing, while important, does not necessarily address the underlying problem. And unless the

underlying problem is addressed, the same mistakes or wrongdoing will likely occur again if the system that permitted them is not fixed.

It is a mistake for a Royal Commissioner or public inquiry to focus exclusively on the search for scapegoats when the failure is really an institutional failure in the sense of a lack of appropriate systems, a lack of reasonable resources, a flawed institutional culture, or a breakdown in the machinery of accountability.

...But these problems do not go away simply because individuals have been implicated. These problems only go away when people change their systems, their attitude and the way that they do business. ("The Bernardo Investigation Review" in Allan Manson & David Mullan, eds., Commissions of Inquiry, Praise or Reappraise? at page 399)

6. In The Conduct of Public Inquiries: Law Policy and Practice Professor Ratushny has this to say:

While [systemic] issues may seem intangible at first, they often emerge in issues such as leadership, relationships, morale, past practices, and institutional "culture". They are, essentially, any factors that transcend individual conduct but influence events, including individual conduct. They may impose rigidity in dealing with problems, or create "gaps" by discouraging cooperation and coordination. They may generate insensitivity and create barriers. They often do not appear to be offensive on their face but only upon understanding their influence on consequences. (page 386)

7. Thus far the evidence before me raises the same concerns that Mr. Justice Campbell and Professor Ratushny highlighted with respect to systemic failures. Where systemic failures have been identified in these reports the simple fact is that even if every individual officer did their job, the overall job did not get done. Justice Campbell puts the point in this way:

The Bernardo case shows that the motivation, investigative skill, and dedication are not enough. The work of the most dedicated, skilful, and highly motivated investigators, supervisors and forensic scientists can be defeated by the lack of effective case management systems and the lack of systems to ensure communication and co-operation among law enforcement systems. (page 333)

8. I am deeply struck by what Mr. Justice Campbell said at the very outset of his report:

Virtually every inter-jurisdictional serial killer case including Sutcliffe (the Yorkshire Ripper) and Black (the cross-border child killer) in England, Ted Bundy and the Green River Killer in the United States and Clifford Olson in Canada, demonstrate the same problems and raise the same questions. And always the answer turns out to be the same - systemic failure. Always the problems turn out to be the same, the mistakes the same, and the systemic failures the same." (page 1)

And later he says this:

The remarkable thing about serial predator investigations is that the same problems repeat themselves in every investigation with tragic frequency. We seem incapable of learning from previous experience. (page 254)

9. What happened here must never happen again. I consider my paramount duty to do everything that I can do to contribute to that end within my power as a Commissioner. If the reviews and reports that have followed each of these serial crimes, with such similar characteristics, and the recommendations that have followed have failed to effect change, I have concluded that I must ask myself what it is that this Commission can do differently to make a difference.
10. Our work must focus on doing whatever we can to make sure we make a difference in very practical terms in advancing the ability to prevent these horrific crimes. I can now say that I will address in my Final Report any elements of systemic failure that may have occurred here, and expect that it will speak to at least the following categories of recommendations:
 - a. the difficult interface between the policing authorities and the marginalized community of these victims,
 - b. inter jurisdictional difficulties between different police forces, and
 - c. shortcomings in organizational systems.
11. I wish to consider all options as to how the process can be shaped so that I can inform and frame my recommendations in the best possible way to fulfill the duties pursuant to my mandate within the powers vested in me under the *Public Inquiry Act*. I have instructed Commission Counsel to undertake such discussions as they consider may be helpful, including with participants, and to consult with other professionals he considers have the background and experience to assist him in providing advice and guidance to me.
12. I have directed Commission Counsel that I now wish to hear from three lead investigators in the missing women investigations including: Det/ Cst. Shenher, Mr. Connor and Mr. Adam.
13. I reiterate the importance I attach to moving forward in a timely and focused way as set out in Process Directive 1, and will be issuing further process directives in the days ahead.

F-3. Process Management Directive 3 (February 11, 2012)

Process Management Directive #3

1. This is Process Management Directive #3. In my first two Process Management Directives issued on January 11 and January 24, 2012, I emphasized three overriding principles:
 - the need to focus on my mandate to make recommendations that will make a real difference in practical terms to the pressing and continuing concern of missing and murdered women;
 - the need to focus on the systemic dimensions of any police failures rather than finding individual scapegoats; and
 - the need to carry out the hearing aspects of my mandate in an effective manner and to ensure important attention is given to the study commission aspect of my mandate.
2. After the passage of more than four weeks of evidentiary hearings since Directives #1 and #2 were issued, I remain focused on these three principles and will be moving forward to strategically manage the Inquiry process in line with these previous directives.
3. Important information has been learned during the 53 days of hearing thus far, including from:
 - evidence from nine members of victims' families – Lilliane Beaudoin, Marion Bryce, Ernie Crey, Lorraine Crey, Lori-Ann Ellis, Lynn Frey, Margaret Green, Donnalee Roberta Sebastian accompanied by Anne Marie Sebastian, and Angel Wolfe;
 - extensive expert evidence about the conditions of the lives of women who are involved in the sex trade in the Downtown Eastside of Vancouver from Professor John Lowman, Dr. Thomas Kerr and Dr. Kate Shannon;
 - evidence from Elaine Allan, former coordinator of WISH (Women's Information Safe House) and former street nurse in the DTES, Catherine Astin – both of whom provided services to many of the missing women;
 - evidence from a former survival sex trade worker, Susan Davis;
 - evidence from the lead investigator in the Vancouver Police Department missing women investigations – Detective Constable Shenher;
 - evidence from the lead investigator of the Pickton Investigation led by the Coquitlam RCMP – Corporal Connor;

- evidence from Dr. Kim Rossmo who is an expert in the investigation of serial killers and was involved in the missing women investigations;
 - evidence from the Team Commander of Project Evenhanded – Sergeant Don Adam (retired) (his testimony is currently ongoing);
 - evidence from Chief Constable Terry Blythe (retired) (his testimony is currently ongoing); and
 - extensive evidence from three police review witnesses – Deputy Chief Constable Doug LePard, Superintendent R.J. Williams, and the Commission’s independent expert, Deputy Chief Jennifer Evans, all of whom are highly-experienced and carried out detailed reviews of the missing women investigations based on an extensive review of documents and numerous interviews with those directly involved in all levels of the investigations.
4. I would like to thank all of the witnesses for their participation and for the assistance that they have provided to me. Together this evidence is helping build a broad and detailed factual framework for my report.
 5. I expect to hear from additional senior members of the RCMP and the VPD. I have not yet come to any conclusions on the facts and appreciate that these witnesses will continue to contribute to my ongoing fact finding.
 6. I will also be hearing from witnesses regarding the decision of the Criminal Justice Branch to enter a stay of proceedings against Robert Pickton pursuant to paragraph 4(b) of my terms of reference during the week of March 26, 2012.
 7. While being helped by our fact-finding progress I must remain vigilant and mindful that my mandate also involves making recommendations to help save the lives of marginalized women. I believe this can be best accomplished by working with the participants and the broader community, particularly women who are street-involved and engaged in the sex trade, who on a daily basis face the highest risk from all forms of violence, including serial predation. I cannot imagine anyone would seriously disagree that this is my most important task.
 8. From the very beginning of this Commission, I have emphasized the need to work together in as many ways as possible to ensure that this tragedy is never allowed to happen again. I continue to believe that working together is vital to our success.
 9. We have spent much time and learned a lot about what went wrong and it is now time to focus more actively on any investigative failures and how they can be prevented in the future. Therefore, in addition to the more traditional evidentiary hearings that are underway, we will be introducing a more cooperative approach to allow us to pursue this aspect of the mandate.

10. It is for these reasons that I set out additional steps that the Commission will be taking in this Process Management Directive. To achieve this I am implementing several strategic approaches to obtaining further information. All of these approaches have a common purpose: working collaboratively with communities, police agencies, governments and women at risk to develop new strategies to protect women at risk. I am asking for help from all those affected, including victims' families, community members and leaders, First Nations community members and leaders, political leaders, police and policing institutions.
11. Accordingly, one approach will be to receive information from groups of witnesses which will be constituted as "panels", which I expect to include the following:
 - Victims' Family (the following family members have stated they would like to give evidence: Bonnie Fowler, Lisa Bigjohn, Marilyn Kraft, Daphne Pierre, Lila Purcell, and Sandra Gagnon) – This Inquiry has provided for the first time an opportunity for families of victims to be heard;
 - DTES Community;
 - Aboriginal Interests;
 - District 2 Police;
 - VPD and RCMP Supervisors; and
 - Vancouver Police Board and Other Officials.
12. The purpose of these panels will be to inform the development of recommendations in the three core categories which I identified in Process Directive #2:
 - the difficult interface between the policing authorities and the marginalized community of these victims;
 - inter-jurisdictional difficulties between different police forces; and
 - shortcomings in organizational systems.
13. The panels will enable us to develop this information in an effective and efficient manner across a broad range of perspectives. The panels will consist of people who are able to provide experience based insights and ideas to assist me develop practical and effective steps for change. Counsel will be given an opportunity to ask questions of the panel members within the spirit of the purpose for which these panels are being constituted.
14. I am hopeful that individuals who have important information to contribute will be more willing to come forward and participate in this less adversarial hearing process.

15. Second, I would like to understand the impact the failed missing women investigations have had on individuals and the community at large. It is critical that I have the information required to allow me to assess the harms experienced, including the magnitude of the harm caused to families and the community beyond the crime and sentencing of Robert Pickton. I need to gain a better understanding of what will be required to build trust and a positive police-community relationship in the DTES. This renewed relationship is essential for the implementation of workable protection and prevention measures of vulnerable and marginalized women as well as to support effective future investigations.
16. To this end, I am asking Aboriginal leaders and other community leaders to assist in developing a process whereby this can occur. I wish to meet with family members as a group to hear from them directly about the harms they have experienced and their recommendations to improve the safety and security of vulnerable women.
17. Third, I would like to focus on how the relationship between the community and the police can be improved. The Commission will be exploring with key organizations and institutions the potential for developing a dialogue to support the work of the Commission, to voice and address their own concerns and to advance their mutual interests that what happened here will never happen again. One specific step that I would like to see considered is the organization of an information sharing workshop that will also include learning more about programs and approaches that have worked elsewhere so as to increase our understanding of ideas and options that should be considered herein BC. I also envision that this dialogue initiative will provide support and bridge the Commissions ongoing research, consultations and the already scheduled Policy Forums.
18. Currently, the study commission has undertaken a number of research and consultation activities. Detailed reports of these activities have been published on the Commission website. I would like to highlight three of the reports which are now available on our website:
 - a report on the Northern Community Forums that I held last September in seven communities along Highway 16, the Highway of Tears;
 - a report on consultations in the DTES held by Commission staff last fall; and
 - a policy discussion report on the police protection of vulnerable and marginalized women.

These reports contain a great deal of information about the scope and nature of the issues that I must address and upon which I am considering making recommendations for change. I will not be making any findings

of fact based on these reports, but they will inform my analysis and provide important policy advice. I am hopeful that these reports and any additional Commission reports that will be published will stimulate further public discussion, additional input from interested parties, and the formulation of recommendations for reform.

19. As previously announced I will be holding policy forums in early May. These forums will be an opportunity to bring together the various aspects of the study commission's research and consultations, the workshop and the written submissions received from interested members of the public and organizations. I encourage all interested individuals and organizations to make written submissions to me.
20. My commitment to the safety and security of women, especially marginalized ones has never wavered. I am determined to ensure that these women did not die in vain and that positive change resulting in the saving of lives will be the lasting memorial for the missing and murdered women.

The Honourable Wallace T. Oppal, Q.C.
Commissioner

F-4. Process Management Directive 4 (April 16, 2012)**Process Management Directive #4**

1. This directive relates to the remaining witnesses and schedule for the Commission.
2. Counsel and participants have, throughout the process, proposed that certain witnesses provide information to the Commission. Many of the requested witnesses have been heard from, and to that end, I ask that participants submit any outstanding requests for witnesses by 5pm Friday April 20, 2012.
3. As is clear to everyone, I am responsible for determining the information I receive in order to fulfil my mandate. In order to assist me with preparing a schedule for the remaining weeks of the hearing, I ask that participants provide the following for each witness you request be heard from:
 - i. Name and contact details of the witness; and
 - ii. A will-say statement detailing the information they will provide and how it is relevant to my mandate. As you prepare this will-say statement, I ask that you consider whether the information they will provide is already before me.
4. If time estimates for questions for scheduled witnesses are not received as requested by Commission Counsel, no time will be set aside for that participant to examine witnesses.
5. With regards to closing argument, I propose giving each participant one hour, including any time needed to reply, as I will benefit from and expect fulsome written argument to assist me in my report writing.
6. My plan is to release the remaining schedule during the week of April 23 which will be strictly followed to the end of the Inquiry.

The Honourable Wallace T. Oppal, Q.C.
Commissioner

F-5. Process Management Directive 5 (April 25, 2012)

Process Management Directive #5

1. Further to my previous Process Management Directives issued on January 11, January 24, February 21 and April 16, 2012, this is Process Management Directive #5.
2. The principles I set out in my previous four Directives have guided me through the last six weeks of hearings. I have heard from an additional 30 witnesses including:
 - (a) representatives of victims' family members:
 - Lila Purcell (aunt of Tanya Holyk)
 - Daphne Pierre (sister of Jacqueline Murdock)
 - Sandra Gagnon (sister of Janet Henry)
 - Marilyn Kraft (step-mother of Cindy Feliks)
 - Bonnie Fowler (sister of Georgina Papin)
 - Lisa Bigjohn (sister of Mona Wilson)
 - Christopher Joseph (brother of Olivia Williams)
 - Maggie de Vries (sister of Sarah de Vries)
 - (b) members of the Downtown Eastside Community:
 - Jamie Lee Hamilton
 - Wayne Leng
 - (c) representatives of the Vancouver Police and Native Liaison Society:
 - Morris Bates
 - Freda Ens
 - George Lawson
 - Jay Johns
 - (d) officers from VPD's District 2 (which includes the Downtown Eastside):
 - Cst. Dave Dickson
 - Insp. Gary Greer
 - Staff Sgt. Doug MacKay-Dunn
 - Insp. Chris Beach
 - (e) individuals involved in the missing person report processing process:
 - Sandy Cameron
 - Rae-Lynne Dicks
 - (f) officers and supervisors at the VPD and RCMP:

- Sgt. Dwight Dammann
 - Staff Sgt. Murray Lunn
 - Cpl. Mike Hall
 - Superintendent Ric Hall
 - Chief Constable Terry Blythe
- (g) individuals involved in the Criminal Justice's Branch decision of the stay of proceedings in 1998:
- Randi Connor
 - Richard Romano
 - Roxana Smith
 - Andrew MacDonald
- (h) evidence from Dr. Horley about DNA processing.
3. As I stated in Process Management Directive #2 the purpose for calling these witnesses was primarily to inform the development of recommendations in three core categories:
 - the difficult interface between the policing authorities and the marginalized community of these victims;
 - inter-jurisdictional difficulties between different police forces; and
 - shortcomings in organizational systems.
 4. Many of the witnesses I have heard from since issuing Process Management Directive #3 have been in panel format. I am pleased with this approach and believe that it is meeting my objectives as described in Process Management Directive #3.
 5. The study commission has undertaken and is planning research and consultation activities to further the development of recommendations. A number of reports and discussion papers have been circulated and are available on the Commission's website. Information about upcoming forums is also available.
 6. As we near the end of my fact finding mandate, I believe I have heard much of the information I stated I required in Process Management Directive #3. However, in Process Management Directive #4, I asked participant counsel to provide me with a list of witnesses and will-say statements outlining how their evidence would, at this stage, further the efforts of the Commission. These requests were to include any outstanding witness requests. I thank those participants who made submissions.
 7. I have considered those submissions and I am directing Commission Counsel to provide me with evidence from the following witnesses that were proposed by participants, in addition to those set out in the attached hearing schedule:
 - Bonnie Fournier
 - "Jane Smith"
 - Maggie Fidler

- Donna Jardine
- Dorothy McKee
- Frank Henley
- Doug Fell
- Mark Wolthers
- Ujjal Dosanjh
- Philip Owen
- Gary Bass
- Kenney Holmberg
- Jim McKnight

8. I do not need to hear from the following individuals suggested by participants:

- Ross Caldwell
- Lynn Ellingsen
- Keith Davidson
- Bruce Chambers
- Anne Drennan
- Catherine Galliford
- Bev Hyacinthe
- Peter Ritchie
- Peder Gulbransen
- Gord Spencer
- Unnamed expert to provide “opinion evidence dealing with the capacity of and circumstances under which persons who are users of various types of illicit drugs”
- Brian Honeybourn

I will provide reasons related to these individuals at a later date.

9. I would like to hear from Ms. Galliford at the Study Commission forum on May 8, 2012, that is addressing issues relating to police accountability. If any other individual listed above wishes to attend the study sessions to provide information related to recommendations I invite them to contact Melina Buckley, Policy Counsel.

10. Attached is a schedule for the remaining hearing days. I trust that all participants will make the necessary arrangements to work according to this schedule.

F-6. Process Management Directive 6**Process Management Directive #6**

1. Further to Process Management Directive #5, this Directive sets out my reasons for deciding not to call the following individuals as witnesses:
 - Brian Honeybourn
 - Bruce Chambers
 - Gord Spencer
 - Anne Drennan
 - Catherine Galliford
 - Bev Hyacinthe
 - Ross Caldwell
 - Lynn Ellingsen
 - Peter Ritchie
 - Peder Gulbransen
 - Unidentified Expert Witness
2. I also provide reasons for my decision not to re-open the hearings to call Cpl. Jim Brown as a witness.
3. I want to reiterate that this is an Inquiry and not a trial. In any Inquiry, the Commissioner has the discretion to determine whether he or she has heard all the material evidence in order to fulfill his or her mandate.
4. This was a lengthy and comprehensive Inquiry. The Inquiry called 86 witnesses over 93 days of hearings between October 11, 2011, and June 6, 2012. I am satisfied beyond any doubt that all material evidence was called to enable me to fulfill my mandate.
5. I decided not to call the following individuals on the grounds that they could only provide evidence of marginal relevance to the Commission's mandate or the focus of their evidence had already been addressed by persons who were more actively involved in the investigations. Moreover, the calling of these witnesses would not have been an effective or efficient use of hearing time, and would have unnecessarily extended the Inquiry.

Brian Honeybourn

6. Honeybourn was a VPD Sergeant who was seconded to the RCMP's provincial unsolved homicide unit (PUHU). He was requested as a witness so that he could give evidence relating to the lack of resources given to the Missing Women Review Team (MWRT). He was not necessary because he was not actively involved in the investigations and there was ample evidence before the Inquiry relating to the lack of resources for the MWRT, including the rationale relating to those decisions. His evidence would have been duplicative.

Bruce Chambers

7. Chambers was the Chief Constable of the VPD from August 1997 – June 1999. He left the VPD during the early stages of the missing women investigations and had no direct dealings in the investigations. Chambers was requested as a witness in order to give evidence about resource allocation decisions and media statements. Clearly the more appropriate person to give that evidence from the Chief Constable's office was Terry Blythe who was Chief Constable from June 1999 to August 2002 during the height of the missing women investigations. CC Blythe did testify and give evidence on the allocation of resources and how that impacted the missing women investigations. DC Doug LePard also provided extensive evidence on these issues.

Gord Spencer

8. Spencer was a VPD inspector in charge of major crime section from October 1999 to April 2000 and his responsibilities included overseeing the missing women investigations. He was requested as a witness so that he would give evidence about the refusal to provide more investigative resources. Sgt. Geramy Field gave that evidence. As stated, above, there was extensive testimony before the Inquiry on the allocation of resources.

Anne Drennan

9. Drennan was the VPD's media spokesperson when the question of a potential serial killer was first raised in relation to the women missing from Vancouver's Downtown Eastside. She was requested as a witness so that she could give evidence relating to the VPD messaging relating to the existence of a serial killer. The Commission heard ample evidence on the internal processes for releasing information to the public, the content of those releases, and the rationale for that content, from several VPD witnesses including Insp. Beach, S/Sgt. Doug MacKay-Dunn and Insp. Gary Greer. Drennan was merely stating the VPD position which had been given to her by others. Therefore, her evidence as to the VPD's messaging was marginally relevant in light of the evidence given by other witnesses relating to the contentious issue within the VPD relating to the prevalence of a serial killer.

Catherine Galliford

10. Galliford began working as an RCMP media relations officer for the missing women task force in December 2001. She was requested as a witness to give evidence about alleged 'misogyny and sexism' within the Evenhanded team. She has made serious allegations about sexist behaviour within the RCMP. It is important to note she was not an investigator at the relevant time and did not have a direct role in the investigation of Pickton. Given the importance of systemic issues relating

to workplace culture for my policy-based mandate, Commission staff interviewed Galliford twice. Her evidence concerned matters outside the Commission's terms of reference. However, I invited her to appear at the Study Commission so that she may give recommendations on policy. She was unable to attend due to medical reasons.

Bev Hyacinthe

11. Hyacinthe was a municipal employee who worked at the Coquitlam RCMP detachment. She knew the Pickton brothers although she saw Robert Pickton infrequently. She provided information relating to the Picktons to Corporal Connor. Hyacinthe was requested as a witness to give evidence about information she provided to the RCMP about the Picktons, any further information she knew about the Picktons, her opinion about the RCMP investigations and whether she was ever asked to become a police agent. There was also some suggestion that Hyacinthe may have been at a New Years party where one of the murdered women may have been present. Commission staff interviewed Hyacinthe and learned that she had, to date, only been interviewed by police regarding her evidence. (I note that Mr. Ward did not interview Ms. Hyacinthe nor did he provide a will say.) The Commission heard reliable hearsay evidence, including from Corporal Connor, about the information Hyacinthe provided to the investigators. The issue for the Inquiry is what investigators did with the information they received, and the Commission has heard that Hyacinthe was not approached for additional details. There is no indication that she provided Pickton with information about the investigations. Hyacinthe's evidence and opinions are not necessary for me to fulfill my mandate.

Ross Caldwell

12. In the summer of 1999, Caldwell approached the police and advised them that Lynn Ellingsen told him that Pickton had murdered a woman in his barn. The information Caldwell gave to the police was never in dispute. It is agreed that the information was crucial to the investigation. Caldwell was requested as a witness so that he would give that evidence and as well as evidence about his dealings with police investigators. Caldwell's evidence was entered in the hearings through a number of witnesses and several documents. It was not necessary for Caldwell to testify to events that were never in question.

Lynn Ellingsen

13. Ellingsen lived on the Pickton property. She told Ross Caldwell, Ron Menard and Leah Best about an incident wherein she saw a woman's body hanging in the barn. Ellingsen was interviewed by RCMP Cpl. Frank Henley, Cst. Yurkiw and VPD Det. Ron Lepine, all of whom testified before the Commission. Ellingsen was requested as a witness to give evidence about her dealings with police investigators in this

matter and her opinions about the investigation. The Commission heard evidence that Ellingsen was uncooperative with police in 1999 and at that time denied ever making that statement to Caldwell. Following Pickton's arrest in 2002 she became an important witness for the Crown case against him. The statements she made to these people and her subsequent denial were before the Inquiry. It was not necessary to hear Ellingsen's evidence and opinions to fulfill my mandate.

Peter Ritchie

14. Ritchie was Pickton's defense counsel in relation to the 1997 incident that led to charges being stayed. Mr. Ward argued that Ritchie ought to be called to give evidence relating to the decision to stay the charges against Pickton in 1998. It was also argued that Ritchie may have relevant documents from Crown counsel. There is no merit in having Ritchie called as a witness. The issue before the Inquiry relates to the decision of Crown counsel to enter a stay of proceedings against Pickton. It is the decision of the Crown that is relevant and the steps Crown counsel took in coming to that decision. Crown counsel Randi Connor testified that she entered a stay of proceedings on the charges based on her opinion relating to the victim's capacity to testify and not on anything Ritchie may have told her.

Peder Gulbransen

15. Gulbransen (now the Hon. Judge Gulbransen) was the regional Crown counsel who was assigned to the Pickton investigation in 1999. In August 1999 Corporal Connor went to Gulbransen in order to seek advice with respect to a search warrant for the Pickton property. Any advice Gulbransen gave to the police is not relevant to my terms of reference. The relevant fact is that the police did not prepare the completed documents to seek the issuance of a search warrant.

An Unidentified Expert Witness

16. The Commission also received a request that an expert be called to provide:

“opinion evidence dealing with the capacity of and circumstances under which persons who are users of various types of illicit drugs may be able to provide reliable evidence and information to police investigators, Crown prosecutors and the judiciary”.

No name or report was provided with this request. Any questions regarding the effects of illicit drugs could be addressed through the witnesses who were called before the Commission on these topics, including Thomas Kerr, Kate Shannon, and health nurses, Catherine Astin and Bonnie Fournier.

Jim Brown

17. Brown is a Corporal with the RCMP. Brown's involvement in the missing women investigations was minimal. In July 1999, he notified Sgt. Field, of the VPD, that the Caldwell tip had been received by the RCMP. Brown had no direct communication with Caldwell during this period. Brown was also one of the members of the surveillance team that conducted intermittent surveillance of Pickton in July and August of 1999. This information was known to all participants as a result of the interview of Brown conducted by DCC Evans, in advance of the hearings. I did not receive a formal application for Brown to be called as a witness during the hearings, which closed on June 6, 2012.
18. In July 2012, the media reported on certain allegations against Brown that became the subject of an internal RCMP code of conduct investigation. The media also reported allegations that Brown had associations with the Pickton family. On July 16, 2012, citing the allegations against Brown, Mr. Ward requested that the hearings be re-opened so that Brown could be called as a witness. Commission staff requested and reviewed records relating to any RCMP investigations into Brown. Upon review of these materials, Commission staff determined the matters raised in those investigations were outside the scope of the Commission's mandate.
19. On November 2, 2012, the media reported that Brown disputes the allegations against him and, further, that he has filed a civil claim for breach of privacy and defamation against the source of the information that led to the investigation into Brown; Mr. Ward has also been named as a defendant. The RCMP is also conducting a criminal investigation into the conduct of the informant for defamatory libel.
20. While the allegations under investigation and the civil claim are serious, they will be subject to the appropriate processes. Given Brown's minimal involvement in the missing women investigations, it was not necessary to re-open the hearings to hear from Brown.

Other Requests

21. To the extent that some individuals were informally requested to be called as witnesses and have not been specifically addressed in Process Management Directives, for the same reasons set out above, their appearance was not required. I am satisfied that I have heard the evidence necessary to fulfill the mandate set out in the terms of reference.

Conclusion

22. During the hearings and in his closing submissions Mr. Ward was extremely critical of the direction the Inquiry was taking. It appears

that his view was that greater attention ought to have been paid to activities that took place on the Pickton farm. There was much cross examination of witnesses relating to the presence of Hells Angels on the farm, illegal activities taking place at Piggy's Palace (an illegal drinking establishment on the property) and other illegal activities, such as cock fighting. Although it is apparent that Mr. Ward had a different agenda than that which was set out in the terms of reference, I allowed him to ask these questions. His unique agenda was made clear in his opening wherein he stated as follows:

Given all they've heard, given the criminal trial and the outcome of that, given the jury's clear indication that the jury did not consider that Pickton acted alone, the families have two very important questions that they seek answers to. Number one, they want to know why Pickton wasn't stopped sooner; and, number 2, they want to know if Pickton had accomplices in his heinous deeds who may still be walking the streets and praying on others.¹

23. I agree with Mr. Ward as to the propriety of the first question he poses which is 'why Pickton wasn't stopped sooner?' That question is germane to the Inquiry's mandate. However, with respect to his second question, the purpose of this Inquiry was not to re-investigate the crimes or to re-try the case against Pickton.

