



COMMISSION OF INQUIRY INTO THE CIRCUMSTANCES
SURROUNDING THE DEATH OF PHOENIX SINCLAIR

**TRANSCRIPT OF PROCEEDINGS OF PRESS CONFERENCE HELD APRIL 15, 2011
THE HONOURABLE EDWARD (TED) N. HUGHES, O.C., Q.C., LL.D (HON), COMMISSIONER**

Commissioner: Well, good afternoon.

I'm here to keep a commitment that I made when I was first in Winnipeg on this mission on the 25th of March to tell you before I wound up my work this week as to the progress we've been made and what announcements we can give to you and where we're going with respect to this matter.

The first announcement I want to make is to appoint, advise you of my appointment of Commission Counsel, Sherri Walsh, who is here today sitting on my left, who is an experienced and respected member of the Manitoba Bar, with wide experience in litigation matters, and besides her contribution to the legal profession, has been a volunteer in this community, well known for the work that she has done. And I am pleased to be able to say that she and her associates have accepted my invitation to become Commission counsel. And certainly with the volume of work that there would appear to be ahead of us, the interviewing of all witnesses, and that kind of thing, there is going to be a lot of work to be done to be ready for the ultimate opening of this public inquiry, and in the process, Sherri Walsh will engage the services of some of her colleagues in her law office, and two of whom I have been working with this week, Madeline Low and Kathleen McCandless, you may come to know because they will certainly be playing a significant part in this.

I want to just say that and comment about the importance of the role of Commission counsel. The, there has been much written about this, about this position. Professor Ratushny from the University of Ottawa has written a text on it and, of recent vintage, and in there he quotes to some extent, extensively from a, a writing by Commissioner O'Connor, the Honourable Mr. Justice O'Connor of the Ontario Court of Appeal who has conducted many inquiries and has written a paper entitled *Role of Commission Counsel in Public Inquiry*. And in the course of Professor Ratushny's reference to the work of Commissioner O'Connor, he said this in his chapter dealing with this appointment, "Commissioner O'Connor explained the relationship of counsel to the Commissioner. It is with the assistance of Commission counsel that the Commissioner carries out his or her mandate, investigating the subject matter of the inquiry and leading evidence at the hearings. Throughout, Commission counsel acts on behalf and under the instructions of the Commissioner. In carrying out this role, the Commission counsel in effect becomes the extension of the Commissioner." And that point was made in the words of Commissioner O'Connor. "And this is where Commission counsel plays such an important role. Commission counsel are on the very front line of doing much of what is necessary to gain the public confidence of the process and about the integrity and impartiality of the inquiry itself. As result, Commission counsel's role is not to advance any particular point of view, but rather to investigate and lead evidence in a thorough but completely impartial and balanced manner. In this way, the

Commissioner will have the benefit of hearing all of the relevant facts or evidence unvarnished by the perspective of someone with an interest in a particular outcome.”

And I wanted to lay that groundwork so you will know the responsibility that I have asked Sherri Walsh to accept and that she has, and the place that she will be in our, in our work. In that same chapter, Profession Ratushny identifies from the work of, of Commissioner O’Connor, the, the functions of the Commission and he suggests that there perhaps there are six in all:

Firstly, to provide advice and guidance to the Commissioner’s throughout the process. This includes acting as a sounding board;

Secondly, to supervise and conduct the investigation into all of the information relevant to the terms of reference, including gathering documentation and interviewing witnesses;

Thirdly, to develop and maintain open communication with all parties, and to encourage cooperation in facilitating the disclosure and presentation of evidence;

Fourthly, to call evidence at the hearings, including witnesses the parties seek to call;

And fifthly, to assist the Commissioner in writing the report. And it’s pointed out that this role varies with different Commissioners, but it is easier to accept when the Commission counsel has acted in an impartial and even-handed way throughout this inquiry as I expect will occur in this instance;

And finally, to serve as media spokesperson for the Commission to the media. And I close my remarks about the role of Commission counsel on that point because I know that there are a number of media people here today, and I don’t expect to be the face of the Commission that is meeting with the media, but rather that will be addressed by Commission Counsel as one of the responsibilities she carries. And she, of course, will be in constant touch and communication with me.

