

IPPERWASH INQUIRY

250 Yonge Street, Suite 2910, P.O. Box 30
Toronto ON M5B 2L7

Tel: 416 314-9200

Fax: 416 314-9393

Web: www.ipperwashinquiry.ca



COMMISSION D'ENQUÊTE SUR IPPERWASH

Bureau 2910, 250, rue Yonge, C.P. 30
Toronto ON M5B 2L7

Tél. : 416 314-9200

Téléc. : 416 314-9393

Internet : www.ipperwashinquiry.ca

Ipperwash Inquiry – Presentation at the Ontario Justice Education Network Summer Law Institute, August 2006

Ipperwash is a key event in the history of Aboriginal and non-Aboriginal relations in Ontario. Through it we can learn and teach a great deal about our history, politics, law, and institutions and how they work, on both sides of the barricades. Knowledge and understanding of Aboriginal peoples, their history, current concerns and aspirations will hopefully improve relationships between Aboriginal peoples and non-Aboriginal peoples, reduce racism, and help communication and understanding in times of stress, such as during an Aboriginal assertion of rights, blockade or protest.

The purpose of this memo and presentation is to outline the work of the Ipperwash Inquiry, and to point out the educational potential of the hearings, research papers, party projects, public submissions, consultation summaries, and DVDs. To assist teachers and students, the Inquiry has produced a "Teachers and Students Resource Chart – Grades 9, 10, 11, 12." It is available on the Inquiry's web site at: www.ipperwashinquiry.ca

The Ipperwash Inquiry - Background

Appendix A contains an outline of public inquiries in general.

On September 6, 1995, Dudley George, a 38-year old Chippewa from Stoney Point, was shot and killed by an Ontario Provincial Police officer during a protest by First Nations people at the Ipperwash Provincial Park near Forest, Ontario.

The Liberal government established the Ipperwash Inquiry in November 2003, and appointed Justice Sidney Linden as Commissioner of the Inquiry. The mandate of the Inquiry, as set out in the November 12, 2003 Order-in-Council, is to examine the events surrounding the death of Dudley George, report on the findings and make recommendations aimed at avoiding violence in similar circumstances in the future.

There is a long and complex story leading up to and following Dudley George's death. Much of this story was told during the Inquiry's hearings. Now that the hearings are

complete, the Commissioner will weigh all of the evidence that he has heard, and make findings of fact as to what happened and why.

The Inquiry hearings commenced in July 2004 and ended on June 28 2006. Written submissions from the parties are due by July 28. The Commissioner will hear oral submissions the week of August 21, 2006. The Commissioner expects to deliver the final Inquiry report to the government by the end of 2006 or early in 2007.

Parts I and II of the Ipperwash Inquiry

Part I

The Inquiry process is divided into two parts. Part I were the formal hearings about the events surrounding Dudley George's death. They were open to the public and took place in Forest, Ontario. The hearings were web cast live on the Inquiry's web site, and the transcripts of the proceedings were posted on the web site at the end of each day of hearings at www.ipperwashinquiry.ca.

In order to establish a context for the hearings, and to contribute to public education, the first two witnesses before the Inquiry were Professor Darlene Johnston, and Joan Holmes. They gave expert evidence about the long and complex sequence of historical facts and occurrences involving the Aboriginal peoples in the Ipperwash area. The expert reports written by these two witnesses are available on the Inquiry's web site.¹

At the close of the Part I hearings, the Commissioner had heard from 140 witnesses. A complete list of witnesses, the dates of their testimony, and links to the transcripts are posted on the Inquiry web site.² The following is a summary of the groups of witnesses who testified before the Inquiry:

Historians – expert witnesses: July 13 to September 8, 2004

First Nation witnesses: September 10, 2004 to April 18, 2005

Emergency medical personnel: April 18 to May 10, 2005

Senior Ontario Provincial Police officers and the OPP Commissioner at the time of Ipperwash – May 10 to August 25, 2005

Civil servants and political aides – August 25 to November 23, 2005

¹ "Connecting People to Places: Great Lakes Aboriginal History in Cultural Context" by Professor Darlene Johnston; "Ipperwash: General Historical Background" by Joan Holmes – on the Inquiry's web site, click on "Transcripts & Exhibits" and scroll down to the reports (under "Exhibits").