¹ Transcript, October 11, 2011, p. 98 (Opening Submissions by Mr. Ward).

G. Rulings

G-1. Ruling on Participation and Funding Recommendations (May 2, 2011)

Ruling on Participation and Funding Recommendations

I. Events Leading up to the Missing Women Commission of Inquiry

The issue involving missing and murdered women has reached a crisis level in Canada. Since the early 1990s, women have been reported missing, particularly from the downtown eastside of the city of Vancouver (the “DTES”). A tragic aspect of the crisis is that many of the women belonged to the most marginalized groups of society. Many were Aboriginal. Many were sex trade workers who were particularly vulnerable to abuse and violence.

Many community groups and individuals raised complaints regarding women who were missing. Many people believe that the deaths could have been avoided had complaints related to missing women been taken more seriously.

There were many suggestions that a serial killer was operating in the community. The community’s fears of a serial killer were well founded when in 2002 the police arrested and charged Robert William Pickton with 27 counts of first degree murder. He was eventually tried and convicted of 6 counts of second degree murder and sentenced to 6 terms of life imprisonment. There was evidence at the trial that Pickton may have murdered as many as 49 women.

II. The Missing Women Commission of Inquiry is Established

Throughout the 1990s and during the Pickton trial the police came under heavy scrutiny. There has been much criticism of the police investigations of the Pickton case in particular and of missing women in general.

Many groups and individuals were extremely critical of the lengthy investigation and called for an independent inquiry. Once Pickton’s appeals were finally exhausted the government was in a position to establish an inquiry and did so by Order In Council on September 27, 2010. The Missing Women Commission of Inquiry was ordered under s. 2(1) of the *Public Inquiry Act*.² I was appointed sole Commissioner.

The Terms of Reference direct the Commission to conduct the inquiry as follows:

4(a) to conduct hearings, in or near the City of Vancouver, to inquire

² *Public Inquiry Act*, S.B.C. 2007, c. 9.

into and make findings of fact respecting the conduct of the missing women investigations;

(b) consistent with the *British Columbia (Attorney General) v. Davies*, 2009 BCCA 337, to inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;

(c) to recommend changes considered necessary respecting the initiation and conduct of investigations in British Columbia of missing women and suspected multiple homicides;

(d) to recommend changes considered necessary respecting homicide investigations in British Columbia by more than one investigating organization, including the co-ordination of those investigations;

(e) to submit a final report to the Attorney General or before December 31, 2011.

The missing women investigations are defined as “the investigations conducted between January 23, 1997 and February 5, 2002, by police forces in British Columbia respecting women reported missing from the Downtown Eastside of the city of Vancouver.”

Thus under the Terms of Reference, the Commission must examine a broad array of issues: missing women investigations, the Crown’s decision to stay a proceeding, homicide investigations and coordination of investigations by more than one investigating organization. The array of issues invites different approaches for community involvement.

III. The Process Mandated by the Terms of Reference

When the Commission was first established, it was designated a hearing commission. The *Public Inquiry Act* contemplates two types of commissions of inquiry: hearing commissions and study commissions. Hearing commissions can only consider information and recommendations that are presented to the commissioner through court-like hearings; whereas study commissions can gather material from research, interviews and public consultations.

As a hearing commission, the Commission relies on the support of formally designated participants. Therefore, on November 2, 2010, I invited applications to participate in the evidentiary hearings. At this time, it was assumed that all subject matters would be examined through the powers of a hearing commission. The Commission received 23 such applications. However, it became apparent that many members of the community who

wished to participate did not wish to take part in the more formal hearing process which would necessarily involve obtaining counsel and being subjected to cross examination. Rather they wished to participate in a more informal way by simply telling their stories and making recommendations on policy. Therefore, a more informal process, in the form of a study commission, would be more appropriate. As well Terms 4(c) and (d) essentially call for policy recommendations that are more suited to a study commission.

Thus given the gravity of the events that have given rise to this Commission it would not be in the public interest to confine the public's contribution to formal participation in evidentiary hearings. As well by permitting a more informal process and a lesser hearing process I would expect the Commission's work would be expedited. It was with these considerations that I asked the Provincial Government to broaden the terms of the inquiry to include a study commission. Accordingly, the Provincial Government amended the Terms of Reference to include a joint hearing and study commission.

The Commission's designation as a joint study and hearing commission now allows me to craft forms of participation that are appropriate to the skills and expertise of different individuals and organizations.

IV. "Participant Status" is Necessary for the Evidentiary Hearings but Not the Study Process

This ruling addresses all applications received for participation in the Commission's evidentiary hearings. Given that the Commission has powers to engage the community in different ways, I have decided the evidentiary hearings will focus primarily on Terms of Reference 4(a) and (b). I will use the Commission's study powers to address Terms of Reference 4(c) and (d).

This ruling deals with participation status for Terms of Reference 4(a) and (b). I have decided that formal participation status for the study portion of the Commission's work (Terms of Reference 4(c) and (d)) is not required. In the context of this Commission, I believe formal status in the study process would defeat its purpose. The study process is intended to be informal and to allow individuals to speak directly to me, without cross examination and the other features of the more formalized evidentiary process. As well, an informal process will bring forward all the perspectives and information necessary to understand the policy issues and, accordingly, formal participation status (another way of ensuring that occurs) is not needed. Therefore, participation status as granted in this ruling does not preclude participation in the study process.

V. Participant Status in the Evidentiary Hearings

The applicants can generally be divided into two groups: those primarily focused on the factual issues arising under Terms of Reference 4(a) and

(b) and those primarily focused on the policy issues arising under Terms of Reference 4(c) and (d).

Organizations primarily focused on the factual issues arising under Terms of Reference 4(a) and (b) have common characteristics. Many are grass roots advocacy and service organizations that have direct and daily contact with the community, including with many of the women who were reported missing. These groups are closer to the facts at issue. Most of these groups were front line lobbyists for public attention to the missing and murdered women and, ultimately, for the establishment of a public inquiry. I am also mindful that many of these organizations have limited resources and their involvement in this Commission may provide a unique opportunity for their voices and perspectives to be heard.

The organizations primarily focused on the policy issues of the Commission's mandate also have common characteristics. Most are experienced political or policy organizations. These groups have demonstrated a long standing commitment to many of the policy issues the Commission will confront. They have worked for policy or legal reform, represented or advocated special interests in governmental or political arenas, conducted research and published studies or engaged in public education. These groups will be extremely valuable in assisting the Commission make recommendations for missing women and homicide investigations and the coordination of investigations by multiple police forces.

In other commissions, it might not be appropriate to grant these policy groups status to participate in the evidentiary hearings at all. However, the subject matter of this Commission (namely, the investigation of offences against the most vulnerable members of society) has caused me to find there is a different but important role for these applicants to play in the evidentiary hearings. While the factual nature of Terms of Reference 4(a) and (b) do not necessitate full involvement from the policy groups, because the factual findings will provide an important foundation for the policy recommendations, those groups should have some role in the process.

As a result, I will not exclude either type of applicant from the two distinct processes of this Commission, but the nature of their participation will be different. I anticipate the factual groups will play a leading role in the evidentiary hearings on Terms of Reference 4(a) and (b) and the policy groups will play a leading role in the study process on Terms of Reference 4(c) and (d). With that in mind, I have determined that two levels of participation in the evidentiary hearings will best serve the Commission. Both the *Public Inquiry Act*³ and the Commission's Directive⁴ allow a commission to determine the extent of a participant's participation. I will accept applicants as either Full Participants or Limited Participants.

Full Participants may participate in all phases of the evidentiary hearings

3 Section 12.

4 Practice and Procedure Directive for Evidentiary Hearings, Rules 19-20.

and exercise all rights of participation at those hearings, including cross examining witnesses and making submissions. They will also be granted access to the documents disclosed to the Commission.

Limited Participants are granted the same right of access to documents as Full Participants.

While they will not have an automatic right to cross examine witnesses I will grant them leave to apply on an individual witness basis. They have the right to make final submissions at the conclusion of the evidentiary hearings. As mentioned, I fully expect the Limited Participants to play a leading role in the study portion of the inquiry. In particular, the First Nations and Aboriginal applicants accepted as Limited Participants are in a position to offer unique policy advice as to the future conduct of missing women investigations, particularly given the disproportionate number of Aboriginal women reported missing.

I believe the creation of two levels of participation best achieves the objective of this Commission: to fully explore all of the issues from multiple perspectives in a timely manner.

VI. The Criteria for Participation in the Evidentiary Hearings

Participants play an important role in the Commission's hearings. They influence the scope of the inquiry by representing different perspectives and interests. They are required to disclose documents in their possession relevant to the Commission's subject matter and will be given the right to review documents disclosed by other participants. They may be entitled to make written or oral submissions, examine and cross examine witnesses and propose witnesses to be called by Commission counsel. Participants have a right to counsel, but may be self-represented.

Formal participation in the Commission's evidentiary hearings will be limited to those persons who demonstrate they meet the criteria for participation with respect to the subject matter set out in Terms of Reference 4(a) and (b).

The Test for Participation

Rule 11 of the Practice and Procedure Directive for Evidentiary Hearings sets out the participation requirements of s. 11(4) of the *Public Inquiry Act*. It outlines three factors to consider in accepting the applicant as a participant:

- a. whether, and to what extent, the person's interests may be affected by the findings of the commission,
- b. whether the person's participation would further the conduct of the inquiry,
- c. whether the person's participation would contribute to the fairness of the inquiry.

Interests Affected by the Subject Matter of the Inquiry

Applicants are accepted as participants if their interests are affected by a commission's findings. "Interest" must be assessed against the terms of reference that establish a commission's subject matter.

Usually, to participate in Canadian public inquiries, applicants must show they have a "substantial and direct" interest in the subject matter. This standard is set out in the Ontario *Public Inquiries Act*⁵ and the terms of reference for many federal public inquiries, e.g. the *Gomery Inquiry*, the *Arar Inquiry* and the *Cohen Commission*.

The BC *Public Inquiry Act* requires applicants to show "whether, and to what extent, their interests may be affected by the findings of the commission": it does not specify that the interest must be "substantial and direct". However, I have reviewed interpretations of the "substantial and direct interest" test to the extent they may be instructive.

In *The Law of Public Inquiries in Canada*,⁶ the author proposes that the following classes of persons have a substantial and direct interest:

- those who receive notices of alleged misconduct;
- those whose legal interests are affected;
- those who may be seriously affected by the subject matter of the inquiry; and
- those who have a serious and objectively reasonable fear for their well-being or reputation.⁷

Accordingly the following factors will be considered in determining whether a person's interests may be affected:

- whether the applicant has personal involvement in the conduct the Commission is tasked to examine;
- whether the applicant's actions may be assessed or the applicant may be subject to a finding of misconduct;
- whether the applicant's well-being or reputation may be affected by the Commission's findings; and
- whether the applicant's interest is unique to that applicant, shared by other applicants or shared by the broader community.

Furthering the Conduct or Contributing to the Fairness of the Inquiry

Applicants who would further the conduct or contribute to the fairness of the inquiry but otherwise do not meet the interests affected criteria of the test for participation may still be accepted as participants⁸. Applicants may have a particular perspective or expertise that may assist the Commission in

5 Public Inquiries Act, R.S.O. 1990, c. P.41, s. 5(1).

6 Simon Ruel, *The Law of Public Inquiries in Canada* (Toronto: Carswell, 2010).

7 Ruel, *supra* at 57-58.

8 *Public Inquiry Act*, s. 11(4). Also see Ruel, *supra* at 61; Ed Ratushny, *The Conduct of Public Inquiries: Law, Policy and Practice* (Toronto: Irwin Law, 2009) at 187-191.

furthering its mandate. There are of course differences among the applicants as to the extent to which their interests may be affected by the Commission's findings.

VII. The Application Process

The following 23 individuals or groups applied to be participants before the Commission:

1. Vancouver Police Department and Vancouver Police Board
2. Government of Canada
3. Criminal Justice Branch
4. The Families of Dawn Crey, Cara Ellis, Cynthia Dawn Feliks, Marnie Frey, Helen Mae Hallmark, Georgina Papin, Dianne Rock and Mona Wilson as represented by A. Cameron Ward
5. BC Civil Liberties Association
6. Ending Violence Association of BC
7. West Coast LEAF
8. Vancouver Area Network of Drug Users, Walk4Justice and Frank Paul Society
9. Amnesty International
10. Coalition of Sex Worker-Serving Organizations, including:
 - Prostitution Alternatives Counselling and Education Society
 - WISH Drop-In Centre Society
 - Downtown Eastside Sex Workers United Against Violence Society
11. Assembly of First Nations
12. Union of BC Indian Chiefs
13. Women's Equality & Security Coalition, including:
 - The National Congress of Black Women Foundation
 - Aboriginal Women's Action Network
 - Coalition of Childcare Advocates
 - Justice for Girls
 - Canadian Association of Sexual Assault Centers
 - EVE (formerly Exploited Voices now Educating)
 - Vancouver Rape Relief Society
 - University Women's Club of Vancouver
 - The Poverty & Human Rights Centre
 - The Asian Women Coalition Ending Prostitution
 - Provincial Council of Women
14. Native Courtworker and Counselling Association of BC
15. The Committee of the February 14 Women's Memorial March
16. Downtown Eastside Women's Centre
17. First Nations Summit
18. PIVOT Legal Society
19. Native Women's Association of Canada
20. Dr. Kim Rossmo
21. CRAB – Water for Life Society
22. Carrier Sekani Tribal Council
23. Vancouver Police Union

To avoid duplication and encourage cooperation⁹, multiple applicants may be accepted as a single participant, a grouping I will refer to as a coalition. I appreciate that some applicants applied in coalitions. However, the number of potential applicants was impractical for a formal hearing process, particularly as many of these applicants have overlapping interests. At the oral hearing, I asked applicants to further consider whether they could work cooperatively with other applicants in coalitions.

As a result of this process, the following coalitions formed:

1. Ending Violence Association of BC and West Coast LEAF
2. BC Civil Liberties Association, Amnesty International and PIVOT Legal Society
3. The Committee of the February 14 Women's Memorial March and the Downtown Eastside Women's Centre
4. Carrier Sekani Tribal Council and the Union of BC Indian Chiefs

Applicants who were interested and able to form coalitions were asked to communicate that intention to the Commission through signed coalition agreements ("Coalition Agreements"). The Commission received a number of these agreements and I refer to them below.

Additionally, in an email sent from counsel for the First Nations Summit, the following groups committed to work collaboratively for the purpose of advancing their shared principles:

1. Assembly of First Nations
2. First Nations Summit
3. Native Courtworkers and Counselling Association of BC
4. Union of BC Indian Chiefs
5. Carrier Sekani Tribal Council

The Commission is grateful for their commitment to collaboration and anticipates that these groups will pool resources and share knowledge for the purposes of the inquiry.

VIII. Applications for Participation

I will now deal with each of the applications for participation. As discussed above, I have accepted some applicants as Full Participants and some as Limited Participants.

While the Commission wishes to be as inclusive as possible in considering these many applications, we also must have a hearing process that will support the Commission in its need to be both thorough and timely. Therefore, I have considered whether applicants should work together in coalitions. In

⁹ The benefits of coalitions are discussed in Ratushny, *supra* at 190.

making my ruling on coalitions I have relied on the representations made by various groups at the oral hearing and the coalition agreements provided to me since the hearing. The coalitions, set out below, have satisfied me that their interests align to such an extent that it is appropriate for them to work together in a coalition.

A. Applicants Accepted as Full Participants

1. *Vancouver Police Department and Vancouver Police Board*

There has been much criticism of the police handling of the missing women investigations.

The Vancouver Police Department (the “VPD”) is the police department of the City of Vancouver. The VPD is governed by the Vancouver Police Board.

Term of Reference 4(a) mandates the Commission to inquire into and make findings of fact with respect to the conduct of these investigations. To fulfill this mandate, the Commission will necessarily make findings of fact with respect to the VPD and Vancouver Police Board’s involvement in the investigation. These findings may include findings of misconduct against members of the VPD and Vancouver Police Board. As a result, I am satisfied that the VPD and Vancouver Police Board’s interests may be affected by the findings of the Commission.

The VPD and Vancouver Police Board would provide a valuable perspective, thereby furthering the conduct of the inquiry. Much of the evidence that will allow the Commission to make findings of fact under Term 4(a) will come directly from documents disclosed by the VPD and testimony of members of the VPD.

The participation of the VPD and Vancouver Police Board would also contribute to the fairness of the inquiry. It would be unfair for the Commission to make findings of fact respecting the conduct of the VPD and Vancouver Police Board without allowing them to examine witnesses and make submissions with respect to their conduct.

The VPD and Vancouver Police Board meet the test for participation.

2. *Government of Canada*

There have been similar criticisms regarding the RCMP’s participation in the Pickton investigation in particular and in missing women investigations in general.

The Government of Canada is responsible for the RCMP. The RCMP “E” Division provides provincial and certain municipal police services to BC; therefore, employees of the RCMP participated in the missing women investigations.

The Commission will make findings of fact with respect to the conduct of employees of the RCMP during the missing women investigations, which may include findings of misconduct. As a result, I accept that the Government of Canada's interests may be affected by the Commission's findings.

The Government of Canada, as representative of the RCMP, satisfies the test for participation.

3. Criminal Justice Branch

On January 27, 1998, the Crown entered a stay of proceedings against Pickton upon numerous charges, including a charge of attempted murder. In light of the fact that Pickton was convicted of murders that took place after that date, there have been questions raised as to why that prosecution did not proceed.

The Criminal Justice Branch (the "CJB") is statutorily empowered to approve and conduct prosecutions of offences, advise the government on all criminal law matters and develop policies and procedures in respect of the administration of justice in BC.

The CJB's interests may be affected by the findings of the Commission: Term 4(b) of the Terms of Reference specifically empowers the Commission to make findings "respecting the decision of the Criminal Justice Branch on January 27, 1998". Thus, the CJB which is in charge of all prosecutions in the Province has an obvious interest in Term 4(b) which refers to the stay of proceedings entered against Pickton.

4. Families of Dawn Crey, Cara Ellis, Cynthia Dawn Feliks, Marnie Frey, Helen Mae Hallmark, Georgina Papin, Dianne Rock and Mona Wilson as represented by A. Cameron Ward

The Families of Dawn Crey, Cara Ellis, Cynthia Dawn Feliks, Marnie Frey, Helen Mae Hallmark, Georgina Papin, Dianne Rock and Mona Wilson as represented by A. Cameron Ward (the "Families") are the next of kin of eight women who were victims of Pickton.

The Families may have a direct and personal interest in the Commission's findings. I accept the following reasons that support their involvement as set out in their application:

- the Families continue to have questions about the police response to the reports of missing women and the conduct of the investigations;
- the Families allege their grief is partly caused by the police response to their reports of the missing women's disappearances and the consequences of the police response; and
- some of the Families have not learned the fates of their loved ones through a criminal trial process.

The Families will contribute to a meaningful examination of the conduct of the missing women investigation, particularly the initiation of these investigations; as a result, the Families would further the conduct of the inquiry. The Families may be in a position to provide evidence with respect to:

- the missing women’s disappearances;
- the Families’ searches for the missing women;
- the initial reports of the missing women to the police;
- the information the Families provided to the police about the missing women; and
- the conduct of the investigations.

The Families’ participation would contribute to the fairness of the inquiry, both in fact and appearance. Indeed, it would be unfair to deny the Families meaningful participation in the inquiry for a number of reasons, including that the Families have been deeply affected by the conduct of the missing women investigations and may be affected by the outcome of the inquiry.

The Families meet the test for participation.

5. *Vancouver Police Union*

The Vancouver Police Union (the “VPU”) was established with the general mandate to defend and represent the interests of its membership in a variety of circumstances.

I accept that the VPU’s interests may be affected by the findings of the Commission. Many active and retired members of the VPU have a personal interest concerning the issues to be explored at the inquiry. Many members will give evidence and may have their conduct evaluated.

The VPU would further the conduct of the inquiry by providing its perspective with regard to its distinct interest in addressing issues associated with the conduct of individual investigators (as opposed to the conduct of the VPD generally). In the interests of fairness, the VPU ought to be granted full participation.

The VPU meets the test for participation.

6. *Coalition of Sex Worker-Serving Organizations*

The Coalition of Sex Worker-Serving Organizations is composed of the following three societies: Prostitution Alternatives Counselling and Education Society (“PACE”); WISH Drop-In Centre Society (“WISH”); and Downtown Eastside Sex Workers United Against Violence Society (“SWUAV”).

PACE is a registered society that aims to promote safer working conditions

for sex workers by reducing harm and isolation through education and support. It does so by providing sex-worker led and driven programs and services to survival sex workers in the DTES. It has published a report called “Violence Against Women in Vancouver’s Street Level Sex Trade and the Police Response.”

WISH is a registered society with a mandate to increase the health, safety and well-being of women working in the sex trade in the DTES. It provides direct services to sex workers through an evening drop-in centre that provides food, medical services, counselling, advocacy, education and referrals to 80-120 women per day. WISH also works with the Vancouver police to gather information on missing women, distribute “persons of interest photos” and build sex workers’ trust in the police.

SWUAV is a society with over 200 members that was formed by current and former sex workers who live and work in the DTES. It works to improve conditions and protections for women involved in the sex trade; advocates for systemic change to improve the lives of women in the sex trade; and advocates against violence and discrimination of women in the sex trade.

These three societies provide health, safety and advocacy services to street-based sex workers in the DTES and, importantly, provide support for sex workers who experience incidents of violence. The Coalition of Sex Worker-Serving Organizations states that most, if not all, of the missing women were clients of one or more of its member societies.

In its application, the Coalition of Sex Worker-Serving Organizations submits that many of its members have encountered challenges and barriers when attempting to report violence to the police and participating in the criminal justice process. It also submits its members will be profoundly affected by the outcome of this inquiry. As a result, I accept that the interests of the Coalition of Sex Worker-Serving Organizations may be affected by the Commission’s findings.

The Coalition of Sex Worker-Serving Organizations submits that the perspective of sex workers and sex worker serving organizations is essential to the conduct of the inquiry and will promote public confidence. Specifically, the Coalition of Sex Worker-Serving Organizations submits it will contribute to the Commission’s understanding of the challenges faced by many women in engaging the police for protection. I accept the participation of the Coalition of Sex Worker-Serving Organizations would further the conduct of the inquiry by providing the perspective of sex workers and sex worker serving organizations.

Finally, I accept that since most of the missing women in the DTES were involved in sex trade work, representation of sex worker organizations would contribute to the fairness of the inquiry.

The Coalition of Sex Worker-Serving Organizations meets the test for participation.

7. The Committee of the February 14 Women's Memorial March and the Downtown Eastside Women's Centre

I am satisfied the February 14 Women's Memorial March and the Downtown Eastside Women's Centre should be accepted as Full Participants. I am also satisfied that these two groups have sufficiently common interests such that it is appropriate for them to work in a coalition. However, I will deal with their applications separately.

The Committee of the February 14 Women's Memorial March

The Committee of the February 14 Women's Memorial March (the "Committee") was formed in 1991 following the murder of a woman on Powell Street. It is a community group with 18-25 members, women who live or work in the DTES. According to the Committee, some of its members attended the Pickton farm during the time women were going missing from the DTES.

The Committee undertakes the following activities: an annual march held on February 14 to raise awareness of violence against women in the DTES; two anti-violence workshops annually; mentorship of women living in the DTES; public outreach including publishing anti-violence materials; and meetings with VPD Chief Constable Jim Chu to discuss women's violence issues. The Committee also participated in making a documentary that explores the murders and disappearances of Aboriginal women in Canada. The Committee, as representative of the interests of women living and working in the DTES, meets the test for participation.

Downtown Eastside Women's Centre

The Downtown Eastside Women's Centre (the "DEWC") was established in 1978 to support and empower women and children living in extreme poverty in the DTES. It comprises community members and staff who are trusted by women in the DTES. Every day, the DEWC provides a drop-in-centre, self-help programs, referrals, hot meals, laundry, phone access, programs, clothes and toiletries, counselling and advocacy to over 300 women and children. In addition, the DEWC plays a role in organizing the annual Women's Memorial March.

The workers and legal advocates of the DEWC are familiar with the realities of women in the DTES and the missing women investigation. According to the DEWC, its clients have included many of the women who have gone missing or have been murdered.

The DEWC states it will provide direct information about the disappearances of women between January 3, 1997 and February 5, 2002, and the interactions between police and women in the DTES. It also submits it will provide testimonials of friends and families of the missing and murdered women.

I am satisfied that the DEWC meets the test for participation because it will provide the perspective of women and children living the DTES and evidence about missing and murdered women.

8. Vancouver Area Network of Drug Users, Walk4Justice and Frank Paul Society

The Vancouver Area Network of Drug Users (“VANDU”), Walk4Justice and Frank Paul Society are non-profit organizations centred in the DTES that advocate for Aboriginal empowerment, each with its own emphasis.

VANDU is a non-profit organization with over 2,000 members who are current and former drug users. Its goals are to address issues of poverty, social exclusion, criminalization and illnesses ancillary to illicit drug use. VANDU states that several of the missing women were members of its organization.

Walk4Justice is an incorporated non-profit organization whose purpose is to raise awareness of missing and murdered women and advocate for social change to reduce violence against women. This group states that it has over 10,000 members and supporters nationwide and that it maintains a national database of missing and murdered women. To date, the main activity of Walk4Justice has been a campaign of three long-distance walks from Vancouver to Ottawa to raise awareness for the missing and murdered women.

The Frank Paul Society is a non-profit society focused on urban Aboriginal advocacy, which formed in response to the *Frank Paul Inquiry Interim Report* released in February 2009.

The applicants submit that, together, they will enrich the evidentiary base and level of analysis of the Commission, specifically by:

- marshalling witnesses who would not otherwise be prepared to testify;
- locating expert witnesses to provide historical, socio-political and demographic opinion evidence on the context of the women’s disappearances and the relationship between the police and drug users, sex trade workers and Aboriginal women who are victims of violent crime;
- providing evidence dealing with unwritten police practices that apply to the DTES; and
- providing legal analysis of the interests of Aboriginal persons, especially Aboriginal women, sex trade workers and persons using illicit drugs.

Further, these groups submit that drug users and urban Aboriginal persons must be given an opportunity to “set out the extent to which they cooperated with police, to extent to which police sought their cooperation, and, if there was in fact a failure of cooperation” because the “VPD is likely to suggest that sex trade workers and drug users did not cooperate with the VPD”.

I accept VANDU, Walk4Justice and the Frank Paul Society meet the test for participation because they will represent the interests of illicit drug users and urban Aboriginal people.

9. *Native Women's Association of Canada*

The Native Women's Association of Canada ("NWAC") has represented Aboriginal and First Nations women across Canada for over 35 years. Included in its long history of working on various issues of concern to Aboriginal women is its work on the issue of violence against women through its "Sisters in Spirit Initiative."

Through the "Sisters in Spirit Initiative", NWAC has collected evidence related to nearly 600 cases of missing and murdered Aboriginal women and girls in Canada, including 160 cases in BC. This information is stored in a database of cases that can be analyzed by demographic information, life experiences, incident information and trial and suspect information. According to NWAC, this is the most comprehensive source of data relating to missing and murdered Aboriginal women in Canada. As a result of this database and its other research, NWAC states that it has "an intimate knowledge of the experiences of families, the patchwork of policies, programs and services available to women, families and communities and the jurisdictional divisions that have presented barriers in the police and justice systems to respond to the needs of Aboriginal women and families." NWAC submits that its purpose in applying to participate is to share the "data and expertise" developed through the Sisters in Spirit Initiative.