Now we have also gone about recruiting staff because we are mindful that we will have to open an office. We’re going to have many witnesses who have to be interviewed and we have to have a proper and a reasonable and a comfortable place for that to take place. And I am pleased to announce that we have a Chief Administrative Officer with the name of Shawna Goy who is going to assume that position who is seconded from the government to our, for our assistance, and the associate in that position, the second person that is seconded to the office, Wendy Bergmann. And they are here today and let me say that at the conclusion of these remarks and after I’ve answered any questions that the media wish to put to me, if I’m able to, that there will be two handouts for you; one will be the CV of Sherri Walsh and the other will be an information piece as to where our, where we can, will be located, what our phone number will be, and we now have an e-mail address and that, what our website will be, the address for that when it, it is open.

I can tell that, that our office space that we’re going to be able to be, have made available will be close to the, the center of activity insofar as where I hope the hearings will be held. When I say that, I have reference to the conference centre, but we would expect to have offices at 155 Carlton, and we’ve

asked that those offices be open and available and staffed no later than June the 15th. And those things are now being worked out and, as I say, the, the information and contacts will handed to you today.

Our website will be up and operating about April 21st; not yet, but next week.

Now, the other major step that we have taken is to arrange for the advertisements to appear in newspapers in this City, and in newspapers that circulate in the Fisher River area, Fisher Indian Reserve area, to call for applications for standing for those who wish to believe, or take the position that they have something to add as a party to this proceeding; those that, who might be intervenors, who would give us information but are not directly involved in the facts of the case, and then we will also, once those advertisements appear in those, in the newspapers, which will occur at the end of this month and before the middle of May, we'll run them twice in the various newspapers, we will at the time that, that those notices appear, we will be putting draft rules of procedure on our website, so that it will be known what we're contemplating by way of proceeding and process of how witnesses will be handled and the cross-examination order and all of that kind of thing. And also, we'll be calling for any other preliminary matters that, that anyone wishes to make. And those newspaper announcements will advise that the hearings for standing and, and the other matters I've detailed, will be held on the 28th and 29th of June. I'm not in a position yet to indicate to you the locale of, of where that will be, but you will have plenty of notification once we have confirmed where we are able to hold that hearing. And they will be on, open at 9:30 on June the 28th and if need be, we're reserving a second day for further consideration of the matters that might well be raised at that hearing.

Now, I, as I say, I anticipate that we will be holding the hearings in the Convention Centre. We are working on getting the space there. And I hope that once we are ready to get up and roll and run with this that we will run pretty much continuously. The government has given me a deadline of March the 30th for my report. If that is gonna hold, I would hope that we would be able to have all of the evidence and the summations in before Christmastime, that would be my hope, but I also have come to realize this week that there are going to be many witnesses that are going to have to be called and whether that's an overly enthusiastic timeframe I don't know, but that, I intend to give it my full attention. We don't have a starting date yet as to when the Commission will start. There will be a lot of people involved, and certainly there will be lawyers who are representing interested parties who will likely be granted standing. They all have commitments and when we meet on the June 28th and June 29th, I will certainly be indicating the dates that we would like to get this started, and run continuously with, and will certainly give the opportunity for anyone to comment on that, but I hope that before those hearings are over on June 28th, 29th, that we can confirm the actual start date, and then run pretty much continuously right through the fall and into the December to try to wind up the, our work. But, as I say, that may be overly enthusiastic, but I, I'm ready for work. This, as I said last time, an important and serious matter, and the sooner we can all get at it and get the facts on the table, and give me the basis to write a report, I think the better off everyone will be.