² Click on "Schedule & Witnesses" and then "Witnesses who have testified"

Former Ontario Ministers and the local Member of Provincial Parliament -
November 24, 2005 to January 25, 2006

Former Ontario Premier Mike Harris –February 14 to February 20, 2006

Ontario Provincial Police Officers involved at Ipperwash, OPP Commissioner, expert witness, cottagers, Department of Nation Defence personnel, and recalled witnesses – February 21 to June 28, 2006

The “Legal Information” section of the Inquiry’s web site includes the Order-in-Council, the Rules of Procedure and Practice, and the Commissioner’s rulings on various motions. This section also includes all of Commissioner’s statements about the progress of the Inquiry made during the course of the Part I hearings.

Part II

Part II is the policy part of the Inquiry. It ran concurrently with Part I. In Part II, the Inquiry conducted research, held consultations, funded parties’ projects and will make recommendations to try to avoid violence in similar circumstances in the future.

To assist with Part II, the Inquiry established a six-person Research Advisory Committee composed of academics and practitioners in areas of importance to the Inquiry’s work.

Part II of the Inquiry commissioned research and held consultations in the following areas:

- The relationship between the police and government, particularly the transparency of governmental processes and accountability of government for its decisions;
- Aboriginal land and treaty rights, including the land claims process, Aboriginal burial and other sacred sites, and the relationship between Aboriginal peoples and the regulatory regimes that affect treaty and Aboriginal rights;
- Policing Aboriginal occupations, protests or blockades; and
- The relationship between Aboriginal peoples and the police, including race relations

Attached as Appendix B is the list of Inquiry research papers,³ a brief description of each paper and the author’s name. Many of these papers are completed and posted on the Inquiry’s web site. Teachers and students are welcome to reproduce any of the papers for course materials, provided that they include an acknowledgement of the author and the Ipperwash Inquiry.

³ The opinions expressed in the research papers, consultation summaries, etc. are those of the authors, participants, etc. and not those of Inquiry staff or the Commissioner of the Inquiry. The Commissioner will consider the comments made by authors and participants when he writes the Inquiry report and makes recommendations to help avoid violence in similar circumstances in the future.

Attached, as Appendix C is a list of the Inquiry's consultations up to June 30, 2006. Summaries of some of these consultations are posted on the Inquiry's web site. The Inquiry web cast or taped a number of the consultations.

The Inquiry also produced three discussion papers in major policy areas. These papers, posted on the Inquiry's web site, are intended to assist parties with their Part II submissions. The first paper considers the relationship between police and government and the scope of police independence from improper governmental influence. The second paper deals with the policing of Aboriginal occupations and protests and the relationship between Aboriginal peoples and the police. The third paper discusses Treaty and Aboriginal rights.

“Standing” before the Ipperwash Inquiry

What is “standing” before a public inquiry? Standing gives an individual or organization official status, and the right to participate in an inquiry's proceedings. It is not possible to accommodate everyone who is interested in participating fully in an inquiry, so the standing process is also a way to ensure the orderly, timely and fair conduct of an inquiry.

There are often different types of standing in an inquiry. For example, in the Ipperwash Inquiry, parties were granted standing in Part I or Part II, or they had standing in both Parts, depending on their interest and their connection to the events at Ipperwash.

The Ipperwash Inquiry Commissioner granted Part I and II standing to 15 individuals and organizations; Part I standing only to two individuals; and Part II standing only to 13 individuals and organizations. Attached as Appendix D is the list of parties with standing before the Inquiry.