NWAC also submits it will represent a national Aboriginal and First Nations specific perspective with regard to the issue of missing and murdered Aboriginal women in Canada.

I am satisfied NWAC meets the test for participation because it will provide valuable perspectives and knowledge. I note that, unlike the other organizations granted Full Standing, NWAC is not a grass roots service provider in the DTES. Nonetheless, I believe it is critical for NWAC to participate throughout the hearing process. While there are several applicants that represent Aboriginal and First Nations interests, NWAC is unique in its specific focus on and representation of Aboriginal and First Nations women. Because of its history researching the issue of missing and murdered women in BC and Canada from its unique perspective, I have determined NWAC should be accepted as a Full Participant in the inquiry.

I note that other groups have supported NWAC in its application to be accepted as an independent participant.

10. *Dr. Kim Rossmo*

Dr. Kim Rossmo was a Detective Inspector with the Vancouver Police

Department from 1995 to 2000. Dr. Rossmo states that, since 1999, it has been his position that women missing from the DTES were most likely victims of a serial murderer. His views were seriously challenged by some of his colleagues.

Dr. Rossmo's professional abilities and role in the VPD, particularly his analysis and report on the missing women, may be examined at the hearing.

Dr. Rossmo submits that he will likely be subject to personal and professional attacks during the course of the inquiry. As a result, he is concerned about damage to his "interests and reputation." I accept that Dr. Rossmo's interests may be affected by the findings of the Commission. I also accept that Dr. Rossmo's participation would contribute to the fairness of the inquiry. Given Dr. Rossmo's involvement in the investigation may be questioned or examined, it is fair that he be given the right to cross examine these witnesses.

Given his specific interest in the investigation by the VPD, I expect that Dr. Rossmo's participation will relate primarily to Term of Reference 4(a). He is granted the right to cross examine any VPD and Vancouver Police Board witness and is granted leave to apply to cross examine all other witnesses. He is also granted a right of access to all documents disclosed by the Commission, whether or not they are entered as exhibits.

On that basis, Dr. Rossmo meets the test for participation.

IX. Applicants Accepted as Limited Participants

While these applicants have demonstrated that they would further the conduct or contribute to the fairness of the inquiry by making submissions with respect to the finding of fact under Terms of Reference 4(a) and (b), their direct interests may not be significantly affected in the same way as those of the Full Participants for they did not play a direct role similar to that played by those who have been granted Full Participant status. Therefore, these applicants have been accepted as Limited Participants.

1. BC Civil Liberties Association, Amnesty International and PIVOT Legal Society

I am satisfied BC Civil Liberties Association, Amnesty International and PIVOT Legal Society should be accepted as Limited Participants. I am also satisfied that these groups have sufficiently common interests such that it is appropriate for them to work together in a coalition, which was agreed to by the applicants by way of Coalition Agreements dated February 7, 10 and 16, 2011.

BC Civil Liberties Association

The BC Civil Liberties Association (the "BCCLA") is a non-profit, non-partisan

registered charity for the promotion, defence, sustainment and extension of civil liberties and human rights. It submits that it has experience related to public education, submissions to government bodies, complainant assistance and legal advocacy on matters relevant to the Commission's work. These matters include police procedures and responses and effective systems of police reporting, oversight and accountability. The BCCLA has participated in several other inquiries, such as the *Braidwood Inquiry*, the *Frank Paul Inquiry*, the *Iacobucci Inquiry* and the *Arar Inquiry*.

The BCCLA called for an inquiry into missing women in conjunction with the Union of BC Indian Chiefs.

I accept that the BCCLA is experienced in promoting systems of police reporting, oversight and accountability and examining police procedures and responses to recommend changes that promote effective policing while ensuring respect of citizens' fundamental rights. Given this, I accept the BCCLA's participation would further the conduct and contribute to the fairness of the inquiry.

Amnesty International

Amnesty International is an international non-governmental organization with extensive experience in research and advocacy in the promotion of human rights. Amnesty International has carried out extensive research and advocacy on the subject of violence against women, Aboriginal rights and administration of justice. Amnesty International released a report in 2004 entitled "Stolen Sisters: Discrimination and Violence Against Indigenous Women." In 2009, it released a follow-up report entitled "No More Stolen Sisters" which called for a public inquiry into the pattern of disappearance and murder of women from the DTES.

Amnesty International has experience contributing to various public inquiries in Canada, including: the *Maher Arar Inquiry*, the *Ontario Ipperwash Inquiry*, the *Iacobucci Inquiry* and the *Braidwood Inquiry*.

Given Amnesty International's experience and research in international human rights law, the intersection of policing and human rights and violence against Aboriginal women, I accept its participation would further the conduct and contribute to the fairness of the inquiry.

PIVOT Legal Society

PIVOT Legal Society ("Pivot") is a non-profit, non-partisan society founded in 2000. Its mandate is to take a strategic approach to social change by using the law to address the root causes that undermine the quality of life for those most on the margins. Pivot operates five campaigns relevant to the DTES in the following areas: police accountability, adequate housing, sex work law reform, child welfare and health addiction. It has a membership of approximately 4,800 individuals, including residents of the DTES,

lawyers, community advocates, law students and other members of the general public.

Pivot submits it has “strived to increase police accountability through legal education and has created numerous publications regarding *Charter* rights and the need for reform of the police complaints process.” In addition, Pivot has undertaken several *Charter* and human rights cases involving discrimination against DTES residents and has provided support to sex trade workers through its Law Reform Sex Work Committee.

I am satisfied Pivot’s participation would further the conduct and contribute to the fairness of the inquiry based on its experience advocating for and providing legal representation to DTES residents and sex trade workers.

2. Ending Violence Association of BC and West Coast LEAF

I am satisfied Ending Violence Association of BC and West Coast LEAF should be accepted as Limited Participants. I am also satisfied that these two groups have sufficiently common interests such that it is appropriate for them to work together in a coalition, which was agreed to by the applicants by way of Coalition Agreements dated February 11, 2011.

Ending Violence Association of BC

Ending Violence Association of BC (“EVA BC”) is a charity that was established to provide a broad range of support for community-based victim-serving agencies across BC. It provides support and training to the 240 anti-violence programs it represents and to other service providers. It also engages in advocacy, issues analysis and identification of strategies related to violence against women.

EVA BC participated in the *Lee Inquest*.

EVA BC submits it will bring a province-wide perspective informed by:

- an understanding of the dynamics of violence against women and how marginalization and social powerlessness may affect these dynamics;
- knowledge of the existing services for women who are victims of violence;
- experience working with Aboriginal women and women from other marginalized and vulnerable groups;
- experience providing leadership in developing strategies for working collaboratively to address violence against women; and
- a history of working with communities, the police and government ministries to develop strategies to address violence against women.

I am satisfied that EVA BC’s participation would further the conduct and contribute to the fairness of the inquiry because of its experience addressing issues of violence against vulnerable and marginalized women.

West Coast LEAF

West Coast LEAF has been a provincially incorporated non-profit society and a federally registered charity since 1985. Its mission is to achieve equality by changing historic patterns of systemic discrimination against women through BC-based equality rights litigation, law reform and public legal education. West Coast LEAF states that it has a historical interest in violence against women and “in particular in the issue of missing and murdered Aboriginal women.” West Coast LEAF is a member of the BC CEDAW Group, which called for a public inquiry in 2008 and 2010 into the problems associated with missing and murdered Aboriginal women.

West Coast LEAF submits the identification of victims, families and witnesses as women, Aboriginal persons, persons living in poverty, sex trade workers and members of the DTES community impacted their interactions with the justice system.

If accepted as a participant, West Coast LEAF seeks to “bring before the Commission a substantive equality analysis of the issues in the missing women investigation.” It also seeks to draw the Commission’s attention to ways in which the investigation may have been “impeded by systemic inequality.” West Coast LEAF states it will provide an analysis of the use of stereotypes and the missing women’s ss. 7 and 15 *Charter* rights and will contribute to the issue of the police’s obligation to warn the public about violent serial criminals.

I accept that West Coast LEAF will bring a unique substantive equality analysis, including an intersectional equality analysis, to bear on the evidence before the Commission. Because of its valuable perspective and experience, I am satisfied that West Coast LEAF’s participation would further the conduct and contribute to the fairness of the inquiry.

3. *Assembly of First Nations*

The Assembly of First Nations (the “AFN”) is the national representative organization of First Nations in Canada, presenting the views of the various First Nations through their leaders in areas such as health, social development and justice. The AFN has advocated for attention to the 520 unresolved cases of missing and murdered Aboriginal women in Canada. The AFN’s interest is supported by internal resolutions, councils and campaigns.

The AFN states it has an interest in the inquiry because it “is the institution to protect and advocate for the collective rights of...different First Nation and Aboriginal communities, across Canada.” The AFN submits that its participation would further the conduct of the inquiry in the following ways: by providing insight and assistance with the development of culturally appropriate policies; by holding the inquiry accountable to victims, families

and Aboriginal interest groups; and by allowing the families, friends, communities and First Nation and Aboriginal populations of Canada to feel adequately represented at the inquiry.

Because of the overrepresentation of Aboriginal women in the missing and murdered women, the AFN states that it is imperative that the Commission have a strong First Nation presence. I agree. I am also satisfied the participation of the AFN would further the conduct of the inquiry and contribute to its fairness by providing a national First Nations and Aboriginal perspective.

4. Carrier Sekani Tribal Council and the Union of BC Indian Chiefs

I am satisfied both the Carrier Sekani Tribal Council and the Union of BC Indian Chiefs should be accepted as Limited Participants. I am also satisfied that these two groups have sufficiently common interests such that it is appropriate for them to work together in a coalition, which was agreed to by the applicants in letters dated February 15, 2011.

Carrier Sekani Tribal Council

The Carrier Sekani Tribal Council (the “CSTC”) is a registered BC non-profit that comprises the following member First Nations: Burns Lake Band (Ts’íl Kaz Koh First Nation); Nak’azdli Band; Nadleh Whut’en; Saik’uz First Nation; Takla Lake First Nation; Tl’azt’en Nation; and Wet’suwet’en First Nation. The CSTC represents over 10,000 people with a mandate that includes to: preserve and provide the Carrier Sekani heritage and identity; improve social and economic independence of the Carrier Sekani people; achieve a just resolution of land claims and Aboriginal rights issues for the Carrier Sekani people; promote better understanding between First Nations’ people and the general public; advance and improve the standard of living for the Carrier Sekani people; and promote self-government for the Carrier Sekani people.

Members of the CSTC are among the missing and murdered women from the DTES and the Highway of Tears. The vast majority of missing and murdered women from the Highway of Tears are Aboriginal women. The Highway of Tears runs through five CSTC member Nations and the remaining three member Nations must use the highway to access services and resources in larger urban centres.

Additionally, the CSTC submits it has concerns about the relationship of distrust between members of the CSTC and local RCMP detachments and allegations of abuse of Aboriginal persons by the RCMP.

The CSTC submits that the experience of CSTC members cannot be accurately represented by any other organization: CSTC members have firsthand knowledge of the death of Jacqueline Murdock, the deaths on the Highway of Tears and the alleged mistreatment of CSTC members by the RCMP.

I accept the participation of the CSTC would further the conduct of the inquiry and contribute to its fairness by providing a perspective of northern Aboriginal persons and northern First Nations communities.

Union of BC Indian Chiefs

The Union of BC Indian Chiefs (the “UBCIC”) is a political organization of First Nations in BC dedicated to promoting and supporting the efforts of First Nations to affirm and defend Aboriginal title and rights and treaty rights. Its mission is to improve intertribal relationships through common strategies to protect Aboriginal title; to hold the federal Government to its fiduciary obligations and change its extinguishment policy; to support their peoples at regional, national and international forums; to continue to defend their Aboriginal title; and to build trust, honour and respect to achieve security and liberty and continue the healing and reconciliation (decolonization) of their Nations.

With the First Nations Summit and BC Assembly of First Nations, the UBCIC is on the First Nations Leadership Council which represents First Nations in discussions with the Government.

The UBCIC states it will further the conduct of the inquiry based on its experience and network of relationships among the families of missing and murdered women. The UBCIC submits it has the following experience:

- developing options for addressing the social and economic conditions of First Nations people in BC;
- advocating for families of the missing women from the DTES and the Highway of Tears; and
- considering the unique cultural considerations necessary when carrying out policies and procedures that affect First Nations peoples.

I accept the participation of the UBCIC would further the conduct and contribute to the fairness of the inquiry by providing a provincial Aboriginal and First Nations perspective.

5. Women’s Equality & Security Coalition

The Women’s Equality & Security Coalition (the “WESC”) is an ad hoc group of women’s organizations dedicated to the protection and advancement of women’s liberty, dignity, security and equality. These organizations have come together to participate in the inquiry. The WESC is composed of: The National Congress of Black Women Foundation; Aboriginal Women’s Action Network; Coalition of Childcare Advocates; Justice for Girls; Canadian Association of Sexual Assault Centers; EVE (formerly Exploited Voices now Educating); Vancouver Rape Relief Society; University Women’s Club of Vancouver; The Poverty & Human Rights Centre; The Asian Women Coalition Ending Prostitution; and the Provincial Council of Women.

The WESC submits that it will provide “expert guidance and truth-seeking from the perspective of what is critical to advancing the equality rights of women and girls and what is beneficial for women and children.” The WESC also states that the inquiry will benefit from the active participation of non-police, non-governmental and non-legal entities. Specifically, the WESC submits it can contribute by:

- offering women-centered and child-centered interpretations and examination of the evidence of other interested parties;
- highlighting the realities, dangers and challenges that women and girls face; and
- keeping the Commission aware of the global issues and impact of its work on the whole community of women and children.

I accept that the WESC’s participation would further the conduct of the inquiry and contribute to its fairness based on its perspective of advancing equality interests of women and girls.

6. Native Courtworker and Counselling Association of BC

The Native Courtworker and Counselling Association of BC (the “NCCABC”) is BC’s oldest Aboriginal justice services organization, providing counseling, referral, advisory and representation services to Aboriginal people in conflict with the law. The NCCABC provides alcohol and drug abuse counseling services, family and youth advocate services and works closely with Aboriginal people on the East side of Vancouver. It called for an inquiry into the investigation of the Pickton murders and the stays of proceedings.

The NCCABC states that it offers a unique perspective for the following reasons: it is neither a political organization nor represents individuals having personally lost loved ones; it has knowledge and experience assisting Aboriginal peoples engaged in the justice system; and it represents all Aboriginal peoples whether Métis, Status Indian, Non-Status Indian, Inuit and Aboriginal from outside the province.

The NCCABC submits that it will further the conduct of the inquiry by offering its unique perspective, a perspective gained from working with Aboriginal women who are susceptible to victimization. With respect to the stay of proceedings at issue in Term of Reference 4(b), the NCCABC states that its experience working in criminal court and its substantial contact with Crown Counsel has afforded it insight into the factors affecting Crown decisions and weaknesses in the Crown’s process.

I am satisfied the NCCABC’s participation would further the conduct of the inquiry and contribute to its fairness by offering a unique perspective derived from its experience working in the criminal justice system advocating for

the interests of individual Aboriginal peoples.

7. *First Nations Summit*

The First Nations Summit (the “FNS”) is composed of the majority of First Nations and Tribal Councils in BC and provides a forum for First Nations in BC to address issues related to treaty negotiations and other issues of common concern. This group represents more than 70% of the First Nations population in the province, representing or advocating on behalf of First Nations in BC who live on reserves and in urban centres. The FNS’s mandate includes ensuring the safety, dignity and well-being of all First Nations, in particular vulnerable citizens.

The FNS is a part of the First Nations Leadership Council that represents First Nations in discussions with the BC Government.

The FNS submits it has an interest in participating in the inquiry for the following reasons:

- Aboriginal women are disproportionately represented among the missing and murdered women;
- Aboriginal women continue to suffer violence, indignity and discrimination in Canada and have serious concerns about their safety;
- First Nations’ confidence in the administration of justice has been undermined by the investigations; and
- the families of the missing and murdered women need justice, closure, equality and accountability.

Because of its representation of First Nations interests, the FNS submits it has a strong interest in informing the fact finding process, including informing the approach used to ensure both healing and closure. The FNS states that it would further the conduct of the inquiry by representing First Nations in BC and their citizens and ensuring that the voice of Aboriginal people is heard.

I am mindful of the fact that the FNS initially brought the issue of missing women to the attention of the VPD before the missing women investigations began.

I am satisfied the FNS’s participation would further the conduct and contribute to the fairness of the inquiry through its representation of First Nations in BC.

8. *CRAB – Water for Life Society*

As CRAB – Water for Life Society stated in the oral hearing, it has been involved in the DTES community for 20 years, advocating for the interests of missing and murdered women: it spearheaded the creation of Crab Park, a seven acre park at the foot of Main Street; it provided a memorial boulder

at Crab Park for missing and murdered women; it holds an annual vigil for missing and murdered women; its members participate in the annual Women's Memorial March; and one of its leaders is involved in advocating for funding for the repatriation of victims' remains to their families.

In its written application, CRAB – Water for Life Society identified its interests in a number of policy issues, including decriminalization of prostitution and the importance of on-street civilian youth workers, police youth liaison officers, Aboriginal/civilian liaison officers, detox centres and police sensitivity training.

CRAB – Water for Life Society is different from the other applicants. It does not have the breadth of formal experience as other policy groups; in fact, it is a grass roots organization. However, because of its focus on policy issues and its lack of direct involvement in the factual subject matter of Terms of Reference 4(a) and (b), it is distinct from the groups granted Full Participation.

I accept CRAB – Water for Life Society as a Limited Participant. Its strong presence in the DTES and the principle of inclusivity tips the balance in favour of accepting CRAB – Water for Life Society as a Limited Participant on the basis that its involvement would contribute to the fairness of the inquiry.

X. Funding Recommendations

In response to the Commission's Notice of Standing and Funding, the following 13 applicants sought funding recommendations:

Full Participants

1. The Families as represented by A. Cameron Ward
2. Coalition of Sex Worker-Serving Organizations
3. The Committee of the February 14 Women's Memorial March and the Downtown Eastside Women's Centre
4. Vancouver Area Network of Drug Users, Walk4Justice and Frank Paul Society
5. Native Women's Association of Canada
6. Dr. Kim Rossmo

Limited Participants

1. BC Civil Liberties Association, Amnesty International and PIVOT Legal Society¹⁰
2. Ending Violence Association of BC and West Coast LEAF
3. Assembly of First Nations
4. Carrier Sekani Tribal Council and the Union of BC Indian Chiefs
5. Women's Equality & Security Coalition

¹⁰ I note that Amnesty International did not apply for a funding recommendation.

6. Native Courtworker and Counselling Association of BC
7. First Nations Summit

I have reviewed the Affidavit evidence provided by these applicants in support of their funding applications and I am satisfied they would not be able to participate in the hearing portion of the inquiry without funding. I therefore recommend to the Attorney General that these applicants receive financial assistance to pay for legal counsel to facilitate participation appropriate to the extent of their interest.

In recommending the applicants receive funding appropriate to the extent of their legal interest, I recommend that grants of funding be tailored to the level of participation that each applicant has been granted. Specifically, I recommend that Full Participants receive funding that reflects their comprehensive involvement in the hearing process, and Limited Participants receive funding that reflects their limited involvement in the hearing process. In this way, grass roots service organizations, the majority of the Full Participants, will be given sufficient funding to play a leading role in the evidentiary hearings.

XI. Summary

In summary, the following applicants have been accepted as participants in the evidentiary hearings:

Table of Applicants Accepted as Participants

Full Participants

1. Vancouver Police Department and Vancouver Police Board
2. Government of Canada
3. Criminal Justice Branch
4. Families of Georgina Papin, Mona Wilson, Marnie Frey, Dianne Rock, Cara Ellis, Cynthia Dawn Feliks, Helen Mae Hallmark and Dawn Crey as represented by A. Cameron Ward
5. Vancouver Police Union
6. Coalition of Sex Worker-Serving Organizations
7. The Committee of the February 14 Women's Memorial March and the Downtown Eastside Women's Centre
8. Vancouver Area Network of Drug Users, Walk4Justice and Frank Paul Society
9. Native Women's Association of Canada
10. Dr. Kim Rossmo

Limited Participants

11. BC Civil Liberties Association, Amnesty International and PIVOT Legal Society

12. Ending Violence Association of BC and West Coast LEAF
13. Assembly of First Nations
14. Carrier Sekani Tribal Council and the Union of BC Indian Chiefs
15. Women's Equality & Security Coalition
16. Native Courtworker and Counselling Association of BC
17. First Nations Summit
18. CRAB – Water for Life Society

I have also made funding recommendations for 13 applicants, commensurate with their extent of participation at the hearings.

Table of Applicants Given Funding Recommendations

Full Participants

1. Families of Georgina Papin, Mona Wilson, Marnie Frey, Dianne Rock, Cara Ellis, Cynthia Dawn Feliks, Helen Mae Hallmark and Dawn Crey as represented by A. Cameron Ward
2. Coalition of Sex Worker-Serving Organizations
3. The Committee of the February 14 Women's Memorial March and the Downtown Eastside Women's Centre
4. Vancouver Area Network of Drug Users, Walk4Justice and Frank Paul Society
5. Native Women's Association of Canada
6. Dr. Kim Rossmo

Limited Participants

7. BC Civil Liberties Association, Amnesty International and PIVOT Legal Society
8. Ending Violence Association of BC and West Coast LEAF
9. Assembly of First Nations
10. Carrier Sekani Tribal Council and the Union of BC Indian Chiefs
11. Women's Equality and Security Coalition
12. Native Courtworker and Counselling Association of BC
13. First Nations Summit

G-2. Ruling on Participation – Ms. Marion Bryce (August 18, 2011)

1. Background

In a letter dated August 16, 2011, Mr. Irwin Nathanson, QC requested standing on behalf of his client Ms. Marion Bryce. Ms. Bryce's daughter, Patricia Johnson, was last seen in Vancouver's Downtown Eastside in 2001. First degree murder charges were laid against Mr. Pickton with respect to Ms. Johnson and ultimately stayed.

2. The Criteria for Participation in Evidentiary Hearings

In my ruling of May 2, 2011 (the "Ruling"), I set out the test for participation. The test for participation is set out in s. 11(4) of the *Public Inquiry Act*. There are three factors to be considered:

1. Whether, and to what extent, the person's interests may be affected by the findings of the commission,
2. Whether the person's participation would further the inquiry,
3. Whether the person's participation would contribute to the fairness of the inquiry.

Formal participation in the Commission's evidentiary hearings has been limited to those persons or groups who demonstrate that they meet the test for participation with respect to Terms of Reference 4(a) and (b).

3. Applicant Accepted as Full Participant

Ms. Marion Bryce is the mother of Patricia Johnson, a victim of Pickton. I previously granted standing to eight families, as represented by Mr. Ward¹, whose next of kin were victims of Pickton. Like those families, Ms. Bryce may have a direct and personal interest in the Commission's findings. I believe Ms. Bryce will contribute to a meaningful examination of the conduct of the missing women investigation, particularly the initiation of the investigations. It is my belief that Ms. Bryce may be in a position to provide evidence with respect to:

- Ms. Johnson's disappearance
- Ms. Bryce's search for her daughter
- the initial report of Ms. Johnson's disappearance to the police
- the information Ms. Bryce provided to the police about her missing daughter; and
- the conduct of the investigation.

In this way, Ms. Bryce's participation will contribute to the fairness of the inquiry.

¹ Since the Ruling, Mr. Ward has been retained by five additional families. In a letter dated May 27, 2011, Mr. Ward informed the Commission he had been retained by the families of Jacqueline Murdock and Angela Williams. In a subsequent letter dated July 6, 2011, the Commission was informed that families of Brenda Wolfe, Andrea Joesbury and Elsie Sebastian had also retained Mr. Ward as counsel for the hearings.

Ms. Bryce meets the test for participation and therefore is granted Full Participant rights as defined in my earlier Ruling.

In short, Full Participants may participate in all phases of the evidentiary hearings and exercise all rights of participation in those hearings, including cross examining witnesses and making submissions. They will also be granted access to the documents disclosed to the Commission.

G-3. Ruling on Participation – Cst. Doug Fell (September 21, 2011)

1. Background

In a letter dated September 16, 2011, Mr. Kevin Woodall requested standing on behalf of his client Cst. Doug Fell. As Mr. Woodall states in his application letter “Cst. Fell was one of the officers who was the subject of adverse comments in the LePard report,” and is therefore requesting standing for the “fairness of the hearing.”

2. The Criteria for Participation in Evidentiary Hearings

In my ruling of May 2, 2011 (the “Ruling”), I set out the test for participation. The test for participation is set out s. 11(4) of the Public Inquiry Act. There are three factors to be considered:

- a. Whether, and to what extent, the person’s interests may be affected by the findings of the commission,
- b. Whether the person’s participation would further the inquiry,
- c. Whether the person’s participation would contribute to the fairness of the inquiry.

Formal participation in the Commission’s evidentiary hearings has been limited to those persons or groups who demonstrate that they meet the test for participation with respect to Terms of Reference 4(a) and (b).

3. Applicant Accepted as Full Participant

Cst. Doug Fell was a member of the Vancouver Police Department who was assigned to work with on the Missing Women Investigation for a period of time in 1999. It is my belief that Cst. Fell may be in a position to provide evidence with respect to the Vancouver Police Department’s investigation into the women missing from the DTES and specifically his involvement in the investigation. Additionally Cst. Fell was subject to adverse comments in the LePard report.

In this way, Cst. Fell’s participation will contribute to the fairness of the inquiry.

Cst. Fell meets the test for participation and therefore granted Full Participant rights as defined in my earlier Ruling.

In short, Full Participants may participate in all phases of the evidentiary hearings and exercise all right of participation in those hearings, including cross examine witnesses and making submissions. They will also be granted access to the documents disclose to the Commission.

G-4. Ruling on Vulnerable Witness Protection Application (November 16, 2011)

1. Introduction

Counsel for the Downtown Eastside, Mr. Gratl, seeks an order for protective measures to enable and encourage vulnerable witnesses, understood as current or former sex-trade workers in the DTES and victims of sexual assault, to provide evidence at the Commission's evidentiary hearings. He seeks the following remedies:

- a. An automatic publication ban preventing the publication of any information tending to reveal the identity of a vulnerable witness, requiring the anonymity of the name of witnesses (by analogy with s. 486.4(1) of the *Criminal Code*¹ which provides a mandatory ban on publication of information tending to identify complainants of sexual assault);
- b. Provisions allowing a witness to provide evidence by way of affidavit, without the potential for cross-examination, with objections going to the weight of the evidence on balance of the whole;
- c. Provisions allowing for a witness to provide evidence anonymously, with objections going to the weight of the evidence on the balance of the whole.

At the hearing of this application, Mr. Gratl withdrew his request regarding anonymous testimony.

I accepted Mr. Gratl's amended application at the hearing on November 3, 2011. These are my reasons for the ruling and directives as to how it is to be implemented.

2. Background

The Inquiry has heard much evidence relating to the vulnerability of witnesses, particularly those who are involved in the sex trade. The Inquiry has heard testimony from the families of missing and murdered women who were for the most part poor and marginalized. As well the Inquiry heard from Dr. Lowman and Dr. Shannon on the vulnerability of women, particularly those who were involved in the sex trade. Both expert witnesses

1 R.S.C. 1985, c. C-46.

testified as to the high level of distrust of the criminal justice system in general and the police in particular.