Well that, my friends, is everything I have to say. If any media representatives have any additional questions you wanna ask me, I'd be prepared to endeavour to answer them if I'm able to, and then Ms. Walsh and I will leave the, the room.

Do we have a hand up here? Yes?

Q: A question about media accessibility and will cameras be allowed during the inquiry?

Commissioner: There has been no decision made on that, I...Pardon?

Q: Media can attend, but with or without cameras?

Commissioner: Well, do you mean, do you mean at the standing hearing?

Q: I, I am thinking about the inquiry?

Commissioner: The inquiry. That, if a request is made for cameras on the 28th or 29th, and that can be done by media people or legal counsel on their behalf as they wish, they don't have to have. Then I will certainly entertain a request and ask those who are participating in the hearing for their points of view, and once I've had the opportunity of taking into account the points of view of those who have an interest in that subject, I'll certainly be prepared to rule on it.

Q: Would you rule on it that day or how long would it take you to rule on it?

Commissioner: Well I don't know. It all depends. Supposing everybody agreed, it wouldn't take me very long. If there is a sharp difference of opinion, I'll have to consider what those opinions are and what's in the public interest and, and go from there so, you know, if, if, I'm sure you'll, my ruling will be out, you know, in July, which, if we, if we wind up these discussions on the 28th or 29th of June, I'll be in a position to, to deal with it, you know, fairly quickly, but, I say if everybody agrees, yes or no, I'm sure the media won't be agreeing with no, but, if everybody agreed with yes, then, then my task would be simple; if there's a difference of opinion, then I've gotta take that into account and weight what is, as I say, in the public interest and in the fair administration of justice.

Anything else from the media people?

Q: How many...how many staff do you expect to have, like, how, how's that recruiting process going?

Commissioner: Well, I can't give you an exact figure. We've got the two office people that will, that we've taken on now. They won't be fully engaged until we can get that office open, but they're available and working for us. We may need additional staff, I, I think we will. We may need an advisor in the, in the field of a, of a child welfare that we will be obviously exploring at some depth, depth here. But, but no decision has been made. I want to do this as economically as we can. I'm always conscious of that, but, but at the same token, it's gonna be done properly.

Q: You said that there were a, a quite a large number of witnesses anticipated. Any idea... are we talking dozens, or...?

Commissioner: Well, I, I really don't know, but I'd be surprised if we're, if we're ... ya, I, you're, you're, you're, I guess we are talking dozens, but in the, in the low dozens. I think that's really the, the, cause I

really don't know but I think that, to answer your question are there dozens, in the low dozens, I would think so.

Q: And, and you're not sure on the opening date of, for the inquiry?

Commissioner: No, no not yet.

Q: (inaudible) ...for the end of June?

Commissioner: And what, and what the position is of those that are here and also I'll be taking the advice of Commission counsel as to how they are getting along interviewing witnesses. They, they, we have in mind who many witnesses will be, but they all are going to be interviewed by Commission counsel prior to the hearing, and, so, but that process is going to get underway fairly soon, and a lot of background information gathered and there's documents to be assembled, and all of that kind of thing, but, and, so I'm, I'm, I'm very pleased with the progress that I was able to make this week. I feel we've got a good start on this, and we're on our way to getting the job done that the government wants done on behalf of the people of Manitoba.

Q: Under ideal circumstances, do you start the inquiry just after Labour Day?

Commissioner: Under ideal circumstances we'll start the inquiry this fall, but I, I'm not really prepared to go beyond that until I know more. It would be much more definite than that when we meet in June at the, at the standing hearings.

Okay, well ladies and gentlemen, thank you very much for your attendance and, as I say, the sheet that's gonna be handed to you will indicate who you go through to access Commission Counsel, if that need be, and Commission Counsel will have constant communication with me, so she becomes the face of the Commission when we're not in session; when we're in session, I'll be sitting here alone and she'll be out there presenting the witnesses along with her legal staff.

Thank you kindly.

Commission Counsel: Thank you.