It is said that the witnesses in question would be most reluctant to testify in an open hearing without the safeguards sought by Counsel.

Mr. Gratl has argued that it is in the public interest to adopt this protocol because it will encourage vulnerable witnesses to come forward and testify and therefore would make the Inquiry more inclusive.

Mr. Roberts and Ms. Gervais, both of whom represent the interests of Aboriginal women, support Mr. Gratl's position. Ms. Gervais requested that the category of vulnerable witnesses include Aboriginal women. Mr. Ward, counsel for many of the victims' families, and Ms. Basil a representative of VANDU also spoke in favour of the application.

Counsel have argued that it is this vulnerability and the general distrust of the system that will prevent much needed evidence from being called. It is said that if the witnesses are accommodated in the manner suggested in the protocol witnesses would attend.

Counsel for the VPD, VPB, Sgt. Fell and the RCMP do not oppose the order for a publication ban or the possibility of evidence being tendered through affidavits not subject to cross-examination. However, it is their position that a blanket order is inappropriate and that the issues need to be decided on a case-by-case, issue by issue basis having regard to the particular circumstances of each witness.

The Criminal Justice Branch took no position save that the vulnerable witness protection protocols should not be applied to Ms. Anderson, given the potential centrality of Ms. Anderson's evidence to the Commission's finding of fact regarding Term of Reference 4(b).

While the Participants took different positions on the best method for ensuring protections for vulnerable witnesses, all recognize the genuine concern of affording vulnerable witnesses procedural protection to enable them to provide evidence to the Inquiry without jeopardizing their personal safety. The divergence in the positions taken centers on two points: (1) whether these protections should be made available in advance on a presumptive basis or on a case-by case basis; and (2) who should bear the onus of establishing whether the protective safeguards should be available to a given witness. As Mr. Roberts stated at the hearing: the differences in approach may be slight but this slight difference is significant.

3. Discussion of the Procedural Options and Legal Framework

a) General Principles

The Commission has the authority to determine its own procedure. However, that authority is limited by the procedural rights of participants,

particularly those who may be subject to a finding of misconduct. It is also subject to the general presumption of the preference for open proceedings that can engage freedom of the press, which is protected by the *Canadian Charter of Rights and Freedoms*.²

Commissions of inquiry generally model their evidentiary hearings on trials. However, commissions can depart from the traditional trial process based on their authority to determine their own processes. There is a need for inquiries to be more flexible in order to accommodate the needs and interests of the public and to encourage greater public participation. Therefore, the rules of evidence and procedure are considerably less strict for an inquiry than for a court³. The essential open-ended nature of procedural possibilities available to an inquiry has been described in the following way:

It is left to the discretion of the commissioner to decide whether he wishes to be bound by legal rules of evidence or to vary them. He is not bound as a matter of law. The practice is to hear opinion evidence from a broad range of witnesses, some of whom would be considered experts and others not. The reasons are not hard to find. ***From the public's point of view, it indicates a willingness to listen to a range of experiences. From the inquiry's perspective, these opinions may still be the best, or the only, sources of information available.*** [emphasis added]⁴

The flexibility of the inquiry process, balanced by the need to protect procedural fairness, was commented on by the Hon. Associate Chief Justice Dennis R. O'Connor in "Some Observations on Public Inquiries" wherein he made the following comments:

... [t]hat inquiries have, in my view, tended to overuse the evidentiary, adversarial type of hearing process suited for legal trials to gather information. I think that we have yet to take full advantage of all of the possibilities for different processes that can be tailored to meet the need of investigating and reporting on the various types of matters set out in inquiry mandates. I believe that greater creativity and flexibility in fact-determining processes will ultimately improve the inquiry process from the perspective of all participants, increasing responsiveness, decreasing cost, and ultimately improving the process and results of public inquiries. In my view, there is a real advantage to directly involving groups and individuals in the inquiry process, rather than having them participate only through lawyers. This is particularly the case where the participants have experience, expertise and an understanding of issues under consideration. From a cost perspective, minimizing the involvement of legal counsel, when not necessary, can result in a significant cost reduction.

2 Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.

3 *Canada (Attorney General) v. Canada (Commission of Inquiry on the Blood System)*, [1997] 3 S.C.R. 440 at para. 34. [Krever]

4 R. J. Anthony and A.R. Lucas, *A Handbook on the Conduct of Public Inquiries in Canada* (Toronto: Butterworths, 1985) at p.90.

Unlike criminal or civil trials, inquiries do not need to be conducted within the confines of the fixed rules of practice and procedures. ***Inquiries are not trials; they are investigations. They do not result in the determination of rights or liabilities; they result in findings of fact and/or recommendations.*** Subject to what I say below about the need for procedural fairness for those who may be affected by the report of an inquiry, a commissioner has a very broad discretion to craft the rules and procedures necessary to carry out his or her mandate. [emphasis added]⁵

In the context of this Inquiry, the following words of the Associate Chief Justice are relevant as well:

My second observation about the inquiry process relates to the need to ensure procedural fairness to those who may be adversely affected by the information that emerges during the course of the inquiry or in the report. This is critically important. There is enormous potential for an inquiry, particularly a public inquiry, to seriously damage personal and professional reputations.⁶

Procedures available to protect vulnerable witnesses in giving testimony can be found in the *Criminal Code* and procedural measures in civil trials. Examples of the options available to the Commission can also be found in the work of prior commissions of inquiry. I have reviewed the various approaches taken in the criminal and civil trial context as well as approaches taken by the Cornwall Public Inquiry, the Nunn Commission and the Goudge Inquiry which all addressed issues of confidentiality.

b) *Affidavit Evidence Not Subject to Cross-Examination*

The *Public Inquiry Act*⁷ allows the Commission to accept evidence by way of affidavit in three ways: by enabling commissions to accept evidence not admissible before a court;⁸ by enabling a study commission to receive written and oral submissions;⁹ and by enabling a hearing commission to receive submissions under oath and conduct written hearings.¹⁰

Reliance on evidence without cross-examination is commonplace in judicial processes in family, criminal and civil matters. In criminal law matters, oral statements of counsel are regularly relied upon in important matters including show cause hearings and sentencing hearings.¹¹ In civil matters, reliance on affidavits without cross-examination is commonplace in interlocutory matters, summary trials and applications to dismiss claims entirely. In summary trials under the Rules of Court, decisions are made

5 Hon. Associate Chief Justice Dennis R. O'Connor, "Some Observations on Public Inquiries", delivered at the Canadian Institute for the Administration of Justice Annual Conference, Halifax (10 October 2007), online: Court of Appeal for Ontario <<http://www.ontariocourts.ca>>.

6 *Ibid.*

7 S.B.C. 2007, c. 9.

8 Section 14 (1).

9 Section 20 (2).

10 Section 21 (1).

11 *R. v. Gardiner*, [1982] 2 S.C.R. 368 at 414; *R. v. Woo*, (1994), 90 C.C.C. (3d) 404.

entirely on affidavit evidence even when there is a conflict in the evidence, providing of course the conflict is not material.¹²

There is no question that the Commission may accept affidavit evidence at its evidentiary hearings. It is also clear that some restriction of the right to cross-examination will not amount to a denial of procedural fairness so long as the Participants have the ability to make their case fully to the Commission.¹³ Absent a statutory right to cross-examination, restriction of cross-examination falls within the commissioner's discretion.¹⁴ The Commission is thus entitled to accept affidavit evidence not subject to cross-examination with any concerns about the evidence only going to its probative value, that is the weight given to it in the Commission's ultimate findings. Participants retain the right to respond to prejudicial information by presenting their views in opposition either at the time the evidence is entered or later in the proceedings.

I emphasize that evidence that has not been subject to cross-examination cannot be used to substantiate findings of misconduct or contested or uncorroborated findings of fact. Evidence tendered for these purposes could be given with other testimonial aids or protection measures in place.

4. Conclusion

In allowing the application in general I am particularly persuaded by the submissions of Mr. Roberts wherein he cited the often quoted passage from Lord Hewart C.J.'s judgment in *R. v. Sussex Justices*: "[it] is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done."¹⁵

As well, I accept Ms. Gervais' argument that the Aboriginal women she represents are particularly vulnerable and they are not likely to testify at the Inquiry unless special considerations are given to them. It is necessary in the public interest for the Inquiry to hear from those persons who otherwise would be intimidated and distrustful of the system. The Inquiry needs to be inclusive.

In my view, nothing short of strong, clear proactive protection measures sought in this application will facilitate vulnerable witnesses to provide their evidence to the Commission. To paraphrase the Supreme Court, "a discretionary ban is not an option as it is not effective."¹⁶ While the Commission must carefully tailor confidentiality measures, including publicity bans, it must not do so in such a restricted manner that it nullifies the

12 *Cadboro Inv't. Ltd. v. Can. West Ins. Co.*, 1987 Can LII 2502 (B.C.C.A.); *Gratsos v. Martin and Canada Trust*, 2005 BCSC 21.

13 *Boyle v. Canada (Commission of Inquiry into the Deployment of Canadian Forces in Somalia –Létourneau Commission)*, [1997] F.C.J. No. 942; *Benó v. Canada (Attorney General)*, 2002 FCT 142 (T.D.); *Gagliano v. Canada (Attorney General)*, 2005 FC 576.

14 Anthony and Lucas, *supra* at p. 94.

15 [1924] 1 K.B. 256 at 259, [1923] All E.R. 233.

16 *Canadian Newspaper Co. v. Canada (A.G.)*, [1988] 2 S.C.R. 122, at para. 19.

protection of the risk justifying their issuance. In the unique circumstances of this Commission, it would be futile to deal with these protection and confidentiality measures on an individual basis as is the common practice. Thus as a general proposition, protective measures will be available to all vulnerable witnesses subject to a Participant's application to limit access to these measures in a specific case.

I also accept the Criminal Justice Branch's position that the vulnerable witness protection protocol should not be applied to Ms. Anderson, given the potential centrality of Ms. Anderson's evidence to the Commission's finding of fact regarding Term of Reference 4(b).

The Commission's vulnerable witness protection protocol is:

- a. The Commission defines "vulnerable witness" for the purpose of the Inquiry as current or former sex trade workers, victims of sexual assault and Aboriginal women;
- b. Vulnerable witness status will be established through an affidavit or written submissions by counsel;
- c. Participants will have the opportunity to make submissions in writing on whether the criteria have been met by each proposed vulnerable witness;
- d. Once an individual is accepted to have met the criteria and designated a vulnerable witness, the following optional protections will be presumptively available to her or him:
 - (i) Testimonial aids such as having a support person close by, testifying behind a screen or in a separate room with the witness subject to cross-examination; AND/OR
 - (ii) Publication ban on her or his identity; AND/OR
 - (iii) Evidence submitted by way of affidavit and not subject to cross-examination, such evidence not to be used for findings of misconduct or uncontested and uncorroborated findings of fact;
- e. Objections to affidavit evidence not subject to cross-examination will go to the weight of the evidence on the balance of the whole;
- f. Participants can apply by way of written submissions or *in camera* for a ruling one or more of the protections set out in paragraph (d) should not apply in a particular case;
- g. If a Participant establishes, by applications, a right to cross-

examine, the affiant has the right to withdraw and forego cross-examination; and

- h. Testimonial aids such as having a support person close by, testifying behind a screen or in a separate room are available to any frightened or reluctant witness even if they do not meet the vulnerable witness criteria. Witnesses should make their request for testimonial aids known to Commission Counsel at the earliest opportunity.

It is also requested that the Commission state on the record that witnesses will have both use and derivative use immunity in respect of their evidence. This statement simply reflects the protections set out in the *Public Inquiry Act*, the *Evidence Act*¹⁷ and s. 7 of the *Canadian Charter of Rights and Freedoms*. The Commission cannot provide any immunity beyond these statutory and constitutional protections. However, in the event that it may reassure some witnesses, I confirm the protections provided at law are in place and apply to evidence given at this Inquiry.

17 R.S.B.C 1996, c. 125.

G-5. Ruling on Document Disclosure Application (March 2, 2012)

A. Introduction

Counsel for 25 of the victims' families has brought an application for further and better document disclosure from a number of participants and third parties. The application seeks both general orders compelling all relevant records in the possession or control of specific parties and the disclosure of specific documents and other materials. The Application is made under s. 22 of the *Public Inquiry Act., S.B.C. 2007, c. 9*.

At the conclusion of arguments, I advised counsel and the parties that I would give written reasons. These are the reasons.

B. Background

Robert William Pickton was convicted on six counts of the second degree murder of six women in December 2007. On July 30, 2010, the Supreme Court of Canada rendered its decision dismissing Pickton's appeal and affirming his convictions. On August 4, 2010, Crown prosecutors stayed the balance of the pending murder charges against Pickton, ending the prospect of any further trials. For many years families of missing women, Aboriginal leaders and other members of the community were calling for an Inquiry into women who were missing. Before, during and after the police investigation and trial these groups were critical of police response to missing women. It was only after all legal proceedings were exhausted was it possible to have an Inquiry.

Accordingly this Inquiry was established on September 27, 2010 with the following terms of reference:

- (a) inquire into and make findings of fact respecting the conduct of the investigations conducted between January 23, 1997 and February 5, 2002, by police forces in British Columbia respecting women reported missing from the Downtown Eastside of the city of Vancouver;
- (b) inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;
- (c) recommend changes considered necessary respecting the initiation and conduct of investigations in British Columbia of missing women and suspected multiple homicides; and
- (d) recommend changes considered necessary respecting homicide investigations in British Columbia by more than one investigating

organization, including the co-ordination of those investigations.

(e) to submit a final report to the Attorney General on or before December 31, 2011. That date was extended to June 30, 2012.

In the hearings to date a number of very serious allegations have been made concerning police failures in the missing women and Pickton investigations. These allegations include: disrespectful and biased treatment of family members when they reported women missing and in other stages of the investigations; a refusal to accept that these women were likely murdered, not missing; failure to accept the serial killer theory; faulty risk assessment in ascertaining whether women were going to go missing from the Downtown Eastside (DTES); restrictions on the involvement of family and community members in the investigations; inadequacies in proactive strategies to prevent further harm to women in the DTES; ineffective coordination between police forces; failure to follow major case management policies and practices; poor information management practices; discontinuity and inadequacy of supervision of the investigations; inexcusable gaps and delays in the investigations; indifference to the victims and potential victims; and systemic bias in policing.

C. Overview of Ruling on Document Disclosure

The main issue to be determined on this application is whether the additional documents requested are relevant to the Inquiry having regard to the evidence already heard and the documents already produced. To date more than 170,000 pages of documents have been disclosed and further documents continue to be produced almost on a daily basis. A subsidiary issue is whether the documents sought in this application are producible. For instance copies of emails at the Vancouver Police Department (VPD) prior to 2003 are not available as they have not been archived.

There is no question that document disclosure has been a lengthy and at times trying process for all participants and Commission counsel. The disclosure has not been perfect: there have been some delays in receiving disclosure and in the launch of the disclosure database and some technical difficulties giving rise to understandable frustration. Perfection is an unattainable standard particularly given that my mandate has an extensive scope: one covering numerous investigations and investigators, involving several police forces, over an extended period of time. The events in question took place ten years ago or more.

In considering this application for further and better document disclosure, I am mindful of the approach taken by The Honourable Stephen Goudge in his Inquiry into pediatric forensic pathology in Ontario. He emphasized the principles of thoroughness, transparency and proportionality as guiding principles for the inquiry process.¹ These principles assist me in ruling on this application.

¹ The Honourable Stephen T. Goudge, Commissioner, *Inquiry Into Pediatric Forensic Pathology in Ontario Report*, Volume 4 "The Inquiry Process" at p. 636

I have placed great emphasis on being thorough and on leaving no doubt that all issues relevant to my mandate have been fully explored. Commission counsel and participants have been thorough in the steps taken to identify and ensure disclosure of relevant documents. Participants have been candid and transparent in describing the steps taken and methods employed in this process and in explaining how and why certain documents cannot be produced. The question now is mainly one of proportionality: the Commission needs to focus on core issues keeping in mind the Commission's purpose. It is not feasible to collect every single document of possible relevance: we must remain focused on what is significant having regard to the terms of reference. Proportionality is particularly important at this late stage of the inquiry process. We now begin to confront the law of diminishing returns: a disproportionate amount of time and resources is required to unearth documents which are likely to have little, if any, probative value.

Relevance is addressed by the principle of proportionality and is a situational concept. Relevance will vary, therefore, from one context to another. In my Opening Remarks, I made it clear that the core issues of my mandate center on finding ways to better ensure the safety and security of vulnerable and marginalized women, particularly Aboriginal women, and to find ways to improve future police investigations of missing and murdered women so that we can address this ongoing tragedy. As a result, I review this application from this perspective.

It is clear to me from submissions made by Counsel for the families that they have a different perspective on the core issues in this Inquiry. In his Opening Statement, Counsel for the 25 families, Mr. Ward stated that the families have two main interests in this Inquiry, as expressed in these terms: "Number one, they want to know why Pickton wasn't stopped sooner; and, number 2, they want to know if Pickton had accomplices in his heinous deed who may still be walking the streets and preying on others." While the first issue is clearly important to my mandate, the second is not.

It is not the purpose of this Inquiry to retry Robert Pickton, nor is it to carry out additional criminal investigations. The terms of reference clearly are to conduct a careful and thorough examination of the missing women investigations and the Pickton investigation to uncover the impediments to these investigations and the reasons for the stay of proceedings against Pickton in 1998. The purpose of this examination is to develop recommendations for changes that will save the lives of the vulnerable and marginalized women who continue to be at high risk of serial predation. While I am sympathetic to the families' desires for a fuller accounting of all aspects of the criminal case, I cannot allow it to shift the focus away from the core issues.

During the course of his submissions, co-counsel for the 25 families, Mr. Chantler provided additional detail concerning specific documents or categories of documents that his clients seek to have disclosed. I am

particularly mindful of the concerns expressed that the missing person files of Cynthia Feliks, Elsie Sebastian and Cara Ellis do not appear to be complete. This information was helpful and counsel for the concerned parties affirmed that they would take additional steps to find and disclose these documents.

D. **Specific Orders Sought**

(1) **Vancouver Police Department (“VPD”)**

In paragraph 1 of Part 1 of this application, counsel for the victims’ families have sought an order compelling the VPD to deliver to the Commission “copies of all relevant records in its possession or control”. The Commission has served a summons for documents on the VPD. Other specific relief is also sought in sub-paragraphs (a) to (e) which I will address in turn.

- (a) **Members’ notebooks, handwritten notes, memoranda, correspondence, emails, logs, continuation reports, database search results, surveillance reports, meeting minutes and agendas, statement and interview transcripts, audio-video recordings, photographs and all other physical and electronic records in the possession or control of the VPD;**

This request clearly engages the issues of proportionality and relevance. VPD has already complied with this general request by disclosing the most relevant documents in its possession or control. Much of the material sought has already been disclosed, for instance the notebooks of 10 officers, Fell, Wolthers, Field, Clarke, Chernoff, Little, McKnight, Dickson, Hetherington and Giles have been disclosed. As well, the report of Brian Oger, a VPD intern in which he made a compelling argument that a serial killer was operating in the lower mainland, was disclosed.

To date the sheer scope and volume of documents dictates that the most relevant documents would be disclosed first but that participants could make additional, specific requests for disclosure. Commission counsel has facilitated this process. For example, a policy for the disclosure of notebooks, applicable to both VPD and RCMP, was provided to participants in June 2011. The policy states that as the volume of notebooks of all officers is so large, only selected notebooks would be made available, however, if participants wished to review other notebooks (additional officers or different dates), they could apply to have those disclosed. As already mentioned in the hearings, requests for notes of specific officers need to specify defined time frames. There is no need for an additional general order at this time.

- (b) **notes, agendas, memoranda, minutes, correspondence and all other records relating to the “brainstorming**

session” of May 19, 1999 (sic);

I note that this meeting took place on May 13, 1999 not May 19, 1999. Counsel for the VPD has advised that there appears to be no written records pertaining to this meeting but that a search for any such documents continues. As such, no order is necessary. RCMP has provided notes/logs of three members related to the above meeting.

(c) all “monthly updates” drafted and sent by Det. Cst. Lori Shenher to all sworn VPD members during her tenure as investigator on the Missing Person Unit;

I have been advised that these communications were in the form of e-mail messages. The VPD advised participants during the hearings that e-mails prior to February 2003 do not exist as they were not archived. Any disclosure of available e-mails were from print copies kept in files or binders.

(d) all relevant handwritten notes and “log book” entries of Cst. Dave Dickson created during the time period defined by the terms of reference;

I am advised that several of Cst. Dickson’s notes and memos have been disclosed. Cst. Dickson has indicated that if he made any notes that were specific to a missing women’s case he would add it to her missing person file. Cst. Dickson’s counsel is conducting a search for additional documents.

(e) records of offline CPIC searches of David Francis Pickton.

The aforementioned is the brother of Robert William Pickton. While I question the relevance of any disclosure related to David Pickton, the material from other databases is available on Concordance.

(2) Royal Canadian Mounted Police (“RCMP”)

In paragraph 2 of Part 1 of this application, counsel for the victims’ families have sought an order compelling the RCMP to deliver to the Commission “copies of all relevant records in its possession or control”. Provincial commissions of inquiry are limited in their powers to compel federal institutions, including the RCMP, to disclose documents and as well, are limited in their jurisdictions to examine issues related to policies and management. The leading case on this issue is *Attorney General of Quebec and Keable v Attorney General of Canada et al* [1979] 1 S.C.R. 218, at p. 242 wherein the Court held that a provincial commission of inquiry cannot order the Federal Crown to produce documents because of interjurisdictional immunity.²

The applicants also seek the following in sub paragraph (a) to (h)

² *Attorney General of Quebec and Keable v Attorney General of Canada et al* [1979] 1 S.C.R. 218, at p. 242.

- (a) **members' notebooks, handwritten notes, memoranda, correspondence, emails, logs, continuation reports, database search results, surveillance reports, meeting minutes and agendas, statement and interview transcripts, audio/video recordings, and all other physical and electronic records in the possession or control of the RCMP;**

Again, this request clearly engages the issues of proportionality and relevance. In any case, I am satisfied that the RCMP has been and continues to make best efforts to disclose all relevant documents. The RCMP has already complied with this general request by disclosing the most relevant documents in its possession or control in particular through the disclosure of witness packages prepared for approximately 25 officers. Additional notes continue to be disclosed and uploaded in Concordance. There is no need for an additional general order at this time.

- (b) **correspondence between Sgt. Mike Connor and then Crown Counsel Mr. Peder Gulbransen relating to the investigation of Robert William Pickton as a suspect in the missing women investigations;**

I am advised that communications between Sgt. Connor and Mr. Gulbransen have been disclosed. Further, copies of any correspondence, if available, would have been disclosed.

- (c) **correspondence between Sgt. Mike Connor and Sgt. Wade Blizzard relating to the investigation of Robert William Pickton as a suspect in the missing women investigations;**

I am advised that in accordance with the RCMP email retention policy these emails were deleted after 90 days. Inquiries have been made and neither officer has a copy of these emails.

- (d) **notes and records of Det. Cst. Lori Shenher created during her tenure as investigator on the Missing Person Unit and later provided to Project Evenhanded;**

I am advised that notes made on lead sheets have been disclosed.

- (e) **notes and records of Cst. Sylvestri related to his attendance at the Pickton residential property on May 1, 1999;**

I am advised that no notes exist for this officer relating to the above attendance.

- (f) **records in the possession of the RCMP relating to the well-publicized allegations of systemic gender**

discrimination and workplace harassment raised by Cpl. Catherine Galliford;

I am advised that the RCMP is currently conducting an internal investigation into these allegations. I am bound to respect this process and therefore am not in a position to order disclosure at this time.

- (g) videotapes of interviews of Robert William Pickton conducted on February 19, 20, and 23, 2002, by members of the RCMP; and**

I am advised that transcripts of these interviews are available in Concordance as part of the appendices to the Report to Crown Counsel and there is no need to disclose the videotapes themselves.

- (h) videotapes of the “cell plant” of Robert William Pickton conducted on February 22, 2002 at the Surrey RCMP Detachment.**

I am advised that no audio recording or transcript exists for this interaction as stated in the Report to Crown Counsel at page 160. However, the undercover officer’s notes are available in Concordance. As well, I do not see the relevance of any statement made post arrest unless it makes reference to the police investigation. It is difficult to see where this request fits within the terms of reference.

(3) Individual Police Officers

Paragraph 3 of Part 1 of the application seeks an order for the delivery of documents and other material in the possession or control of 10 current and former VPD and RCMP officers. Individual summons have been prepared by the Commission and sent to all of the individuals listed in the application.

(4) Criminal Justice Branch

The Commission has already served a summons on the Criminal Justice Branch to produce all relevant documents and material under its possession or control. I am advised that the documents related to the investigation were destroyed in June 2000 pursuant to the Branch’s document retention policy. I am advised that Counsel for the Criminal Justice Branch will be providing additional disclosure which will be made available to participants through Concordance.

(5) Province of British Columbia

- (a) notes, agendas, memoranda, minutes, correspondence and all other records relating to the meeting of April 9, 1999, attended by several high-ranking members of the VPD and**

RCMP, Attorney General Ujjal Dosanjh, cabinet ministers and their aides;

On that date, a meeting attended by several police officers and Attorney General Dosanjh took place. It appears that the purpose of the meeting was to apply to government for more resources and to ask the Government to post a reward. While a reward was eventually posted, no commitment was made for more resources. Mr. Jones appeared for the Province of British Columbia to speak to the issue of disclosure of all relevant documents and in particular to disclose records of the meeting. He spoke to the efforts currently being made with respect to document disclosure. Mr. Chantler agreed to adjourn the application in this respect while efforts were ongoing. I am advised that documents resulting from the search of Ministry records have now been disclosed to the Commission and participants through Concordance.

(6) Counsel copies of *R. v. Pickton* (1997) Court File

Paragraph 6 of Part 1 of the application seeks an order that Commission counsel be directed to obtain and disclose to all participants' counsel copies of the Port Coquitlam Provincial Court file #52808, *R. v. Pickton* (1997). The file was produced by the Criminal Justice Branch and is in Concordance. The request was also made of the Port Coquitlam Provincial Court and the documents disclosed were identical to those disclosed by the Criminal Justice Branch.

(7) Commission Correspondence with Deputy Chief Evans

This application was withdrawn in recognition that I had already addressed it in an earlier oral ruling.

(8) Commission Correspondence with Don Celle

Paragraph 8 of Part 1 of the application seeks an order that Commission counsel be directed to disclose to all participants' counsel copies of all correspondence to and from Don Celle related to his engagement, instructions, and the preparation of the report he has allegedly produced for the purpose of this Inquiry. I am advised that the services portion of Mr. Celle's contract are available in Concordance.

(9) Organized Crime Agency of British Columbia ("OCABC") and the Combined Forces Special Enforcement Unit ("CFSEU")

Paragraph 9 of Part 1 of the application seeks an order that the Organized Crime Agency of British Columbia and the Combined Forces Special Enforcement Unit of British Columbia ("CFSEU") deliver to the Commission copies of all relevant records in their possession or control including but not limited to:

- (a) records of all investigations of Robert William Pickton, David Francis Pickton and members of the Hells Angels**

Motorcycle Club associated with the Picktons; and

The Organized Crime Agency of British Columbia no longer exists. It was an agency of the provincial government. Now CFSEU, or the Combined Forces Special Enforcement Unit, would have subsumed that. That is an RCMP-led joint task force, and it has a joint management board subject to RCMP policy and procedures.

- (b) records of all investigations of the establishment known as “Piggy’s Palace” located at 2252 Burns Road, Port Coquitlam, BC.**

There is no evidence of a nexus between David Pickton, the Hells Angels and Piggy’s Palace on the one hand and the terms of reference on the other.

- (10) E-Comm Emergency Communications for Southwest British Columbia Incorporated (“E-Comm”)**

Part 10 of Part 1 of the application seeks an order that E-Comm Emergency Communications for Southwest British Columbia Incorporated (“E-Comm”) deliver to the Commission copies of all relevant records in its possession or control, including but not limited to:

- (a) transcripts of 9-1-1 calls relating to or originating from the residential property of Robert William Pickton, located at 953 Dominion Avenue, Port Coquitlam, BC, during the period January 23, 1997 to February 5, 2002;**

And

- (b) missing person reports made by members of the public to E-Comm during the time period defined by the Terms of Reference.**

I am advised by Counsel for the RCMP that steps have been taken to locate relevant E-Comm records and reports. Commission staff continue to work on facilitating this disclosure.

- (11) Document Disclosure from Other Parties**

Paragraph 11 of Part 1 of the application seeks an order for the delivery of all relevant records in the possession or control of four additional parties two of which are third parties to this proceeding: (a) the City of Vancouver; (b) the Vancouver Police Board; (c) the Vancouver Police Union; and (d) West Coast Reduction Ltd.

I am advised by Counsel for the Vancouver Police Board that all relevant documents have been produced. Summonses have been served on the City of Vancouver and the Vancouver Police Union. I am further advised that West Coast Reduction has informed the Commission that they have

no relevant records. It is useful to note that Mr. Roberts who is counsel to Marion Bryce, a participant, is opposed to Mr. Ward's position. In his written argument he has stated:

There has been extensive document disclosure provided by both police forces and by related boards and government offices, all of which has been submitted to this Inquiry. We have also received extensive oral evidence from a number of witnesses with oral evidence from a number of additional witnesses still to come. In addition the Inquiry has received the independent report of Deputy Chief Jennifer Evans commissioned by the Inquiry and written after extensive document review and interviews of nearly all of the involved police officers from both police forces. It is our position that this body of evidence both received and to be received will amply provide the necessary basis for the fact finding task of this Inquiry and for the Commissioner's recommendations.

I am satisfied that all concerned parties have acted in good faith and have made best efforts to produce all relevant documents and other materials. The disclosure process is ongoing and I fully anticipate that all participants will continue to disclose documents as they are identified through the hearing process or come to their attention by other means.

E. Conclusion

I have concluded that the orders sought in this application are for the most part unnecessary as the process for disclosure is ongoing. In the sections above, I set out the status of document disclosure with respect to each of the specific orders sought in this application. In summary, I have concluded that some of the documents and materials requested in this application have already been produced and others are only tangentially relevant or are irrelevant for the Commission's purposes. I have been advised by counsel for VPD and the RCMP that they continue to search for other identified documents and that others simply do not exist to the best of their knowledge. Based on what I heard during the proceedings, I am confident that Commission counsel will continue to work collaboratively with counsel for all participants to facilitate additional disclosure.

I am particularly thankful to Commission staff who have been very diligent in managing the document disclosure process. Six staff members were involved in handling document disclosure by identifying and requesting documents, as well as in monitoring and following up on document requests. Eight staff members were involved in reading/indexing the documents. One person managed the document disclosure process with participants. This has been and continues to be a huge task.

G-6. Ruling on Shenher Manuscript Application (May 18, 2012)

PART 1: INTRODUCTION

1. Independent counsel for Affected Individuals and Organizations in Vancouver's Downtown Eastside, and Independent counsel for the Aboriginal Interest, seek an order for the admission of a manuscript as an exhibit before the Commission. They seek the following specific remedies:
 - An order that the unpublished manuscript authored by Detective Constable Shenher (the "Document") be admitted to evidence and form part of the public record of this Inquiry;
 - Alternatively, an order that the Document be marked as an exhibit and form part of the public record of this Inquiry for reference purposes alone.

PART 2: BACKGROUND

1. Since the early 1990's women from the downtown eastside had been reported missing to the Vancouver Police Department. In July 1998 Detective Constable Shenher became the lead investigator in the investigations relating to the missing women. She testified that she had a most difficult and frustrating time in that she was given virtually no help or guidance. She had never investigated a homicide. She said she became extremely disillusioned with senior management which according to her was indifferent to the concerns she had for the women. Her frustration reached a peak in November 2000 when she left her position as the file coordinator in the missing women investigations. She saw the move as a protest.
2. Shortly after leaving her position she wrote the document which is the subject matter of this application. The document is an account of her recollection of the investigations, her view of the Vancouver Police Department and her somewhat provocative view of upper management. The document also contains letters written to the deceased women. As expected they are emotional in nature. One such letter is written to Janet Henry a woman who has been missing from the downtown eastside. Her sister Ms. Sandra Gagnon has testified in the Inquiry. She wishes to have that part of the document that contains a letter to her sister Janet, be disclosed to her. Without going further I am exceeding to Ms. Gagnon's request. It is an entirely reasonable and understandable request.
3. The document is generally consistent with her testimony in the Inquiry. However she does go further in her manuscript in her criticism of the police. These criticisms include comments about Sandy Cameron's conduct, her supervisor's involvement in the investigation and competence, police culture, and the way the investigation was handled.

However during the course of her testimony under cross examination, Detective Constable Shenher qualified, retracted or resiled from several statements contained in the document. She was clear that the document was a draft and contained her thoughts, experiences and impressions and it was going to require careful vetting before it was published.

PART 3: THE LAW

1. The law relating to admissibility is not in dispute and is fairly set out in Mr. Roberts's argument. That is to say from a principled approach according to the rules of evidence the document is not admissible. It is hearsay in that it is an out of court document being admitted for the truth of the contents contained therein. It is neither a business record nor is it a case of past recollection recorded. At its best the document is a prior consistent statement. Prior consistent statements are not admissible except in rare circumstances. Parts of the document contain prior inconsistent statements. Similarly prior inconsistent statements are not admissible for the truth of contents except insofar as they are adopted as being true or accurate.
2. It is agreed that the laws of evidence are relaxed in Commissions of Inquiry; In fact much hearsay has been admitted in this inquiry. However this does not mean that all documents that contain hearsay are admissible.

PART 4: CONCLUSIONS

1. Counsel for the applicants have argued that the document ought to be admitted as it is the best evidence of her recollection of the investigation because it was made shortly after the investigation and in any event the Commission has relaxed the traditional rules relating to the admission hearsay evidence. They further submit that the Document will be of great assistance once an exhibit in ascertaining the facts of the investigation.
2. Counsel opposing the admission of the Document submit that the manuscript is inadmissible hearsay as it is an out-of-court made document that cannot be offered for the truth of the contents asserted in it. Further they submit that there is no exception to the hearsay rule or a principled approach that would render the Document admissible.
3. The document does not meet the admissibility test as it does not fall into any of the hearsay exceptions or fall under the principled approach as it serves no probative value. Det. Cst. Shenher has already provided sworn evidence before me over the course of five and half days during which she testified to the shortcomings and the mistakes made in the investigation.
4. The manuscript is not admissible. Whatever relevant information is contained in the manuscript has been given by her in her testimony.

Moreover she has retracted some of the more controversial passages contained in the manuscript. It is titillating but not particularly helpful with regards to the terms of reference.

5. As noted above, the part of the document relating to Detective Constable Shenher's document be disclosed to Ms. Sandra Gagnon.

G-7. Ruling on Admissibility of the Murray Report (May 24, 2012)

PART 1: INTRODUCTION

1. Counsel for the families of 25 missing and murdered women seeks to admit as an expert report a document prepared by Mr. Dennis Murray, Q.C. (the “Murray Report”). The Murray Report relates to term 4(b) of this Commission’s Terms of Reference. That term reads as follows:

consistent with the *British Columbia (Attorney General) v. Davies*, 2009 BCCA 337, to inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;

2. The admission of the Murray Report is objected to, generally, on the grounds that the contents go beyond the Commission’s Terms of Reference and affect the constitutional principle of prosecutorial independence. It is also argued that the Murray Report does not comply with evidentiary rules relating to expert evidence. In reply, it is argued that the Murray Report ought to be admitted in any event, and that the offending parts be deleted or disregarded.

PART 2: BACKGROUND

3. Dennis Murray, Q.C., is a well known and highly qualified criminal lawyer who has represented the Crown and the Defence on many complex and difficult cases. His report deals with the stay of proceedings entered by the Crown against Robert William Pickton upon charges of attempted murder, assault with a weapon, forcible confinement and aggravated assault [the “Stay Decision”].
4. Mr. Murray describes his mandate as follows:

... to examine various materials associated with the Inquiry proceedings, with a view to commenting upon the circumstances giving rise to the March 1997 charges against Mr. Pickton (Pickton), through to the Stay of Proceedings entered on those charges in late January 1998.

(Murray Report, para. 1)

5. He further states:

I have also examined materials associated with developments in the investigation into the missing women, from January 1998 through to January 1999, with a view to providing relevant comment as to the issue of the potential justification to, during that one year period, recommence those proceedings (CCC S.279(2)) which were Stayed as noted above.

(Murray Report, para. 2)

6. In his report, Mr. Murray provides his summary of the facts relating to the Stay Decision based on a review of hearing transcripts and an interview of Ms. Anderson conducted by Don Celli dated February 9, 2012, that is not in evidence. He then discusses the elements considered in the charge approval process, generally, and offers an opinion on how these principles may have been applied to this case. Mr. Murray discusses the supports available to vulnerable witnesses with drug addictions and comments on the steps taken by the Crown prosecutor in this respect. Mr. Murray offers an opinion on the stay and whether the rationale was reasonable. Mr. Murray considers whether the recommencement of the stay should have been considered in the course of the missing women investigations and whether he would have recommenced the proceeding with the new information after the stay was entered. Mr. Murray concludes by providing some general comments on the importance of protecting vulnerable witnesses in the criminal process.

PART 3: THE LAW

7. The law is not in dispute. A commission's terms of reference determine the mandate of the commission; they serve to empower the commissioner while at the same time restricts the scope of the commissioner's inquiry. Evidence that is irrelevant, unnecessary and outside the jurisdiction of a commission ought not to be admitted. As well, when the principle of prosecutorial independence is in issue the Terms of Reference must be construed narrowly (*Davies*, para. 59, referencing the approach in *Hoem v. Law Society of B.C.*, 63 BCLR 36, and *Krieger v. Law Society of Alberta*, 2002 SCC 65). In these circumstances, a Commissioner "must exercise caution" and "must be ever sensitive to the fine line he walks at this point in the inquiry" (*Davies*, paras. 58 and 90).
8. It is trite law that an expert is not allowed to review evidence and make his or her own inferences and findings of fact. Only the Commissioner or judges can make findings of fact and weigh the evidence (*Quinette Coal Ltd v. Bow Valley Resource Services Ltd.*, 29 BCLR (2d) 127, para. 4; *Neudorf v. Netzwerk Productions Ltd.*, 1998 CanLII 6643 (BCSC), paras. 5-7). Further, an expert must offer an expert opinion that assists the Commissioner. Where a report cannot provide assistance to the Commissioner it ought not to be admitted into evidence.
9. It is clear that my mandate on this issue is narrow. I cannot substitute my view for that of the Crown counsel who entered the stay of proceedings. The Court of Appeal approved the following comments of Melnick J. in *Davies*.

[68] ... [I]t may be, at the discretion of the Commissioner, that he deems it unnecessary to have every single individual involved provide testimony before him in order to be in a position to provide a full and complete report on the response of the CJB. But that is for him to decide.

[69] I also consider it beyond the scope of the Inquiry to require any individual who made a decision not to charge anyone with respect to the death of Mr. Paul to second guess his or her decision or to justify it. The Commissioner is entitled to look at the facts that were before the individuals who made those decisions, get the facts related to the decisions, but not challenge or debate with those individuals the propriety of their decisions. In that way, the Commissioner may open the doors he wishes to open but, at the same time, minimize any transgression into the lawful independence of the CJB.

PART 4: APPLICATION TO THE FACTS

10. I accept the argument advanced by counsel for Judge Romano that this issue needs to be resolved at the evidentiary stage as opposed to the report stage for reasons of fairness and, more specifically, the right to reply.
11. The following parts of the report are of particular concern:
 - a. “It is necessary, if my work is to be of any value, to point out what I perceive to be shortcomings when viewed in hindsight” (para. 5).
 - b. “[A]s to the public interest element, the reasons to charge were compelling” (para. 50).
 - c. “What follows is a list of what I assume would have been some of [the] deeply disturbing and aggravating factors at play in the approving prosecutor’s mind while they were considering the charge approval principles ... ” (para. 52).
 - d. “[I]t was not unreasonable for [the prosecutor] to conclude ... ” (para. 66).
 - e. “These circumstances ... would reasonably lead an approving prosecutor to conclude ... ” (para. 52).
 - f. “They must have, properly in my view, concluded ... the totality of the circumstances must have led (and I agree) the approving prosecutor to conclude ... (I agree) ... ” (para. 53).
 - g. “I question why the prosecutor did not ... ” (para. 67).
 - h. “[H]ad this been done ... it would have provided ammunition to put before the Court in requesting an adjournment of the trial, showing that all efforts were being made to stabilize the witness” (para. 68).
 - i. “[N]o reasonable effort was made by the prosecutor ... ” (para. 69(b)).

- j. “[T]his was a failure to recognize the needs ... or a failure to attend to them ... ” (para. 69(c)).
 - k. “[The bloody medical material was] not necessary for the proof of the case ... ” (para. 70(a); or “[if it was necessary, it was] not central by any means ... ” (para. 70(b)).
 - l. “I am of the view that the failure to act ... was the catalyst for the dilemma at the last minute” (para. 73).
 - m. “Even at the last minute there were options not ... explored ... ” (para. 73).
 - n. “One should plan to argue [delay] when the day comes rather than concede it in a serious case such as this” (para. 73).
12. There is no doubt that Mr. Murray with the greatest of conceivable respect placed himself in the shoes of the Crown. Based on the law that cannot be done.

PART 5: CONCLUSION

13. After having reviewed the report as a whole, I must conclude that, while the Murray Report is helpful as a discussion of policy recommendations, it is not admissible and it cannot be saved by simply deleting or setting aside those parts that offend the rule in *Davies*.
14. While I will not admit the Murray Report into evidence for the purpose of fact finding, the Murray Report may be helpful to me in my development of recommendations around the treatment of vulnerable and marginalized women. As a result, I will accept the Murray Report as commentary only to the extent it assists me with my study commission mandate.

G-8. Ruling on Participation – Richard Romano

1. Background

In a letter dated May 18, 2012, Mr. Mark D. Andrews, QC, requested standing on behalf of his client Mr. Richard Romano so that he would be able to participate in any further proceedings relating to Term of Reference 4(b), including making final submissions.

2. The Criteria for Participation in Evidentiary Hearings

As set out in my previous rulings on participation, the test for participation is provided in s. 11(4) of the *Public Inquiry Act*. The three factors that are to be considered are:

- a. Whether, and to what extent, the person's interests may be affected by the findings of the commission,
- b. Whether the person's participation would further in the inquiry,
- c. Whether the person's participation would contribute to the fairness of the inquiry.

Mr. Romano has only requested standing in relation to Term of Reference 4(b).

3. Decision

Term of Reference 4(b) relates to the Criminal Justice Branch's decision in January 1998 to stay charges against Mr. Pickton in relation an incident involving a sex trade worker from Vancouver's Downtown Eastside. Specifically, it provides that:

(b) consistent with *British Columbia (Attorney General) v. Davies*, 2009 337, to inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998 to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;

At the material time of the 1997 prosecution and 1998 stay of proceedings, Mr. Romano was the Administrative Crown Counsel in the Port Coquitlam Crown Counsel office.

While I needed to hear from Mr. Romano as a witness, I have determined it unnecessary to grant him participant status.

On April 19, 2012 Mr. Romano was called as a witness at the hearings and gave evidence regarding his involvement in the charge approval, bail and administrative decisions which took place in April 1997. Mr.

Romano also gave evidence in relation to his discussions with Ms. Connor in early 1998 in advance of her decision to stay the charges against Pickton.

Prior to Mr. Romano's appearance at the hearings Commission staff provided his counsel with access to relevant documents. In addition, I granted Mr. Romano's counsel the opportunity to attend the hearings when related witnesses, Ms. Connor, Ms. Smith and Mr. MacDonald gave their evidence.

In addition, I also permitted his counsel to make submissions on the admissibility of the Murray Report. I determined that the Murray Report was inadmissible (see Ruling on the Admissibility of the Murray Report, dated May 24, 2012).

Finally, Mr. Romano's counsel requested the right to make final submissions on behalf of their client. I granted this request and final submissions were received on behalf of Mr. Romano on May 31, 2012.

H. Status Reports

H-1. Status Report (March 3, 2011)

Introduction – Missing Women

For many years British Columbia has experienced the horrific and tragic consequences of missing and murdered women. The total number of missing and murdered women is uncertain and estimates vary widely.

The Joint Missing Women Task Force has stated that between 1978 and 2001 approximately 65 women had gone missing from Vancouver. According to the 2005 Take Back the Highway awareness demonstration, 32 women and girls were missing or murdered along Highway 16, an 800-kilometre section of highway between Prince George and Prince Rupert (also called the Highway of Tears). Aboriginal women formed a disproportionately high percentage of these totals.

Robert Pickton was charged with killing 26 of the women missing from Vancouver. The DNA of an additional six women was found on his farm. The Crown proceeded with six charges and on December 9, 2007 he was found guilty and sentenced to six terms of life imprisonment.

While the issue of missing and murdered women raises many pressing and important social, political and economic issues, one important aspect is the conduct of police forces in investigating cases of missing women.

Commission Established

On September 27, 2010, the Missing Women Commission of Inquiry was established by an Order in Council pursuant to the *Public Inquiry Act*, S.B.C. 2007, c. 9. I was appointed sole Commissioner. The Commission was designated a hearing commission.

Its Terms of Reference are as follows:

4(a) to conduct hearings, in or near the City of Vancouver, to inquire into and make findings of fact respecting the conduct of the missing women investigations;

(b) consistent with the *British Columbia (Attorney General) v. Davies*, 2009 BCCA 337, to inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;

(c) to recommend changes considered necessary respecting the initiation and conduct of investigations in British Columbia of missing women and suspected multiple homicides;

(d) to recommend changes considered necessary respecting homicide investigations in British Columbia by more than one investigating organization, including the co-ordination of those investigations.

The missing women investigations are defined as “the investigations conducted between January 23, 1997 and February 5, 2002, by police forces in British Columbia respecting women reported missing from the Downtown Eastside of the city of Vancouver.”

Purpose of the Status Report

While the Commission is not required to provide status reports under the *Public Inquiry Act* or the Terms of Reference, we wish to keep the public and applicants apprised of the Commission’s progress, given the substantial interest expressed in our work.

The purpose of this Status Report is to provide general information about the Commission’s activities. It will cover the following topics:

1. Commission counsel
2. Website
3. Hearing venue
4. Practice and Procedure Directive
5. Document disclosure
6. Participant access to documents
7. Pre-hearing conferences
8. Standing applications
9. Recommendation to designate the Commission a joint study and hearing commission
10. Future activities
11. Staying informed

Commission Counsel

Immediately after I was appointed Commissioner, I retained ArtVertlieb, QC to act as senior Commission Counsel. Mr. Vertlieb was senior Commission Counsel of the Braidwood Commissions, the public inquiries established by the Provincial Government to investigate the use of conducted energy weapons in the province, as well as the death of Robert Dziekanski at

Vancouver International Airport.

Website

On November 1, 2010, the Commission launched its website: www.missingwomeninquiry.ca. The website provides information about the Commission's activities. The directives on the procedure the Commission has adopted, the Commission's Terms of Reference, the legislation applicable to the Commission and the biographies of Commission staff are made available to the public through the website. The website will also include transcripts and exhibits from the evidentiary hearings, media releases and any rulings I make. The website will be an important communication tool for our work.

Hearing Venue

While the majority of the Commission's hearings will take place in the hearing room at the Federal Court in Vancouver at 701 West Georgia Street, we may also hold the community portion of the hearings at a community venue. The dates are yet to be confirmed.

Practice and Procedure Directive

On October 26, 2010, the Commission adopted a Practice and Procedure Directive for Evidentiary Hearings, authorized pursuant to s. 9(1) of the *Public Inquiry Act*. The Directive establishes the rules that will govern the Commission's hearing process.

The matters addressed in the Directive include:

- access by the public and media;
- the procedure for applications for standing and funding recommendations;
- the rights of participants;
- the powers of the Commission regarding participants;
- the procedures regarding orders, applications and witnesses; and
- the rules for document disclosure, namely the use and confidentiality of documents disclosed to the Commission.

Document Disclosure

Shortly after the Commission was established, Commission staff began to work collaboratively with the Royal Canadian Mounted Police (RCMP), the Vancouver Police Department (VPD) and the Criminal Justice Branch (CJB) on the disclosure of relevant documents. Commission staff requested early disclosure from these participants to ensure that documents would be provided to the Commission and other participants well in advance of the hearings.

The RCMP, VPD and CJB have each provided Commission staff with a list of document categories and a schedule for delivery of those documents. They are voluminous. We have been informed that we can expect to receive millions of pages of documents. We are hopeful that all participants will make their best efforts to ensure the Commission receives prompt document disclosure throughout its mandate as our goal is to conduct this inquiry in a timely way.

Participant Access to Documents

For those granted access to documents in advance of the evidentiary hearings access will be provided electronically. Documents will be held in an electronic database which will be accessed remotely through the Commission's website. Of course, documents will be confidential and access will be password protected.

Pre-Hearing Conferences

The subject matter of this Commission involves a tragedy that has been felt deeply, not only by members of the Vancouver Downtown Eastside community, but across the Province and indeed the Country. Many of the people directly affected by the subject matter of the Commission belong to vulnerable and marginalized groups. These people often do not have the resources to influence policy change. Many members of the community strongly advocated for a public inquiry. Once the Commission was established they demonstrated great interest in the Commission's work.

Given these unique circumstances, we decided to hold two pre-hearing conferences: one in Vancouver on January 19, 2011 and one in Prince George on January 21, 2011. The purpose of these pre-hearing conferences was to introduce the Commission to the community, and in so doing, describe the role of the Commission and its mandate. Commission staff also requested the community's feedback on the meaning the Commission should give the Terms of Reference and the process the Commission should follow. The pre-hearing conferences were not a replacement for the evidentiary hearings. They were held solely to discuss the general mandate of the Commission and to give a voice to those people who may not be able to qualify for the more formal hearings.

Matters Discussed at the Pre-Hearing Conferences

The Vancouver and Prince George pre-hearing conferences were well attended. Both pre-hearing conferences opened with welcome ceremonies conducted by aboriginal leaders Chief Ian Campbell of the Squamish Nation and Chief Dominic Frederick of the Lheidli T'enneh First Nation, respectively.

After the opening ceremonies, I introduced the Commission to the community by describing its role, Terms of Reference and planned

procedure. I then asked interested parties to share any comments they had about the meaning of the Terms of Reference, which could assist Commission staff in further developing the issues.

The feedback we received from those who attended the pre-hearing conference was greatly appreciated and beneficial. As explained below, it has informed the direction we wish to take in fulfilling the Commission's mandate.

Standing Applications

On November 2, 2010, we invited applications for standing from any individual, group, government agency, institution or other entity to participate formally in the Commission's hearings by notice through a media release and the Commission's website. Under the *Public Inquiry Act*, the test for standing requires that the applicant show:

- a. whether, and to what extent, the person's interests may be affected by the findings of the commission,
- b. whether the person's participation would further the conduct of the inquiry, or
- c. whether the person's participation would contribute to the fairness of the inquiry.

We received applications from the following applicants:

1. Vancouver Police Department and Vancouver Police Board
2. Government of Canada
3. Criminal Justice Branch
4. Families of Georgina Papin, Mona Wilson, Marnie Frey, Dianne Rock, Cara Ellis, Cynthia Dawn Feliks, Helen Mae Hallmark and Dawn Crey, as represented by A. Cameron Ward
5. BC Civil Liberties Association
6. Ending Violence Association of BC
7. West Coast LEAF
8. Vancouver Area Network of Drug Users, Walk4Justice and Frank Paul Society
9. Amnesty International

10. Coalition of Sex Worker-Serving Organizations, including:
 - Prostitution Alternatives Counselling and Education Society
 - WISH Drop-In Centre Society
 - Downtown Eastside Sex Workers United Against Violence Society
11. Assembly of First Nations
12. Union of BC Indian Chiefs
13. Women's Equality & Security Coalition, including:
 - The National Congress of Black Women Foundation
 - Aboriginal Women's Action Network
 - Coalition of Childcare Advocates
 - Justice for Girls
 - Canadian Association of Sexual Assault Centers
 - EVE (formerly Exploited Voices now Educating)
 - Vancouver Rape Relief Society
 - University Women's Club of Vancouver
 - The Poverty & Human Rights Coalition
 - The Asian Women Coalition Ending Prostitution
 - Provincial Council of Women
14. Native Courtworker and Counselling Association of BC
15. The Committee of the February 14 Women's Memorial March
16. Downtown Eastside Women's Centre
17. First Nations Summit
18. PIVOT Legal Society
19. Native Women's Association of Canada
20. Dr. Kim Rossmo

21. CRAB – Water for Life Society

22. Carrier Sekani Tribal Council

I granted standing to the following applicants, with reasons to follow:

1. Vancouver Police Department and Vancouver Police Board
2. Government of Canada
3. Criminal Justice Branch
4. The families as represented by A. Cameron Ward

These applicants were granted standing in advance of the other applicants due to their clear legal interest in the subject matter of the Commission.

After receiving the applications, we held a hearing for standing. Notice of the hearing was given on the Commission's website and in a media release on December 7, 2010. The hearing took place on January 31, 2011.

The purpose of the hearing was two-fold. First, the remaining 18 applicants were given an opportunity to make submissions to augment their written applications at an oral hearing by highlighting their specific areas of interest in the Commission's mandate and their anticipated level of involvement at the hearings.

Second, as result of the overlapping and common interests of many applicants, applicants were asked to make submissions on forming coalitions. While we appreciate that many applicants originally applied in coalitions, we are still concerned the total number of potential participants is unwieldy for an evidentiary hearing. We would like to be as inclusive as possible in considering the many applications for standing; however, the hearing process must be efficient.

To date, the following applicants applied in or have entered formal coalitions:

1. Coalition of Sex Worker-Serving Organizations
2. Vancouver Area Network of Drug Users, Walk4Justice and Frank Paul Society
3. Women's Equality and Security Coalition
4. Ending Violence Association of BC and West Coast LEAF BC Civil Liberties Association, Amnesty International and PIVOT Legal Society
5. The Committee of the February 14 Women's Memorial March and the Downtown Eastside Women's Centre

6. Carrier Sekani Tribal Council and the Union of BC Indian Chiefs

At the hearing for standing, I told applicants that I intended to have my ruling on standing issued by the end of February, 2011. However, based on the community feedback that we have received, and for the reasons described below, I have decided to defer my ruling on standing until early Spring.

Recommendation to Designate the Commission a Joint Study and Hearing Commission

Community Feedback

Over the past few months, concerns about the hearing process used by the Commission to fulfill its mandate have been raised by various members of the community. These concerns have been communicated to the Commission by members of the public, in media reports, in community organized forums and at the pre-hearing conferences organized by the Commission.

In particular, the community has expressed concerns about their ability to participate in the Commission's process. The following are examples of the types of participation concerns that have arisen:

- the Commission's process should be accessible and community-driven as opposed to adversarial;
- vulnerable and marginalized individuals should not be discouraged or made to feel excluded by an overly formalized process;
- the emotional needs of the victims' families should be respected and supported;
- aboriginal groups should be involved in a manner that is culturally sensitive; and
- the northern communities affected by the ongoing missing and murdered women investigations from the Highway of Tears should be given an opportunity to participate meaningfully without compromising those ongoing investigations.

Community members have also stated that a flexible and inclusive process will improve the Commission's ultimate recommendations by ensuring they are:

- appropriately contextualized;
- culturally sensitive; and
- suitable for northern communities affected by the missing and murdered women along the Highway of Tears.

Issues Arising from Standing Applications

As stated, the large number of potential participants would inevitably lead to a cumbersome evidentiary hearing. Further, some of the applicants only

wish to participate in certain aspects of the Commission's work. For example, some applicants are concerned only with the policy aspects under Terms 4(c) and (d). Other applicants have direct interests in the factual inquiries under Terms 4(a) or (b).

Applicants also have different expectations about how they will participate. Some applicants seek full participation, including the right to cross-examine all witnesses. Other applicants seek limited rights to make submissions or cross-examine only a few witnesses.

Ability to Address the Community Feedback and the Issues Arising from Standing Applications

In the following section, I describe my reasons for recommending a joint study and hearing commission. However, this Status Report is not a ruling on my interpretation of the *Public Inquiry Act* or the Terms of Reference.

Based on the community feedback and submissions of the participants, in our view, the Terms of Reference give the Commission two distinct but related mandates: "to inquire into and make findings of fact" and "to recommend changes". These distinct mandates, one factual and one policy, must currently be achieved through a hearing commission. The *Public Inquiry Act* distinguishes between hearing and study commissions.

Subsections 21(1) and (2) of the *Public Inquiry Act* set out the powers of a hearing commission:

(1) Subject to this Act and the commission's terms of reference, a hearing commission may engage in any activity necessary to effectively and efficiently fulfill the duties of the commission, including doing any of the following:

(a) issuing directives respecting any of the matters set out in subsection (2);

(b) holding written, oral and electronic hearings;

(c) receiving submissions and evidence under oath or affirmation;

(d) making a finding of misconduct against a person, or making a report that alleges misconduct by a person.

(2) Without limiting the powers of a commission set out in Division 1, a hearing commission may make directives respecting any of the following:

(a) the holding of pre-hearing conferences, including confidential pre-hearing conferences, and the requiring of one or more participants to attend a pre-hearing conference;

- (b) procedures for preliminary or interim matters;
- (c) the receipt and disclosure of information, including but not limited to pre-hearing receipt and disclosure and pre-hearing examination of a participant or witness on oath, on affirmation or by affidavit;
- (d) the exchange of records by participants;
- (e) the filing of admissions and written submissions by participants;
- (f) the service and filing of notices, records and orders, including substituted service and the requiring of participants to provide an address for service;
- (g) without limiting any other power of the commission, the effect of a participant's non-compliance with the commission's directives.

By virtue of this designation, the Commission may only undertake the activities of a hearing commission, set out above in s. 21(1) and (2) of the Public Inquiry Act, in addition to the general powers of a commission outlined in Part 3, Division 1. Furthermore, under s. 21(3), a hearing commission is prohibited from exercising the powers of a study commission set out in s. 20(1) unless the hearing commission is also designated as a study commission. Subsections 20(1) and (2) state:

(1) Subject to this Act and the commission's terms of reference, a study commission may engage in any activity necessary to effectively and efficiently fulfill the duties of the commission, including doing any of the following:

- (a) conducting research, including interviews and surveys;
- (b) consulting with participants, privately or in a manner that is open to the public, either in person or through broadcast proceedings;
- (c) consulting with the public generally and, for that purpose, issuing directives respecting any of the matters set out in subsection (2).

(2) Without limiting the powers of a commission set out in Division 1, a study commission may make directives respecting any of the following:

- (a) the notification of participants and the public regarding a consultation under this section;
- (b) the holding of public meetings, including the places and times

at which public meetings will be held and the frequency of public meetings;

(c) the conduct of, and the maintenance of order at, public meetings;

(d) the receipt of oral and written submissions.

As stated by the British Columbia Supreme Court, the purpose of the distinction between a study commission and a hearing commission is to afford, where necessary, higher levels of procedural fairness to subject matters that require it: *Taser International, Inc. v. British Columbia*, 2010 BCSC 1120 at paras. 39 – 40.

Recommendation

As a result of the concerns expressed by the community, set out above, and the Commission's important public function, I am recommending that the Lieutenant Governor in Council grant the Commission the powers of a joint study and hearing commission.

The additional powers of a study commission would allow us to address the concerns of the community by giving the Commission increased flexibility over its process, including the ability to engage directly with the public outside of the formal hearing process.

A joint study and hearing commission would also permit the Commission to fashion different forms of participation to participants' interests, abilities and expertise. Applicants who may not strictly meet the test for standing in a hearing commission could still be involved in the study portion of our work. Ultimately, the Commission's process would be more inclusive and participants could speak directly to me without the formalities of the adversarial process.

A joint study and hearing commission would enable us to craft a more focused but still thorough hearing process while ensuring that both processes are procedurally fair. In the result, I believe the Commission may be able to more efficiently fulfill its various mandates.

Given my recommendation, I have decided to defer my decision on standing until I receive direction from the Government in response to this request.

Future Activities

Commission staff will continue to prepare for the evidentiary hearings by:

- working with participants with respect to document disclosure;
- reviewing disclosed documents;
- importing disclosed documents into the Commission's database, to ensure participants can access documents once they are granted

- participant status; and
- contacting and conducting interviews of potential witnesses, including family members of the missing and murdered women.

Staying Informed

The public can stay informed about the work of the Commission by:

- visiting the Commission's website which will provide access to publications, reports and rulings of the Commission; and
- attending the evidentiary hearings or reading the transcripts of those proceedings.

H-2. Status Report (June 20, 2011)

The Creation of the Commission

On September 27, 2010, in recognition of the tragedy of missing and murdered women in BC, the Lieutenant Governor in Council issued an Order in Council establishing the Missing Women Commission of Inquiry (the “Commission”). The next day, the Attorney General of British Columbia announced the appointment of the Hon. Wally Oppal, Q.C. as the Commissioner. The Terms of Reference (the “TOR”) directed that the Commission would be a hearing commission and that it would address four distinct issues:

- 4 (a) to conduct hearings, in or near the City of Vancouver, to inquire into and make findings of fact respecting the conduct of the missing women investigations;
- (b) consistent with the *British Columbia (Attorney General) v. Davies*, 2009 BCCA 337, to inquire into and make findings of fact respecting the decision of the Criminal Justice Branch on January 27, 1998, to enter a stay of proceedings on charges against Robert William Pickton of attempted murder, assault with a weapon, forcible confinement and aggravated assault;
- (c) to recommend changes considered necessary respecting the initiation and conduct of investigations in British Columbia of missing women and suspected multiple homicides;
- (d) to recommend changes considered necessary respecting homicide investigations in British Columbia by more than one investigating organization, including the co-ordination of those investigations.

The TOR stated that “**missing women investigations**” means the investigations conducted between January 23, 1997 and February 5, 2002, by police forces in British Columbia respecting women reported missing from the Downtown Eastside of the city of Vancouver (the “DTES”).

The Commission – Phase 1

The Staff

Mr. Art Vertlieb, Q.C. was appointed as Senior Commission Counsel. The Commissioner and Senior Commission Counsel were both veterans of the commission process in related areas. Commissioner Oppal was the Commissioner of the 1994 Commission of Inquiry into Policing in British Columbia, which made sweeping recommendations for improvements in policing throughout BC.

Mr. Vertlieb was Senior Commission Counsel for the Braidwood Commission on Conducted Energy Use and the Braidwood Commission on the Death of Robert Dziekanski that looked into the use of tasers and the death of Mr. Dziekanski at the Vancouver International Airport on October 14, 2007.

During October 2010 the Commission's core staff of six was recruited. The Commission staff comprises two lawyers, two support staff, one data manager and one administrator. Additional advisors and ad hoc help were later engaged to be used on an "as needed" basis. For the most part, their involvement has remained helpful, but peripheral.

This was the initial creation phase of the Commission. It consisted of planning and organizational functions required in creating a commission that would be able to fulfill its TOR.

Terms of Reference

In many ways, the TOR were significantly different from those of recent inquiries of a similar nature and these differences needed to be recognized and accommodated.

For example, the Braidwood Commission, with which Mr. Vertlieb had experience, focused on a review of an incident that lasted a few minutes and involved one victim. The Inquiry into the Death of Frank Paul involved one incident with one victim. By contrast, the Missing Women Commission was directed to examine a five year period and more than 50 victims. This mandate is made complex by the ongoing issue of missing and murdered women.

Commission Operations and Procedures

The Practices and Procedures Directive for the Evidentiary Hearings was established at the outset. A work plan was developed including simple logistical needs such as equipment and office space. Commission timelines were identified and project management implemented. A website was developed and launched.

In its planning and operation, the Commission needed to meet its compliance with legislated record-keeping and the archiving requirements of a commission.

Volunteer Assistance

During this time, the Commission gratefully accepted the fulltime services of a qualified senior police officer, Deputy Chief Jennifer Evans, from the Peel Regional Police Service ("Peel"). Her services are provided at no cost to the Commission. Peel believes that the Commission is addressing a serious problem that will have implications for policing across Canada and it wanted to be part of the process.

DC Evans is appropriate for this assignment because of her experience: homicide investigator, Inspector in Charge of Peel Homicide Unit and secondment to the Bernardo Inquiry in Ontario (which has similarities to parts of the Commission's TOR). DC Evans is a senior police officer with executive knowledge about the management and allocation of scarce police resources.

After joining the Commission, DC Evans quickly learned that the magnitude of the TOR would require additional resources so Peel volunteered two additional experienced Homicide Detective Sergeants to assist DC Evans. They were also provided at no charge to the Commission other than their travel expenses. In addition, the three seconded officers were provided separate working spaces in Peel independent of the regular Peel Police Service.

The offer of volunteer services has extended beyond Peel. The Commission has received offers of *pro bono* services from a number of experts. To date, the Commission has accepted the services of four experts, university professors and/or doctors, who will appear on a *pro bono* basis as witnesses in the evidentiary hearing.

Disclosure

Unlike the previously mentioned Commissions that were limited in scope and time and therefore in documentary disclosure, the Commission faces a potentially massive number of documents to be disclosed. The length of time and the number of organizations involved all added to the volume of documentation. The estimates of the number of documents exceeded one million pages and the Commission needed the capability to receive, review and disclose the documents efficiently and cost effectively.

Knowing that the amount of disclosure would be significant, the Commission granted the Royal Canadian Mounted Police ("RCMP"), the Vancouver Police Department ("VPD") and the Criminal Justice Branch ("CJB"), who would be the primary providers of disclosure, early grants of standing to expedite the disclosure process.

Significant information technology and document management capabilities had to be identified, sourced and implemented.

Internal procedures were needed for document review by Commission staff. As law students and part-time contractors were being utilized for this purpose, a training program needed to be developed, implemented and completed before document analysis could begin. Systems are in place to monitor our progress in receiving and analyzing documents.

Pre-Hearing Conferences

The Commission held a pre-hearing conference in Vancouver on January

19, 2011 and in Prince George on January 21, 2011. These pre-hearing conferences gave me an opportunity to explain the purpose of the Commission and provided an opportunity for members of the community to articulate issues that the Commission should be considering, within its terms of reference. The attendance at both of these forums exceeded expectations and significant input was received.

Participants

On January 31, 2011 a hearing was held in Vancouver to hear applications by participants for standing and funding. Upon receiving the submissions it became clear that the evidentiary hearing process was not a practical option to address subsections (c) and (d) of the TOR. Alternatives were considered and in a March 3, 2011 Status Report, I requested that the Government grant the Commission powers of a Study Commission which was done on March 28, 2011.

On May 2, 2011, I released my Ruling on Participation and Funding Recommendations. In the Ruling addressing participation in the Commission's hearing process, I granted participation status to 18 applicants, including individuals, organizations and coalitions. Applicants were granted either Full or Limited Participation status.

Participation was divided into Full and Limited Participation to recognize the differences between the applicants and to promote their efficient participation in the evidentiary hearings. I believe the creation of two levels of participation best achieves the Commission's objective to fully explore all issues from multiple perspectives in a timely manner.

The 10 Full Participants share common interests: they are primarily focused on the factual issues under Terms of Reference 4(a) and (b). Several also share other characteristics as grass roots advocacy and service organizations that have direct and daily contact with the community, including with many of the women who were reported missing.

The eight Limited Participants are those organizations primarily focused on the policy issues of the Commission's mandate. They also share common characteristics: several are experienced political or policy organizations that have demonstrated a long standing commitment to many of the policy issues the Commission will confront. I expected that these groups will be extremely valuable in assisting the Commission make recommendations for missing women and homicide investigation and the coordination of investigations by multiple police forces.

Neither Full Participations nor Limited Participants were excluded from either of the two distinct processes of the Commission - the hearing and study commission portions - but the nature of their participation will be different.

Full Participants were granted the right to participate in all phases of the evidentiary hearings and exercise all rights to participate at those hearings including cross-examining witnesses and making submissions. They were also granted access to the documents disclosed to the Commission.

Limited Participants were granted the same right of access to documents as Full Participants. While they were not granted an automatic right to cross-examine witnesses, they were granted leave to apply on an individual witness basis. They were also granted the right to make final submissions at the conclusion of the evidentiary hearings.

In addition to granting participation status, the Ruling also addressed the applications for funding recommendation. I was satisfied the 13 applicants who sought funding recommendations would not be able to participate in the hearing portion of the Commission without funding. Therefore, I recommended to the Attorney General that these participants receive financial assistance to pay for legal counsel to facilitate participation appropriate to the extent of their interest: that grants of funding be tailored to the level of participation that each applicant was granted.

Government Funding Decision

In a media release on May 19, 2011, the Attorney General announced only one group, the families of missing and murdered women as represented by A. Cameron Ward (the “Families”), would receive funding. The other 12 groups that I recommended receive funding did not receive financial assistance to participate in the hearing portion of the Commission.

Understandably, the participants who were denied funding have raised concerns regarding their ability to participate in the Commission without financial assistance. In statements to the media and letters to the government they have challenged the Attorney General’s decision.

To better understand the participants’ concerns, I asked Senior Commission Counsel, Art Vertlieb, Q.C., on May 24, 2011 to meet with counsel for the participants that were denied funding to determine what could be done to meet the participants’ needs. After Senior Commission Counsel met with participants, he instructed me to hold a pre-hearing conference to provide participants with an opportunity to make submissions to me about how the Attorney General’s funding decision affects their interests.

On June 7, 2011, I made an announcement regarding the pre-hearing conference. In it, I requested that participants address:

- Their need to be represented by legal counsel at the hearing portion of the Inquiry;
- How their interests may be impacted if funding for legal counsel is not provided; and
- A description of the communication they had with the Attorney General’s office with respect to: any input that was sought from

them to help the Attorney General's office make a decision about funding and whether any basis was provided to them for the denial of funding.

The pre-hearing conference will be held on June 27th, 2011.

I am concerned about the effect of the Attorney General's funding decision on the Commission. The Commission is dedicated to ensuring that it is thorough and fair and that all perspectives, identified as unique, necessary and valuable in the Ruling on Participation and Funding Recommendations, are adequately represented. The Commission believes this is necessary to ensure it fulfills its mandate under the Terms of Reference. Therefore, the Commission is considering options to address the concerns that arise due to the Attorney General's decision.

Despite the set-back that the refusal to fund participants has had on the Commission, Commission staff are continuing to carry out the work of the Commission on a number of fronts.

The Commission – Phase 2

On May 31, 2011, Phase 1 of the Commission's work ended and Phase 2 has now begun. This phase involves preparation for the hearing and study processes. The hearings are scheduled to begin on October 11, 2011 in Vancouver. The Commission had hoped to start the hearings in June 2011 in the Federal Courtroom in Vancouver. However, the courtroom became unavailable due to use by the Cohen Commission of Inquiry. Other facilities are currently being considered but as yet no other suitable court facilities have been found.

Hearing Commission Preparation

It has been decided that the hearing process will be divided into four topical parts:

1. Downtown Eastside community, victims' families and government issues;
2. The decision to stay charges against Robert Pickton in 1998. An expert witness has been engaged to assist the Commission to review the Crown decision;
3. The actions of the VPD with respect to the missing women investigations;
4. The actions of the RCMP with respect to the missing women investigations.

As noted in the Commission's first Status Report dated March 3, 2011, Commission staff worked with the RCMP, VPD, and CJB on document disclosure soon after the Commission was established. Each provided Commission staff with a list of document categories and a schedule for document delivery.

The Commission has received document disclosure from the following participants:

- RCMP, represented by the Government of Canada
- VPD
- CJB
- the Families
- CRAB – Water for Life
- First Nations Summit

The Commission has also received document disclosure from the following third parties:

- Justice Institute of BC
- Canadian Police College

As of May 31, 2011, Commission staff and DC Evans and her staff have begun interviewing potential witnesses for the four segments of the hearing.

	Witnesses
Persons interviewed	44
Potential Witnesses identified:	
Community/Family/Govt. Hearing session	7
VPD	1
RCMP	
Crown	Expert report is on schedule for August

As of May 31, 2011 the Commission has begun receiving and reviewing documents electronically.

	Disclosure
Pages of Disclosure Received	121,948
Pages Reviewed	80,126
Work in Progress	41,822
Participants online	7

In addition to the electronic disclosure noted above, the Commission will conduct an on-site review of 87 boxes of hard copy disclosure from participants.

The Commission requests that all participants provide documents relevant to the Commission's Terms of Reference as soon as they are able to do so in order to ensure that all participants have access to document disclosure in advance of the evidentiary hearings.

As detailed in the Ruling on Participation and Funding Recommendations, both Full and Limited Participants are entitled to access documents disclosed to the Commission. On May 5, 2011, the Commission sent out an information package to participants about document access.

To access the documents, counsel for participants must sign an Undertaking of Counsel. For that reason, documents must be accessed through counsel. As outlined in the Undertaking of Counsel, certain persons are also permitted to view the documents once they have signed a Confidentiality Agreement. In order to provide copies of documents to persons enumerated in the Undertaking of Counsel, participants' counsel must receive approval from the Commission in the approved form.

Once a participant provides the Commission with a signed Undertaking of Counsel, the Commission will set up the participant's access to the disclosure database. Each participant will be able to access the disclosure database through a user ID and password provided by the Commission; each participant will only be able to access the database from one IP address as provided to the Commission.

Documents are accessible to participants through Concordance FYI Reviewer ("Concordance"). Concordance allows participants to search and tag documents. Documents will be imported and numbered in Concordance in the order they are disclosed to the Commission.

To date, the following participants have provided the Commission with Undertakings of Counsel and have been granted access to the disclosure database:

- Vancouver Police Department
- RCMP, represented by the Government of Canada
- the Families
- BC Civil Liberties Association
- Vancouver Area Network of Drug Users, Walk4Justice and Frank Paul Society
- Coalition of Sex Worker-Serving Organizations
- The Committee of the February 14th Women's Memorial March
- First Nations Summit
- PIVOT Legal Society
- Carrier Sekani Tribal Council
- Vancouver Police Union

Lay Witness Identification

For the past several months, Commission staff have worked to identify individuals with relevant information regarding the Commission's Terms of Reference. Specifically, the Commission has sought to discover members of the community who may have information about the missing women's investigations or about the missing and murdered women themselves. Through this process, Commission staff hopes to identify witnesses for the Commission's evidentiary hearings.

In an email sent on May 23, 2011, Commission staff requested that participants provide a list of potential witnesses to the Commission. Unfortunately, because many of the participants lack funding, they have been unable to do the work necessary to identify potential witnesses for the Commission.

As a result, Commission staff must identify and find potential witnesses without the participants' valuable advice and expertise. This is particularly challenging with regard to community witnesses. The Commission lacks the long standing relationships of trust that some participant organizations have established with community members of the Downtown Eastside of Vancouver ("DTES"). This means that some witnesses may be unwilling to speak to Commission staff and testify during the Commission's hearings.

Nevertheless, the Commission is trying to identify potential witnesses in other ways including information provided by participants, document disclosure, media articles on the investigation and interested individuals contacting the Commission directly. Some potential witnesses are identified through other witness interviews when names of people with relevant information are provided.

In spite of the challenges outlined above, Commission staff have conducted 23 interviews with potential community witnesses. The areas addressed in the interviews include:

- The lives of the missing and murdered women, including their vulnerability, experiences of violence and relationships with service organizations in the DTES;
- The relationship between the DTES community, particularly sex trade workers, and the police;
- The interaction between missing and murdered women's families or friends and the police, particularly in initiating and investigating missing persons reports or homicides;
- The efforts of community members or families to bring attention to the missing women case; and
- The perception of the missing women case in local government.

Expert Witness Identification

In addition to seeking lay witnesses, Commission staff have also endeavored

to identify expert witnesses who can provide a context to understand the missing women investigations. Expert witnesses, through years of dedicated study and research, will be able to explain the circumstances of sex trade workers in the DTES – the subjects of the missing women investigations and, ultimately, the victims of Robert Pickton – which will enable the Commission to make findings of fact with respect to the missing women investigation and the CJB’s decision to stay charges against Robert Pickton, and above all, make recommendations that will benefit future missing women’s investigations.

Commission staff have taken the same approach to identify expert witnesses as lay witnesses: through information provided by participants, document disclosure, media articles on the missing women investigations, referrals by witnesses and, as above, through direct contact from interested individuals.

To date, Commission staff have conducted interviews with six potential expert witnesses. The areas addressed in the interviews include:

- A portrait of the lives of sex trade workers in the DTES;
- The relationship between police and sex trade workers in the DTES;
- The experiences of violence against sex trade workers in the DTES;
- A portrait of drug use in the DTES and the impact of drug use on vulnerability to violence;
- Personal history of several of the missing and murdered women;
- Stereotyping of Aboriginal people and the effects of stereotyping on the quality of police protection for Aboriginal people in the DTES; and
- The issues faced by the Commission in interviewing vulnerable witnesses.

Police Witnesses

As of May 31, 2011 Commission staff and DC Evans and her staff have begun interviewing potential witnesses for the four segments of the hearing.

Study Commission Preparation

The following study commission activities are underway:

- Relevant Literature Review and Analysis.
- Policy Issues/Discussion Papers. This will be an information gathering process that will request input and pose open-ended questions. The primary issues will be:
 - (a) Police protection of marginalized and vulnerable women;
 - (b) The structure and operation of policing in BC;
 - (c) The coordination and/or regionalization of policing in BC;
 - (d) The initialization and coordination of missing women investigations and suspected homicides;
 - (e) Police partnerships with the media and the community.

- Major Research Papers.
 - Papers will be prepared for items (a) through (e) above.
 - Analysis of Missing Persons reporting practices from 1997-2002 and current day.
- Focused Research.
- Community Forums/Roundtables.
 - Northern BC
 - West portion of the Highway of Tears (Prince Rupert and Terrace area)
 - East portion of the Highway of Tears (Vanderhoof and Burns Lake area)
 - South of Prince George (Williams Lake area)
 - Downtown Eastside of Vancouver.

Further progress reports will be issued in due course.

PART TWO

OTHER COMMISSION DOCUMENTS

PART 2 – OTHER COMMISSION DOCUMENTS

A. Commission Personnel

Commissioner

The Honourable Wallace T. Oppal, QC

Commission Counsel

Art Vertlieb, QC, *Senior Commission Counsel*

Karey Brooks, *Associate Commission Counsel*

Salima Samnani, *Associate Commission Counsel* (December 2010 - January 2012)

Sarah Sharp, *Junior Commission Counsel* (starting April 2012)

Policy

Melina Buckley, *Policy Counsel*

Elizabeth Welch, *Policy Researcher* (October 2010 - October 2012)

Brenda Belak, *Policy Researcher* (February 2012 - October 2012)

Jennifer Chan, *Junior Policy Counsel* (October 2010 - September 2011)

Research

Judy Thompson, *Manager of Records and Research*

Jessica McKeachie, *Research Counsel* (October 2010 - July 2012)

Sarah Parker, *Legal Researcher* (April 2011 - October 2012)

Ajit Dhillon, *Assistant* (Summer 2011)

Document Analysts

Katelyn Crabtree (May 2011 - October 2012)

Rahul Aggarwal (April 2011 - July 2012)

Jessica Taylor (May 2011 - May 2012)

Seth Cooper (March 2011 - August 2011)

Christopher Hunter (Summer 2011)

Consultant Counsel and Advisors

Patrick Kelly, *Aboriginal Advisor and Director*

Linda Locke, QC, *Ad Hoc Counsel and Aboriginal Advisor*

Shelley Sugarman, *Ad Hoc Counsel*

Mavis Erickson, *Ad Hoc Counsel and Advisor* (November 2010 - August 2011)

Barry Stuart, *Process Consultant* (December 2011 - May 2012)

Glenn Sigurdson, QC, *Process Consultant* (December 2011 - May 2012)

Steve Sweeney, *Research Consultant* (Summer 2011)

Brenda Belak, *DTES Consultation Program* (Fall 2011)

Administration

John Boddie, *Executive Director of Operations and Planning*

Christina Burton, *Executive Assistant and Finance Administrator* (starting September 2011)

Robyn Kendall, *Executive Assistant and Finance Administrator* (October 2010 - October 2011)

Roxanne Jones, *Administrative Assistant* (starting July 2011)
 Judy Rendek, *Office Manager* (October 2010 - March 2012)
 Tanya Joostema, *Receptionist* (November 2010 - June 2011)
 Jonna Milledge, *Administrative Assistant* (April 2012 - June 2012)

Hearing Registrar

Leonard N. Giles

Transcription Service

United Reporting Service

Media and Communications, Report Editing, Proofreading and Production Management

AHA Creative Strategies Inc.

- Ruth Atherley, *Media and Communications Director, Editor of Report*
- Paul Holman
- Lexa Pomfret
- Laurie Hanley

Sue Chiu, *Webmaster and Report Design and Layout*

Christopher Freimond, *Media and Communications Consultant*
 (September 2010 - March 2012)

B. Participants and Counsel

Participants and Counsel

Participant	Counsel/Representative
Aboriginal Interests	Suzette Narbonne, Elizabeth Hunt and Robyn Gervais
Inspector Don Adam	Janet Winteringham, QC
Deputy Commissioner Gary Bass	Richard Peck, QC
Inspector Fred Biddlecombe	David Neave
Chief Constable Terry Blythe	Edward Greenspan, QC and Vanessa Christie
Marion Bryce	Darrell Roberts, QC and Irwin Nathanson, QC
Sandra Cameron	Karlene Bateman

CRAB – Water for Life Society	Don Larson* and Kelly White*
Criminal Justice Branch	Leonard Doust, QC and Michael Feder
Inspector Dan Dureau	Kevin Woodall
Families of Sereena Abotsway, Andrea Borhaven, Heather Bottomley, Marcella Creison, Dawn Crey, Tiffany Drew, Cara Ellis, Cynthia Feliks, Marnie Frey, Helen Hallmark, Janet Henry, Tanya Holyk, Angela Jardine, Andrea Joesbury, Debra Jones, Stephanie Lane, Maria Laura Laliberte, Diana Melnick, Jacqueline Murdock, Georgina Papin, Dianne Rock, Elsie Sebastian, Olivia William, Angela Williams, Mona Wilson, Brenda Wolfe	Cameron Ward and Neil Chantler
Acting Sergeant Doug Fell	Kevin Woodall and Claire Hatcher
Staff Sergeant Brock Giles	David Butcher, QC and Anila Srivastava
Government of Canada, Department of Justice	Cheryl Tobias, QC, Jan Brongers, Judith Hoffman, Andrew Majawa and Rory Makosz
Deputy Chief Constable Gary Greer	Roderick Henderson
Interests and Perspectives of Individuals and Organizations in the Downtown Eastside	Jason Gratl
Deputy Chief Constable Brian McGuinness	Greg DelBigio, QC
Assistant Commissioner Earl Moulton	Ravi Hira, QC

Dr. Kim Rossmo	Mark Skwarok
Deputy Chief Constable John Unger	Edward Greenspan, QC and Vanessa Christie
Vancouver Police Department and Vancouver Police Board	Sean Hern and Tim Dickson
Vancouver Police Union	E. David Crossin, QC and Elizabeth France
VANDU	Ann Livingston* and Marlene Basil*
Detective Constable Mark Wolthers	Kevin Woodall and Claire Hatcher

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C. Witnesses at Evidentiary Hearings

Inspector Don Adam, RCMP (retired)

Mr. Adam was sworn in to the RCMP in 1971. In 2000, he worked for the RCMP's Serious Crime Unit as a Special Projects Investigator. From 2001 until 2004, Mr. Adam was the Team Commander for the JFO for the missing women investigations (Project Evenhanded). He retired as an inspector in 2007 and currently works as a civilian employee for the RCMP.

February 15, 2012

February 16, 2012

February 29, 2012

March 7, 2012

Elaine Allan, Former employee of WISH Drop-in Centre

Ms. Allan has a Bachelor of Arts and Communications from Carleton University. She worked at WISH Drop in Centre from 1998 to 2001. From 2001 to 2006, Ms. Allan worked for Corrections Canada. She is currently the Executive Director for Shelter Net BC.

November 1, 2011

Catherine Astin, Former street nurse

Ms. Astin is a registered nurse. She has a Master's Degree in Nursing from the University of British Columbia. From 1999 until 2005, she worked as a street nurse in the Downtown Eastside. She currently works as a Community Health Nurse at Sheway in the Downtown Eastside.

October 19, 2011

Deputy Commissioner Gary Bass, RCMP (retired)

Mr. Bass was sworn in to the RCMP in 1972. His career with the RCMP was focused in homicide investigations. From January 1997 through July 2000, he was the Inspector and Chief Superintendent in charge of the E Division Major Crimes Section. In July 2000, he was promoted to Assistant Commissioner as the Officer in charge of the Criminal Operations, E Division. Mr. Bass retired as Deputy Commissioner in 2011.

May 16, 2012

May 23, 2012

Morris Bates, Former Victim Assistance Worker, Vancouver Police and Native Liaison Society

Mr. Bates is from the Sugar Cane Reservation in Williams Lake, BC. He

began as a volunteer at the Vancouver Police and Native Liaison Society in June 1993 and moved into a full-time position as a youth counsellor and victim assistance worker. Mr. Bates worked with the VPNLS until it was shut down in 2003.

April 2, 2012

April 3, 2012

Inspector Chris Beach, VPD (retired)

Mr. Beach joined the VPD in 1975. Mr. Beach was an inspector and commanding officer for District 2, from January 1999 to November 2001. He was promoted to Inspector in charge of Major Crimes in November 2001. Mr. Beach retired from the VPD in 2005.

March 5, 2012

March 6, 2012

March 8, 2012

March 12, 2012

Lilliane Beaudoin, Family member of Dianne Rock

Ms. Beaudoin is the sister of Dianne Rock. She has three other siblings and two children. She worked as a health care aide and is currently retired in Welland, Ontario.

October 27, 2011

Inspector Fred Biddlecombe, VPD (retired)

Mr. Biddlecombe was sworn in to the VPD in 1970. He was Inspector in Charge of the Major Crime Section from January 1998 to October 1999. He retired in September 2000.

April 24, 2012

April 25, 2012

April 26, 2012

Lisa Bigjohn, Family member of Mona Wilson

Ms. Bigjohn is the older sister of Mona Wilson. She has five other siblings. Ms. Bigjohn has four daughters and three grandchildren. She is a member of O'Chiese First Nation and lives in Edmonton, Alberta. Ms. Bigjohn is a survivor of residential school.

April 17, 2012

Chief Constable Terry Blythe, VPD (retired)

Mr. Blythe joined the VPD in 1969. He was Deputy Chief Constable in charge of the Operations Division in Vancouver from August 1996 to June 1999. He was promoted to Acting Chief Constable of the VPD in June 1999, and appointed Chief Constable in December 1999. Mr. Blythe retired in 2002.

February 20, 2012

February 21, 2012

February 22, 2012

Marion Bryce, Family member of Patricia Johnson

Ms. Bryce is the mother of Patricia Johnson and grandmother to Patricia's two children. She currently resides in Vancouver.

December 16, 2011

Sandra Cameron, VPD Civilian Clerk (retired)

Ms. Cameron worked as a clerk in the Missing Persons Unit of the Vancouver Police Department from September 1979 until 2001. Ms. Cameron retired in 2005.

April 23, 2012

April 24, 2012

Cynthia Cardinal, Family member of Georgina Papin

Ms. Cardinal is a sister of Georgina Papin and one of nine siblings. Ms. Cardinal belongs to the Ermineskin Nation. She has seven children. Her mother and two of her sisters were sent to residential school. Ms. Fowler's mother belonged to the Ermineskin First Nation as well.

April 17, 2012

Constable Ruth Chapman (Yurkiw), RCMP (retired)

Ms. Chapman was sworn in to the RCMP in 1978. She was a constable and Lead Investigator for the Pickton file with the Coquitlam RCMP from the end of August 1999 to August 2001, when she retired.

May 14, 2012

May 15, 2012

Detective Constable Mark Chernoff, VPD (retired)

Mr. Chernoff was sworn in to the VPD in 1984. He worked as an investigator for the Missing Women Review Team from May 1999 to November 1999. He worked with Project Evenhanded in 2002 after Pickton's arrest. Mr. Chernoff retired in 2010.

May 11, 2012

Staff Sergeant Mike Connor, RCMP (retired)

Mr. Connor was sworn in to the RCMP in 1975. From November 1994 to August 1999, Mr. Connor worked as a corporal in Coquitlam RCMP's Serious Crime Unit (SCU). He was the Lead Investigator in the investigation into the attempted murder charges against Robert Pickton arising from the Anderson assault in March 1997. From August 1998 until August 1999, he worked as the Lead Investigator and File Coordinator in the investigation of Pickton in relation to the missing women. In August 1999, Mr. Connor was promoted to Sergeant and transferred from the SCU. He transferred back to the SCU in March 2001, and was the Sergeant in charge of the SCU until May 2003. He retired with the rank of Staff Sergeant in 2011.

February 6, 2012

February 7, 2012

February 8, 2012

February 9, 2012

Randi Connor, Crown Counsel

Ms. Connor was called to the British Columbia Bar in January 1980. She has worked as Crown Counsel since 1982. In late 1997, Ms. Connor was assigned as the Crown Counsel for the attempted murder charges against Pickton from March 1997. She was on the file until the charges were stayed in January 1998.

April 10, 2012

April 11, 2012

April 12, 2012

Ernie Crey, Family member of Dawn Crey

Mr. Crey is the older brother of Dawn Crey, one of nine siblings. His father was a residential school survivor. Mr. Crey is a member of the Stó:lo Nation of Coast Salish Peoples. Mr. Crey graduated from Thompson Rivers University with a diploma in social work. He currently works as a fisheries advisor and consultant. Mr. Crey is presently a student at Antioch University doing a Master's Degree in Conflict Analysis and Engagement. He has five children.

October 26, 2011

October 27, 2011

Lorraine Crey, Family member of Dawn Crey

Ms. Crey is the younger sister of Dawn Crey, one of nine siblings. Ms. Crey worked as a property manager for many years with the Lu'Ma Aboriginal Housing Society in the Downtown Eastside.

October 27, 2011

Staff Sergeant Dwight Dammann, RCMP (retired)

Mr. Dammann was sworn in to the RCMP in 1970, and worked at the Campbell River RCMP detachment from 1990. From August 1997 to August 1998, he was a sergeant and the Officer in Charge of the General Investigative Sections. He was involved in the investigation into the disappearance of Marnie Frey.

April 4, 2012

Inspector Keith Davidson, RCMP (retired)

Mr. Davidson was sworn in to the RCMP in 1975. He was a criminal profiler with the RCMP's E Division, Criminal Investigative Analysis Unit, from 1995 to 2001. Mr. Davidson was involved in the missing women investigations on an ad hoc basis between September 1998 and October 2001. He retired in 2010.

May 24, 2012

Susan Davis, Community advocate

Ms. Davis is an independent escort and advocate for sex workers' rights. She is the Development Co-ordinator for the West Coast Cooperative of Sex Industry Professionals and a member of the BC Coalition of Experiential Communities. She also volunteers for several committees and groups. She has given lectures and training at many colleges, universities, government organizations, as well as community organizations.

October 31, 2011

Maggie de Vries, Family member of Sarah de Vries

Ms. de Vries is the older sister of Sarah de Vries. She has a Master's Degree in English from the University of British Columbia. Ms. de Vries is an author and a professor of creative writing at UBC. She is the author of the book *Missing Sarah: A Memoir of Loss* (Toronto: Penguin Group, 2008).

February 27, 2012

February 28, 2012

Rae-Lynne Dicks, Former 911 Call taker

Ms. Dicks was a 911 call taker for the Vancouver Police Department. She began working in the VPD Communications Centre in October 1995. In June 1999, she transferred to E-Comm at the Regional Communications Centre and worked there until 2004. Ms. Dicks has a Bachelor's Degree in Criminology from Kwantlen Polytechnic University. She is currently working on her Master's degree at the University of the Fraser Valley.

April 23, 2012

April 24, 2012

Constable Dave Dickson, VPD (retired)

Mr. Dickson was sworn in to the VPD in 1980. In 1995, Mr. Dickson was assigned as the Community Liaison Officer in the Downtown Eastside. In March 1997, he helped the Provincial Unsolved Homicide Unit with their investigation into a list of 71 missing or murdered Aboriginal women. From April 1999 to June 2000, he assisted the Missing Women Review Team, part-time. He retired in 2005 and was rehired in 2006 as a civilian by the VPD to be the Sex Trade Liaison Officer until 2008.

March 5, 2012

March 6, 2012

March 8, 2012

March 12, 2012

Ujjal Dosanjh, Former Attorney General

Mr. Dosanjh graduated from law school in 1976. From August 1995 to February 2000, Mr. Dosanjh was the Attorney General of British Columbia. He was the Premier of British Columbia from February 2000 until May 2001. In June 2004, he was elected as a Member of Parliament and continued in that position until May 2011.

May 17, 2012

Inspector Dan Dureau, VPD (retired)

Mr. Dureau joined the VPD in 1975. From October 1999 to April 2000, Mr. Dureau was the Acting Inspector for the Major Crime Section for the VPD. He was promoted to Inspector in April 2000 and moved to another section. Mr. Dureau retired in 2005.

April 24, 2012

April 25, 2012

April 26, 2012

Lori-Ann Ellis, Family member of Cara Ellis

Ms. Ellis is the sister-in-law of Cara Ellis. She works for a real estate company in Calgary and Kelowna. Ms. Ellis has two children. She currently lives in Calgary.

October 24, 2011

October 25, 2011

Freda Ens, Former Director, Vancouver Police and Native Liaison Society

Ms. Ens is a member of the Haida Nation. Her parents were residential school survivors. She started working at the Vancouver Police and Native Liaison Society (VPNLS) as a victim support worker in November 1991. She became the Director of the VPNLS in March 1994 and remained with the society until 2003. Ms. Ens currently works with provincial Victim Services as a case worker.

April 2, 2012

April 3, 2012

Chief Constable Jennifer Evans, Peel Regional Police

Ms. Evans joined the Peel Regional Police in Ontario, Canada in 1983. She has extensive experience in police investigations and administration. Her policing experience includes being a part of Justice Campbell's review team regarding the Paul Bernardo investigation from January to June 1996. She provided an expert report on the Pickton investigation to assist the Commission. Ms. Evans is currently the Chief Constable for the Peel Regional Police.

January 16, 2012

January 17, 2012

January 18, 2012

January 19, 2012

January 20, 2012

Acting Sergeant Doug Fell, VPD

Mr. Fell joined the VPD in 1984. He worked as a detective constable for the VPD's Missing Women Review Team from May 1999 to May 2000.

May 9, 2012

Bonnie Fournier, Psychiatric Nurse (retired)

From 1978 to 1998, Ms. Fournier worked as a nurse in the Provincial Court holding cells. In 1998, she began as a street nurse for DEYAS with their Health Outreach Van and remained there until 2003.

May 17, 2012

Bonnie Fowler, Family member of Georgina Papin

Ms. Fowler is a sister of Georgina Papin. She is the youngest of nine children. Ms. Fowler belongs to the Enoch Cree Nation. Her mother and two of her sisters were sent to residential school. Ms. Fowler's mother belonged to the Ermineskin First Nation.

April 17, 2012

Lynn Frey, Family member of Marnie Frey

Ms. Frey is the stepmother of Marnie Frey. She and her husband adopted Marnie's daughter. Ms. Frey works as a care aide and lives in Campbell River.

October 24, 2011

Sandra Gagnon, Family member of Janet Henry

Ms. Gagnon is the sister of Janet Henry and reported that she has eleven or twelve siblings. She is from the 'Namgis First Nation. The Native Women's Association of Canada facilitated her attendance at Parliament Hill to speak at a vigil for missing and murdered Indigenous women.

April 16, 2012

April 17, 2012

Margaret Green, Family member of Angela Williams

Ms. Green is the legal guardian for two of Angela Williams' children. She worked as a community worker in the Downtown Eastside and is now retired and living in Fanny Bay, BC.

October 26, 2011

Deputy Chief Constable Gary Greer, VPD (retired)

Mr. Greer joined the VPD in 1972. From 1996 to January 1999, Mr. Greer was in charge of District 2 with the rank of Inspector. He was promoted to Deputy Chief Constable of the Administrative Division and transferred to the position of Deputy Chief Constable in charge of Operations in April 2000. He retired in 2003.

March 5, 2012
March 6, 2012
March 8, 2012
March 12, 2012

Corporal Mike Hall, RCMP

Mr. Hall became a member of the RCMP in October 2000. He is currently a corporal with the Surrey RCMP Major Crime Section, Unsolved Homicide Unit. Since July 2007, he has had conduct of the Angela Williams investigation. Mr. Hall has a Bachelor's Degree in Human Kinetics from the University of British Columbia.

April 4, 2012

Superintendent Ric Hall, RCMP (retired)

Mr. Hall joined the RCMP in 1965. He was the officer in charge of the Coquitlam RCMP Detachment from May 1998 until October 2004. Mr. Hall retired in 2005.

February 23, 2012

Jamie Lee Hamilton, Community activist

Ms. Hamilton is a community activist in the Downtown Eastside. Her mother was one of the founders of Vancouver's Aboriginal Friendship Centre. Ms. Hamilton advocated for a reward for the missing women, as well as more resources to help investigate the disappearances. In 1993, Ms. Hamilton opened the Rainbow Room, which became Grandma's House in 1996. Grandma's House was a safe house for sex trade workers, which she operated until it was shut down in August 2000.

February 27, 2012
February 28, 2012

Constable Tamara Hammell, VPD

Ms. Hammell was sworn in to the VPD in 1990. She is a constable working in VPD's District 1. She has been an instructor for the Police Academy and the VPD.

May 18, 2012

Corporal Frank Henley, RCMP (retired)

Mr. Henley joined the RCMP in April 1974. He worked as a corporal with the Provincial Unsolved Homicide Unit from September 1996 until October 2002. In the summer of 1999, Mr. Henley assisted with the Coquitlam RCMP's investigation into Pickton, and conducted interviews with Lynn Ellingsen. He retired in 2002.

May 14, 2012

May 15, 2012

Kenney Holmberg, RCMP Civilian File reviewer

Mr. Holmberg is a retired RCMP officer who currently works for the RCMP as a civilian file reviewer. He was assigned to review files for the RCMP's Missing Women Commission of Inquiry Liaison team, Project e-Veritas.

May 17, 2012

Dr. Kathleen Horley, Reporting scientist

Dr. Horley received her Ph.D. from the University of British Columbia in microbiology and immunology. She was hired as a biology analyst in March 1998 with the RCMP National Forensic Services. She became a reporting scientist for the RCMP in October 2000. Dr. Horley worked with the Missing Women Task Force and Project Evenhanded doing reviews.

April 4, 2012

Detective Constable Jay Johns, VPD

Mr. Johns was sworn in to the VPD in 1989. From 1994 to 1998, Mr. Johns was assigned to work with the Vancouver Police and Native Liaison Society.

April 2, 2012

April 3, 2012

Chris Joseph, Family member of Olivia William

Mr. Joseph is the older brother of Olivia William. He was the oldest of three children. He grew up on the Lake Babine Nation Reserve in Burns Lake. Mr. Joseph lives in Surrey.

April 18, 2012

Sergeant Ron Joyce, VPD (retired)

Mr. Joyce became a sworn member of the VPD in February 1972. In 1995, he worked in the communications centre as a sergeant for the VPD. Mr. Joyce retired in 2001.

May 11, 2012

Dr. Thomas Kerr, Research scientist, BC Centre for Excellence in HIV/AIDS

Dr. Kerr is an expert in educational psychology, with particular knowledge in health and counselling psychology, illicit drug use and public health and related research methods. In April 2003, Dr. Kerr received his doctorate in health psychology from the University of Victoria. He currently works as a research scientist at the British Columbia Centre for Excellence in HIV/AIDS and is an associate professor in the Department of Medicine at the University of British Columbia. He authored an expert report for the Missing Women Commission of Inquiry with respect to drug dependency and women involved in street sex trade in the Downtown Eastside of Vancouver.

October 19, 2011

Detective Constable George Lawson, VPD

Mr. Lawson was sworn in to the VPD in 1990. He was assigned to work with the Vancouver Police and Native Liaison Society from 1993 to 1999. His parents are residential school survivors.

April 2, 2012

April 3, 2012

Wayne Leng, Advocate for the missing women

Mr. Leng was a close friend of Sarah de Vries. He was an advocate for the reward for the missing women and set up a tip line for information regarding the missing women. Mr. Leng also has a website dedicated to the missing women.

February 27, 2012

February 28, 2012

Deputy Chief Constable Doug LePard, VPD

Mr. LePard has a Bachelor of Arts with a Major in Criminology from Simon Fraser University. He has been with the VPD since 1981 and is currently the Deputy Chief Constable in charge of the Operations Division. He authored a report in 2010 on the Missing Women Investigation, which was a review to look into general failures by the VPD and to provide recommendations.

November 7, 2011
November 8, 2011
November 9, 2011
November 21, 2011
November 22, 2011
November 23, 2011
November 24, 2011
November 28, 2011
November 29, 2011
November 30, 2011
December 1, 2011
December 15, 2011
May 18, 2012
May 23, 2012

Detective Ron Lepine, VPD (retired)

Mr. Lepine was sworn in to the VPD in 1971. He worked as a detective for the Missing Women Review Team from May 1999 to November 1999. Mr. Lepine retired in 2000.

May 11, 2012

Dr. John Lowman, Criminologist and Professor

Dr. Lowman has a Bachelor of Arts degree from Sheffield University. He received his Master's Degree in Geography from York University in 1976 and his doctorate in geography from the University of British Columbia in 1983. He is considered an expert in the field of criminology. From 1994 to 2004, he was a member on the board for PACE. He has been teaching at Simon Fraser University since 1985. He authored an expert report for the Commission with respect to the conditions of the women's lives and, in particular, their vulnerabilities to violence.

October 13, 2011
October 17, 2011
October 20, 2011

Staff Sergeant Murray Lunn, RCMP

Mr. Lunn became a member of the RCMP in 1970. He was the officer in charge of site security for the Pickton property during its search from 2002 until 2005. In 2003, he was the Victim Assistance Coordinator for the Missing Women Task Force. In March 2004, Mr. Lunn became Project Evenhanded's Family Liaison Officer. He retired in 2005.

April 5, 2012

Andrew MacDonald, Acting Regional Crown Counsel

Mr. MacDonald is the Acting Regional Crown Counsel for the Fraser Region. He provided evidence to the Commission on Crown policy and procedures in regards to storage, retention and destruction of files such as the file on Pickton relating to his attempted murder of Ms. Anderson.

April 12, 2012

Staff Sergeant Doug MacKay-Dunn, VPD (retired)

Mr. MacKay-Dunn joined the VPD in 1972. From April 1998 to April 2000, Mr. MacKay-Dunn was working as a staff sergeant in District 2, which includes the Downtown Eastside. He retired in October 2001.

March 5, 2012

March 6, 2012

March 8, 2012

March 12, 2012

Maureen Maloney, Former Deputy Attorney General

Ms. Maloney has a degree in law from England. After moving to BC, she became a professor and later the Dean of University of Victoria Law School. She was the first female dean in BC. Ms. Maloney became the Deputy Attorney General of British Columbia until January 2000. She is currently a professor of the Graduate School of Public Policy at Simon Fraser University.

May 17, 2012

Donna Marshall-Cope, VPD civilian employee

Ms. Marshall-Cope started working at the VPD in September 1982. She worked at the Vancouver Communications Centre from 1986 to 1999. In February 1999, Ms. Marshall-Cope worked as a manager with E-Comm, the communications centre for southwest British Columbia. She returned to the VPD in July 2004 as a civilian employee in the Information Management Section where she currently works.

May 11, 2012

Deputy Chief Constable Brian McGuinness, VPD (retired)

Mr. McGuinness joined the VPD in December 1970. From 1999 to March 2000, he was the officer in charge of the VPD's Operations Support Division (which included the Major Crime Section). Mr. McGuinness retired in December 2000.

April 26, 2012

April 27, 2012

Detective Jim McKnight, VPD (retired)

Mr. McKnight joined the VPD in September 1975. He became the Lead Investigator for Project Evenhanded in February 2001. He retired from the VPD in November 2003, and worked for the RCMP as a temporary civilian employee until 2010.

May 24, 2012

Kinder Mottus, Former Vancouver Police Board Member

Ms. Mottus has worked for the British Columbia Government and Services Employees' Union since 1986. Her most recent position was the Representative for the Lower Mainland Area office. She was a member of the Vancouver Police Board from 1995 to June 2000.

May 16, 2012

Assistant Commissioner Earl Moulton, RCMP

Mr. Moulton joined the RCMP in 1977. In 1991, he graduated from the University of Saskatchewan with a degree in law. From June 1996 to June 2000, Mr. Moulton was Operations Officer at the Coquitlam RCMP, with the rank of Inspector. He was promoted to Chief Superintendent in June 2000, and transferred to the RCMP E Division in the role of Deputy Criminal Operations for Contract. He retired in November 2005.

May 14, 2012

May 15, 2012

Philip Owen, Former Mayor of Vancouver

In 1986, Mr. Owen became a member of the Vancouver City Council. He served as the Mayor of Vancouver from November 1993 to 2002. During his time as Mayor, he was also a member of the Vancouver Police Board. He helped implement the Four Pillars Drug Strategy. Mr. Owen was awarded the Order of Canada in 2008.

May 16, 2012

Elana Papin, Family member of Georgina Papin

Ms. Papin is a sister of Georgina Papin, one of nine siblings. Her mother and two of her sisters were sent to residential school. Ms. Papin belongs to the Enoch Cree Nation. Ms. Fowler's mother belonged to the Ermineskin First Nation.

April 17, 2012

Daphne Pierre, Family member of Jacqueline Murdock

Ms. Pierre is the sister of Jacqueline Murdock. She is the oldest of 15 siblings. She is a member of the Tl'azt'en Nation. She has eight children and 11 grandchildren.

April 16, 2012

Staff Sergeant Darryl Pollock, RCMP (retired)

Mr. Pollock joined the RCMP in August 1976. He was the Sergeant in charge of the Coquitlam RCMP's Serious Crime Unit from February 1998 until March 2001. He retired in 2007.

May 14, 2012

May 15, 2012

Sergeant Geramy Powell (Field), VPD (retired)

Ms. Powell joined the VPD in 1975. Ms. Powell was the Sergeant in charge of a VPD Homicide Squad from mid-1998, which included supervision of the Missing Persons Unit and Coroner's Liaison. From May 1999 until November 2000, she was the Sergeant in charge of the Missing Women Review Team and still kept her positions in the Homicide Squad and Missing Persons Unit. She retired from the VPD in 2003. She worked for the RCMP as a civilian employee from January 2004 until March 2012.

April 24, 2012

April 25, 2012

April 26, 2012

Lila Purcell, Family member of Tanya Holyk

Ms. Purcell is the aunt of Tanya Holyk. She was born in Port Douglas, BC, one of 14 children, and is a member of the Douglas Band of the Skatin First Nation. Ms. Purcell has a diploma in Microcomputer Business Applications and currently lives in Surrey.

April 16, 2012

Marilyn Renter, Family member of Cindy Feliks

Ms. Renter is the stepmother of Cindy Feliks. She was born in Winnipeg and raised Cindy and her three siblings in British Columbia. Ms. Renter worked for the Department of Fisheries and Oceans for 25 years. She retired in 2000 and currently lives in Rosedale, BC.

April 17, 2012

Susan Robinson, Family member of Mona Wilson

Ms. Robinson is the niece of Mona Wilson. Her mother is a member of the O'Chiese First Nation.

April 17, 2012

Judge Richard Romano, Former Administrative Crown

Mr. Romano was called to the bar in May 1983. From August 1994 until 2003, Mr. Romano worked as an administrative Crown in Port Coquitlam. In December of 2005, he was appointed to the Provincial Court Bench in Abbotsford and he remains there today.

April 19, 2012

Dr. D. Kim Rossmo, Professor and former VPD officer

Dr. Rossmo was sworn in to the VPD in January 1980. In 1996 he earned a Ph.D. in Criminology from Simon Fraser University. He developed geographic profiling as an investigative tool and started a unit based on it within the VPD. From 1996 until 2001, Dr. Rossmo was Detective Inspector in charge of the Geographic Profiling Section. In 1999, he did a case assessment on the missing women from the Downtown Eastside between 1995 and 1999. He is currently the university endowed Chair in Criminology, the Director of the Geospatial Intelligence and Investigation Center, and a Research Professor for Texas State University.

January 24, 2012

January 25, 2012

January 26, 2012

Donnalee Roberta Sebastian, Family member of Elsie Sebastian

Ms. Sebastian is the daughter of Elsie Sebastian. She is a member of the Gitksan after her father and the Pacheedaht First Nation after her mother. She identifies as a member of Hawilget Village. Ms. Sebastian is currently studying nursing and lives in Victoria.

October 25, 2011

Dr. Kate Shannon, BC Centre for Excellence in HIV/AIDS

Dr. Shannon received her Bachelor's Degree in Life Sciences and History from Queens University in 2000. She obtained her Master's Degree in Global Health in 2003 and her Ph.D. in Epidemiology and Public Health in 2008. She is currently a research consultant for many health foundations, initiatives and studies. She is the Director of the Gender and Sexual Health Initiative, as well as Assistant Professor for the British Columbia Centre for Excellence in HIV/AIDS at the University of British Columbia. She provided the Commission with an expert report addressing violence experienced by women in the street sex trade and relationships between police and sex trade workers.

October 17, 2011

October 18, 2011

Detective Constable Lori Shenher, VPD

Ms. Shenher became a sworn member of the VPD in November 1991. In July 1998, she was assigned as an investigator to the Missing Persons Unit. From May 1999 until November 2000, Ms. Shenher was a Key Investigator and File Coordinator for the Missing Women Review Team. She currently works in the Emergency and Operational Planning Section for the Threat Assessment Unit.

January 30, 2012

January 31, 2012

February 1, 2012

February 2, 2012

April 4, 2012

April 5, 2012

Ashley Smith, Family member of Angela Williams

Ms. Smith is the daughter of Angela Williams. She is a member of the Tlowitsis Nation.

October 26, 2011

Jane Smith, Former sex trade worker

In 2000, Ms. Smith was a survival sex trade worker in Vancouver. She is now employed and attending school.

May 17, 2012

Roxana Smith, Victim Services

Ms. Smith has a nursing diploma from the British Columbia Institute of Technology. In January 1998, Ms. Smith was a victim service worker at the Port Coquitlam Courthouse, and worked on the Pickton/Anderson file. Ms. Smith received a certificate from Douglas College in 2006 for Victim Service work. She currently works with the Crime Victim Witness Assistance Program.

April 18, 2012

Bonnie Thiele, Communications operator (retired)

In 1962, Ms. Thiele began working at the VPD as a civilian employee in the Report Centre. From 1976 until her retirement in 1986, Ms. Thiele worked as a communications operator. She returned to the VPD Communications Centre as an auxiliary employee from 1986 to 1996.

May 11, 2012

Deputy Chief Constable John Unger, VPD (retired)

Mr. Unger joined the VPD in July 1971. He was Deputy Chief Constable in charge of the VPD Operations Division from September 1998 to April 1999 and from June 1999 to April 2000. In April 2000, he became the Deputy Chief Constable in charge of the Operational Support Division, where he remained until December 2002. He retired in early 2003.

April 26, 2012

April 27, 2012

Sergeant Ted Van Overbeek, RCMP (retired)

Mr. Van Overbeek was sworn in to the RCMP in 1977. In 1999, he was working at the Burnaby RCMP in the Criminal Intelligence Section. In August 1999, he received information about Pickton from an informant, which he passed to Coquitlam RCMP. In May 2001, he began working as an investigator for Project Evenhanded. He worked for Project Evenhanded until September 2004, and retired in 2010.

April 5, 2012

Elizabeth Watson, Former Vancouver Police Board member

Ms. Watson graduated from the University of British Columbia Law School in 1981. She was called to the British Columbia Bar in July 1982. Ms. Watson was a member of the Vancouver Police Board from 1992 until 1998. From 2001 until 2005, she was the Managing Director of Board Resourcing and Development for B.C.

May 16, 2012

Superintendent Robert Williams, RCMP (retired)

Mr. Williams did an external review in 2002 for the RCMP's Department of Justice to prepare for current and possible civil litigation. The review's purpose was to look into the RCMP's investigation into Pickton from 1963 until 2002, and any failure to provide sufficient resources or failure to communicate with other police forces. Mr. Williams retired as the Superintendent of the Serious Crime Branch for Alberta.

January 11, 2012

January 12, 2012

January 13, 2012

Angel Wolfe, Family member of Brenda Wolfe

Ms. Wolfe is the daughter of Brenda Wolfe. Her Aboriginal name is Woman of Sacred Dreams. She was an Aboriginal Youth Representative at the Truth and Reconciliation Commission, and is involved in the Canadian Roots Foundation, Up with Women Foundation, and Sex Trade 101. She is currently a student and lives in Toronto.

October 27, 2011

Detective Constable Mark Wolthers, VPD (retired)

Mr. Wolthers joined the VPD in 1984. He worked as a detective constable for the Missing Women Review Team from May 1999 to May 2000. He has a Bachelor's Degree in Commerce from the University of British Columbia. He retired from the VPD in 2009.

May 9, 2012

Sergeant Ted Yeomans, VPD (retired)

Mr. Yeomans was sworn in to the VPD in September 1975. He worked in the VPD Communications Centre from 1995 to 1997. He began there as a corporal, and was promoted to sergeant and chief dispatcher during his time at the Communications Centre.

May 11, 2012

D. Elders and Facilitators

Elders

Elder	Involvement with Commission
Chief Martin Adams	Prayer at the Terrace – Nisga'a Northern Community Forum – September 13, 2011
Reena Benson	Prayer at the Gitanyow Northern Community Forum – September 13, 2011
Chief Ian Campbell	Prayer at the Pre-Hearing Conference in Vancouver – January 19, 2011
Mabel Forsythe	Prayer at the Smithers Northern Community Forum – September 14, 2011
Frank Frederick	Prayer at the Pre-Hearing Conference in Prince George – January 21, 2011
Eugene Harry (XiQuelem)	Traditional Opening Ceremony at the Missing Women Commission of Inquiry hearings – October 11, 2011
Rick Harry (Xwalacktun)	Opening and closing prayers for Policy Forums – May 2012; Closing prayer at the Missing Women Commission of Inquiry hearings – June 6, 2012
Shirley Huson	Prayer at the Hazelton Northern Community Forum – September 15, 2011
Lillian Morris	Prayer at the Moricetown Northern Community Forum – September 14, 2011
Mildred Roberts	Prayer at the Terrace – Kitsumkalum Northern Community Forum – September 13, 2011
Murray Smith	Prayer at the Prince Rupert Northern Community Forum – September 12, 2011

Facilitators

Linda Locke, QC – Northern Community Forums

Patrick Kelly – Expert Roundtable on the Structure and Organization of Policing in British Columbia

Deborah Hanuse – Policy Forums
Catherine Rockandel – Policy Forums
Ruth Atherley, Brenda Belak – Commissioner’s Meeting with the Families

E. Submissions to Study Commission

Written Submissions

Cathy Adams
Bruce Allen
Amanda Alexander, Women and Justice Serving Organizations
Gillian Angrove
S. Anthony
David Bazett
Lilliane Beaudoin
Elaine Belanger
Juliet Belmas
Darcie Bennet, PIVOT
Lorne Benson, Town of Smithers
Melinda Bige
Doreen Binder
Michael Blackstock
Kalene Bourque
Christine Boyle, Q.C.
George Bryce
Perry Bulwer
Clayton Burns
Jackie Byrn
Chief Earnest Campbell, Musqueam Indian Band
Brian Coleman
Beverly Coles
Robert Compston
M. Cooper
Marco Costa
Althea Crawford
Ernie Crey
Val Cummings
Ken Curry
Krissy Darch
Gail Davidson, Lawyers Rights Watch Canada
Robin Davidson
Keith Davies
Dave Dickson
Sandy DiPasquale
Lori-Ann Ellis
Mike Everitt
Michelle F.
Families and Front Line Workers
Rick and Bev Faulkner

Sandra Gagnon
Stacy Gallant and Roy Rawluk, Toronto Police
Michele Giordano, Women's Resource Society of the Fraser Valley
Elizabeth Glassford
Sean Golar
Jill Goldberg
Dr. Robert Gordon
Government of Canada
Margaret Green
Ali Hackett
Diedre Hall
Lee Hanlon
John Harvey
Kash Heed
Dave Jaffe
Sarah Jamieson
Nicholas Jones and Rick Ruddell, Regina Police Service
Susanna Kaljur
Nathen Kencayd
Alice Kendall, Downtown Eastside Women's Centre
Alexis Kennedy
Lynne Kennedy
Ray Kielan
Sean Kirkham, Canadian Society for Creative Development and Innovation
Jenny Kwan
Sheila Lamb
Lonnie Landrud
Don Larson, CRAB - Water for Life Society
Paul Latham
Carolyn Law
Marc Legacy
Chris Leischner
Amy Lewis
Ann Livingston, VANDU
Ann-Marie Livingston
Randy Lu
Alice Maitland, Office of the Mayor, Village of Hazelton
Burns Matkins
Dorothy McKee
Susan Meitner
Ty Mistry
Kalika Moody and Irene Willsie, Women's Contact Society
Susan Murphy, Canadian Federation of University Women
Dennis Murray
Jack Mussallem, City of Prince Rupert
Helen Nikal
Joyce O'Brien
Tamara O'Doherty
Collette Oseen

Ken Paisley
Annie Elizabeth Parker
Millie Percival
Michele Pineault
Kerry Porth
Quesnel Women's Resource Centre
Robin Reid
Marilyn Renter
Gregor Robertson, Vancouver Police Board
Debbie Rockefeller, Fireweed Collective
Professor Kim Rossmo
Marika Sandrelli, Fraser Health Authority
Carol Seychuk, Northern Society for Domestic Peace
Janet Sinclair Prowse
Ravinder Singh Rai
Tom Stamatakis, Canadian Police Association
James Sterritt
Elizabeth Stonard
Christopher Treloar
Marianna Ussner
Vancouver Police Department
Melody Wall
Sarah Warren, The Vivian Transitional Housing Program for Women
Murray Watson
Dr. Mike Webster, Centurion Consulting Services Ltd.
Kelly White, CRAB - Water for Life Society
Marjorie White, Aboriginal Mother Centre Society
Maureen Wilkie, RCMP and the Saskatchewan Provincial Partnership
Committee for Missing Persons
Brenda Wilson
Emily Wilson
Steve Wilson
Evan Wood, BC Centre for Excellence in HIV Aids
Ruth Zambrano
Danny Zucchet

Verbal Submissions

Consultations with Family Members (Individual meetings and group meeting – Vancouver, April 20 and 21, 2012)

Kristina Bateman
Lilliane Beaudoin
Elaine Belanger
Lenora Belanger
Patricia Belanger
Lisa Bigjohn
Sue Ellen Bigjohn
Marion Bryce

Cynthia Cardinal
 Lorraine Crey
 Maggie de Vries
 Peter de Vries
 Lori-Ann Ellis
 Bonnie Fowler
 Sandra Gagnon
 Margaret Green
 Melanie Hardy-Williams
 Violet Hardy-Williams
 Ann Livingston
 Ann-Marie Livingston
 Melissa Marin
 Elana Papin
 Bridget Perrier
 Michelle Pineault
 Lila Purcell
 Gladys Radek
 Marilyn Renter
 Laura Tompkins
 Lorelei Williams
 Angel Wolfe

Support persons:

Faye Blaney
 Laura Holland
 Candace Huti
 Dina Wilson

Speakers from Pre Hearing Conference – Vancouver (January 19, 2011)

Prayer: Chief Ian Campbell, Elder
 Juliet Belmas
 Dalannah Gail Bowen
 Kathleen Bennett, Northwest Inner-Nation Family & Community Services,
 Prince Rupert
 John Cameron, Downtown Eastside HIV/IDU Consumers Board, Carnegie
 AIDS Support Group
 Libby Davies, Government of Canada, Vancouver East
 Susan Davis, West Coast Cooperative of Sex Industry Professionals
 Dr. Larry Falls
 Marlene George, February 14 Women's Memorial March
 Alice Kendall, Downtown Eastside Women's Centre
 Don Larson, CRAB - Water for Life Society
 Angela MacDougall, Battered Women's Support Services
 Gladys Radek and Bernie Williams, Walk for Justice
 Cameron Ward
 Kelly White, CRAB - Water for Life Society
 Ellen Woodsworth, City of Vancouver

Speakers from Pre-Hearing Conference – Prince George (January 21, 2011)

Prayer: Frank Frederick, Elder
Chief Wilf Adam, Lake Babine First Nation
Amanda Alexander, Elizabeth Fry Society, Burns Lake
Bally Bassi, Elizabeth Fry Society, Prince George
Wilma Boyce, Canim Lake Band Council
Preston Guno, Carrier-Sekani Family Services
Lynell Halikowski, Surpassing our Survival Society
Jack Hoar (Statement)
Beverly Jacobs, Union of British Columbia Indian Chiefs
Dean Joseph (on behalf of Chief Partner Joseph), Yekooche First Nation
Doug Leslie
Kalika Moody, Women's Contact Society of Williams Lake
Sam Moody
Chief Karen Ogen, Wet'Suwet'en First Nation
Emma Palmatier, Lake Babine First Nation
Tony Romeyn, Highway of Tears Website
Don Sabo
Fran Smith, Battered Women's Support Services
Terry Teegee, Carrier-Sekani Tribal Council
Chief Jackie Thomas, Saik'uz First Nation
Annabel Webb, Justice For Girls
Irene Willsie, Women's Contact Society of Williams Lake
Brenda Wilson
Matilda Wilson

Speakers from Northern Community Forums

Prince Rupert (September 12, 2011)

Prayer: Murray Smith, Elder
Grimme Barthe
Janice Brown
Gary Coons, MLA
Molly Dickson
Scott Fraser, MLA
Lillian Gurney
Vicki Hill
Jacob McKay
Karl Reschke
Inez Shanose
Louisa Smith
Marlene Swift
Monica Tvrdon
Bonita Wilson
Darlene Wolfe

Terrace – Kitsumkalum (September 13, 2011)

Welcome: Chief Don Roberts and Arlene Roberts

Prayer: Mildred Roberts, Elder Arlene Roberts

Shanelle Alexander

Michelle Angus

Robin Austin

Chief Nelson Clayton

David Eby

Jude Haydock

Melanie Johnson

Chief Don Roberts

Karen Whonnock

Steve Wilson

Gitanyow (September 13, 2011)

Prayer: Reena Benson, Elder

Lynlee Burleigh

Anne Derrick

Vera Derrick

Doug Donaldson

Deborah Good

Paulina Larochelle

Loretta Morgan

Marge Quock

Joe Rush

Chief Mark Starlund

Terrace – Nisga'a (September 13, 2011)

Welcome: Phyllis Adams

Prayer: Chief Martin Adams, Elder Barb Zvatora

Chief Martin Adams

Phyllis Adams

Claude Barton

Floyd Percival

Millie Percival

Mayor David Pernarowski

Frances Stanley

Morictown (September 14, 2011)

Welcome: Chief Dwayne Mitchell

Prayer: Lillian Morris, Elder

Doug Donaldson

Millie Gunnanout

Victor Jim

Betty Joseph
Sherry McKinnon
Faye Michelle
Ron Mitchell
Louis Moolman
Lorena Morris
Florence Naziel
Priscilla Naziel
Roderick Nikal
June Peruniak
Debbie Pierre
Louise Wilson
Sam Wilson

Smithers (September 14, 2011)

Prayer: Mabel Forsythe, Elder
Mary David
Doug Donaldson
Theresa Forsythe
Marilyn George
Marie Martin
Joanne Peter
Genevieve Poirier
Brenda Wilson
Matilda Wilson

Hazelton (September 15, 2011)

Prayer: Shirley Huson, Elder
Fawn Adolph
Ida Austin
Robert Austin
Francis Brown
David Eby
Shirley Muldon and Wendy Blackstock (on behalf of Mayor Alice Maitland)
Ronda Peel
Linda Pierre
Ann Plasway
Beverly Tashoots
Peggy Underhill
Judy Wesley
Greg White
Lyn Wilson

Expert Roundtable on the Structure and Organization of Policing – Vancouver April 14, 2002

Professor Robert Gordon (Co-Chair)
 Mayor Malcolm Brodie, Richmond
 Phyllis Carlyle, General Manager of Law and Community Safety, participating on behalf of Mayor Richard Stewart, Coquitlam
 Jim Cessford, Chief Constable, Delta Police Department
 Vanessa Christie, Counsel to Terry Blythe and John Unger at the Inquiry
 Dr. Stephen Easton, Simon Fraser University
 Mayor Peter Fassbender, Langley
 Peter German, Regional Deputy Commissioner Pacific Region Correctional Services Canada, former RCMP
 Kash Heed, MLA
 Sean Hern, Counsel to VPD at the Inquiry
 Mayor Lois Jackson, Delta
 Lindsay Kines, Journalist
 Norm Lipinski, Assistant Commissioner, RCMP
 Ann Livingston, Representative of VANDU, participant in the Inquiry
 Mayor Greg Moore, Port Coquitlam and Chair Metro Vancouver Regional District
 Stephen Owen, Vice-President of External, Legal and Community Relations, University of British Columbia
 Adam Palmer, Deputy Chief Constable, Vancouver Police Department
 Clayton Pecknold, Assistant Deputy Minister, Police Services and Community Safety
 Wayne Rideout, Acting Commissioner, RCMP
 Bob Stewart, Former Chief Constable, Vancouver Police Department
 Dr. Mike Webster, R. Psych, Centurion Consulting Services Ltd.

Various RCMP representatives, including Inspector Andrew Koczerzuk, Amber Elliott, Counsel for the RCMP, and Kyle Johnson, Missing Women Commission Liaison Team at the RCMP

Speakers from Policy Forums - Vancouver (May 1 & 3 & 7 & 8 & 10, 2012)

Opening and Closing Prayers: Rick Harry (Xwalacktun), Elder
 Chief Superintendent Janice Armstrong
 Jen Allan
 Inspector Cita Airth
 Professor Jane Miller Ashton
 Juliet Belmas
 Professor Christine Boyle
 Inspector Joanne Boyle
 Chief Constable Jim Chu
 Beverly Coles
 Krissy Darch
 Susan Davis
 Inspector Brad Desmarais

Rae-Lynne Dicks
Dave Dickson
Sandy DiPasquale
Joy Ward Dockrey
Lori-Ann Ellis
Sergeant Anne Fawcett
Inspector Marcie Flamand
Fiona Flanagan
Bonnie Fournier
Constable Ali Gailus
Michele Giordano
Inspector Mario Giardini
Dr. Robert Gordon
Kim Gramlich
Superintendent Jim Gresham
Jamie Lee Hamilton
Sergeant John Hebert
Elizabeth Hunt
Inspector Andrew Koczerzuk
Don Larson
Heather Lehmann
Ann Livingston
Ann-Marie Livingston
Linda Locke, Q.C.
Police Complaint Commissioner Stan Lowe
Staff Sergeant Gerard MacNeil
Maryam Majedi
Inspector Jana McGuinness
Dr. Lisa Monchalin
Chief Superintendent Robert Morrison
Acting Sergeant Lynn Nofle
Gunargie O'Sullivan
Detective Constable Raymond Payette
Doris Peters
Associate Chief Justice Nancy Phillips
Superintendent Mike Porteous
Kerry Porth
Superintendent Paul Richards
Assistant Commissioner Wayne Rideout
Dawn Roberts
Detective Constable Judy Robertson
Professor Kim Rossmo
Inspector Mike Serr
Sergeant Kirk Starr
Erica Thomson
Marianna Ussner
Dr. Mike Webster
Kelly White
Staff Sergeant Maureen Wilkie

Terri Williams
Mary Clare Zak

The Commission also received submissions on an anonymous basis through consultations in the Downtown Eastside of Vancouver in the fall of 2011 and in Northwestern British Columbia in spring of 2012.

F. Study Commission Reports

Please note the full text of the study commission reports are reproduced on the CD version of this report only.

Study Commission Reports

1. Consultation Reports

Dr. Melina Buckley, "Standing Together and Moving Forward: Report on the Pre-Hearing Conference in Prince George and the Northern Community Forums"

Brenda Belak, "Downtown Eastside Consultation Report"

Dr. Melina Buckley, "Revisiting the Regionalization Debate: A Dialogue on the Structure and Organization of Policing in British Columbia"

Brenda Belak, "Voices of the Families – Recommendations of the Families of the Missing and Murdered Women"

Elizabeth Welch, "Bridging the Gap to Shape the Future: The Report on the Policy Forums"

Linda Locke, QC, "Standing Together and Moving Forward: The Northwest Consultation Report"

2. Policy Discussion Reports

Dr. Melina Buckley, "Police Protection of Vulnerable and Marginalized Women"

Dr. Melina Buckley, "Towards More Effective Missing Women Investigations: Police Relationships with Victims' Families, the Community and the Media"

Dr. Melina Buckley, "Policies and Practices in the Investigation of Missing Persons and Suspected Multiple Homicides"

Dr. Melina Buckley, "Issues Related to the Structure and Organization of Policing Arising from the Missing Women Investigations"

Dr. Melina Buckley, "From Report to Substantive Change – Healing, Reconciliation and Implementation"

3. Background Research Reports

Steve Sweeney, "Municipal Policing in the Lower Mainland District of British Columbia"

Elizabeth Welch, "Practices and Procedures in the Investigation of Missing Persons Across Canada: 1997 to Present"

Elizabeth Welch, "Comparative Approaches to Missing Persons Procedures: An Overview of British, American and Australian Policies"

Brenda Belak, "Policies and Practices in the Treatment of Vulnerable Witnesses"

Dr. Melina Buckley, "Violence Against Women: Evolving Canadian and International Legal Standards on Police Duties to Protect and Investigate"

4. Other Commission Publications

Status Report #1 – March 2011

Status Report #2 – June 2011

G. Index to Missing Women Portraits

Missing Woman	Volume	Page Number
Sereena Abotsway	Volume I	7
Yvonne Boen	Volume I	33
Andrea Borhaven	Volume I	59
Heather Bottomley	Volume I	84
Heather Chinnock	Volume I	110
Wendy Crawford	Volume I	138
Dawn Crey	Volume I	163
Sarah de Vries	Volume IIA	4
Tiffany Drew	Volume IIA	37
Cara Ellis	Volume IIA	66
Cynthia Feliks	Volume IIA	97
Marnie Frey	Volume IIA	126
Jennifer Furminger	Volume IIA	155
Inga Hall	Volume IIA	180
Helen Hallmark	Volume IIB	4
Tanya Holyk	Volume IIB	53

Sherry Irving	Volume IIB	100
Andrea Joesbury	Volume IIB	149
Patricia Johnson	Volume IIB	198
Debra Jones	Volume IIB	241
Kerri Koski	Volume IIB	285
Jacqueline McDonnell	Volume III	7
Diana Melnick	Volume III	40
Georgina Papin	Volume III	75
Dianne Rock	Volume III	106
Taressa Ann Williams	Volume III	141
Mona Wilson	Volume III	176
Brenda Wolfe	Volume III	203

H. Translation of Halq'eméylem Words on Cover of Commission Report

The Commission has included words from Halq'eméylem, the language of the Stó:lo people, in the art work for the cover of this report. I would like to express my gratitude to Chief Joe Aleck and Pat Kelly for assisting in the selection of the words used to describe the missing and murdered women.

Xéleq't - To open your eyes
 Eyém - Strong
 Slhá:li - Woman
 Mímele - Little Child
 Mestiyexw - Person; Spirit
 Tá:l - Mother
 Móylhtel - To help each other
 Siyá:ye - Friend
 Lexwst'í:lem - Always singing

I. Selected Bibliography

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³ Gerald Le Dain, “The Role of the Public Inquiry in our Constitutional System” in Jacob S. Ziegel, ed. *Law and Social Change* (Toronto: Osgoode Hall Law School, York University, 1973) pp 79-95, p. 85.

⁴ Attached as Appendix A.

⁵ The Lamer Commission of Inquiry Pertaining to the Cases of: Ronald Dalton, Gregory Parsons, Randy Druken, Report and Annexes, The Right Honourable Antonio Lamer, Commissioner, p. 7-8, online: Newfoundland Department of Justice <<http://www.justice.gov.nl.ca>>.

⁶ *Public Inquiry Act*, SBC 2007, c 9, s 9(1); Practice and Procedure Directive for Evidentiary Hearings, Rule 52; see Appendix B.

⁷ Justice Dennis O’Connor, “The Role of Commission Counsel in a Public Inquiry” (2003) 22:1 *The Advocates’ Society Journal* 9, para 11.

⁸ *Public Inquiry Act*, SBC 2007, c 9, s 11(4)(a)-(c).

⁹ Ms. Bryce, mother of Patricia Johnson, was granted full participant status on August 18, 2011; see Appendix G-2.

¹⁰ *Public Inquiry Act*, SBC 2007, c 9, s 22, and Practice and Procedure Directive for Evidentiary Hearings, Rules 36-38; see Appendix B.

¹¹ Transcript, November 9, 2011, p. 165-166; Transcript, April 10, 2012, p. 13; Transcript, April 12, 2012, p. 109.

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GLOSSARY

E Division	RCMP Headquarters in British Columbia
AG	Attorney General of British Columbia
BCCLA	British Columbia Civil Liberties Association
BCPMPC	British Columbia Police Missing Persons Centre
CC	Chief Constable
CEDAW	Committee on the Elimination of Discrimination against Women (UN)
CJB	British Columbia Criminal Justice Branch
Comm Centre	Vancouver Police Department Communications Centre
CPC	Canadian Police College, Ottawa, Ontario
CPC-RCMP	Commission for Public Complaints Against the RCMP
CPIC	Canadian Police Information Centre
Cpl.	Corporal
CRAB	CRAB-Water for Life Society
Cst.	Constable
D2	Vancouver Police Department District 2 (includes Downtown Eastside)
DC	Deputy Chief
DCC	Deputy Chief Constable
Det.	Detective
Det. Cst.	Detective Constable
Det. Insp.	Detective Inspector
DEYAS	Downtown Eastside Youth Activities Society
DTES	Downtown Eastside Neighbourhood in City of Vancouver
E-COMM 9-1-1	Emergency Communications for SW British Columbia
Evans Report	Report prepared for Missing Women Commission by Deputy Chief Jennifer Evans, Peel Regional Police
FBI	Federal Bureau of Investigation (U.S.)
FNS	First Nations Summit
FPT MWWG	Federal-Provincial-Territorial Missing Women Working Group
Insp.	Inspector

JFO	Joint Forces Operation
JIBC	Justice Institute of British Columbia, New Westminster, BC
LePard Report	<i>Missing Women Investigation Review</i> , prepared by DCC Doug LePard, Vancouver Police Department
Lower Mainland	Metropolitan Area in southwestern British Columbia
MCM	Major Case Management
MCS	Vancouver Police Department Major Crime Section
MPI	Missing Persons Index
MPU	Vancouver Police Department Missing Persons Unit
MWRT	Vancouver Police Department Missing Women Review Team
MWTF	Missing Women Task Force
MWWG	Vancouver Police Department Missing Women Working Group
NCMPUR	National Centre for Missing Persons and Unidentified Remains
NDDB	National DNA Data Bank of Canada
NWAC	Native Women's Association of Canada
NWPS	New Westminster Police Service, New Westminster, BC
OIC	Officer in Charge
OPCC	Office of the Police Complaint Commissioner (BC)
PACE	Prostitution Alternatives Counselling and Education
PEEL	Peel Regional Police (Ontario)
POCO	Port Coquitlam, BC
POI	Person of Interest
PPCMP	Provincial Partnership Committee on Missing Persons (Saskatchewan)
PRIME-BC	Police Records Information Management Environment for British Columbia
PRP	Peel Regional Police (Ontario)
PUHU	Provincial Unsolved Homicide Unit
RCMP	Royal Canadian Mounted Police
SFU	Simon Fraser University, Burnaby, BC
Sgt.	Sergeant

SIUSS	Special Investigative Unit Support System (database)
Staff Sgt.	Staff Sergeant
Supt.	Superintendent
UBC	University of British Columbia, Vancouver, BC
UHU	RCMP Major Crime Section, Unsolved Homicide Unit
UN	United Nations
VANDU	Vancouver Area Network of Drug Users
ViCAP	Violent Criminal Apprehension Program (U.S.)
ViCLAS	Violent Crime Linkage Analysis System
VPB	Vancouver Police Board
VPD	Vancouver Police Department
VPNLS	Vancouver Police and Native Liaison Society
WISH	Women's Information and Safe House (WISH) Drop-In Centre