Some of the parties with Part II standing before the Inquiry undertook projects, such as community consultations or research papers, to provide the Inquiry with their perspective on issues before the Inquiry. Some of these projects are posted on the Inquiry web site.⁴

The Final Ipperwash Inquiry Report

The final Ipperwash Inquiry report will likely have two volumes, volume I: the story of Ipperwash and fact-finding; and volume II: policy, research and recommendations. This information includes the evidence in the hearings, research papers, consultations, party projects, and public submissions. In the final report, the Commissioner will discuss the evidence, make findings of fact, discuss the policy issues, and make recommendations aimed at preventing violence in similar circumstances in the future.

⁴ Under “Policy and Research (Part 2),” and “Projects Prepared by Parties to the Inquiry.”

Teachers and Students Resource Chart – Grades 9, 10, 11, 12

To assist teachers and students, the Inquiry has produced a “Teachers and Students Resource Chart – Grades 9, 10, 11, 12.” The chart is based on an analysis of the Aboriginal perspectives in the Canadian World Studies discipline of courses prepared by Keith Lickers, Acting Coordinator of the Aboriginal Policy Unit, Field Services Branch of the Ontario Ministry of Education. The chart is located on the Inquiry web site, www.ipperwashinquiry.ca, under “Teaching Resources.”

The chart includes the area of study, such as economics or history, the specific course name and number, some of the strands and some of the “specific expectations” under the strands. On the right side of the chart, there is a list of “Ippeewash Inquiry Materials” that may assist teachers and students with some of the specific expectations. All of the Ippeewash Inquiry materials referred in the chart are available on the Inquiry’s web site.

The Inquiry will update the resource chart as additional, relevant research papers, consultation summaries and party projects become available.

W.A. Derry Millar, Lead Commission Counsel

Nye Thomas, Director, Policy and Research

Appendix A – Public Inquiries in General

Public inquiries are a way for a government to look at an issue or event in detail and gather ideas and recommendations about the issue or event. The government designs the mandate for the inquiry and appoints a person (or persons), to conduct the inquiry. This person is usually known as the “commissioner.” Once appointed, the commissioner is independent of the government. Within the parameters of the mandate, the commissioner controls the way the inquiry proceeds, and what work it undertakes.

A public inquiry is not a trial. Inquiry commissioners do not make conclusions about the civil or criminal liability of any person or organization. However, a commissioner can make a finding of misconduct on the part of a person.⁵

Some of the advantages to public inquiries include:

- They are independent, non-partisan investigations;
- They are open to the public and are therefore transparent;
- They often involve the public and experts;
- They operate with a long-term view; and
- They serve an important public education role.

Some of the disadvantages to public inquiries include:

- Governments can choose to ignore an inquiry’s recommendations;
- Inquiries have no powers of enforcement;
- They are time-limited;
- The scope of their work is limited; and
- They can be expensive.

In Ontario, the Cabinet (the Cabinet is made up of the Ministers and the Premier) can appoint a public inquiry under the *Public Inquiries Act* to look at:

- a matter connected with or affecting good government in Ontario; or
- the conduct of any part of the public business of the government; or
- the administration of justice; or
- an event or issue that the Cabinet declares to be a matter of public concern.

Public inquiries can be fact-finding procedures only, or set up to help government with policy in a particular area, or a combination of both. The Ipperwash Inquiry is both a fact-finding and a policy-type inquiry.

⁵ Ontario *Public Inquiries Act* section 5 (2) reads “ No finding of misconduct on the part of any person shall be made against the person in any report of a commission after an inquiry unless that person had reasonable notice of the substance of the alleged misconduct and was allowed full opportunity during the inquiry to be heard in person or by counsel”

Public education is an important part of a public inquiry. Through the hearings and policy work of the inquiry, the public learns more about the event or issue and what can be done about it.

Past examples of Ontario public inquiries include an investigation into the deaths of infants at the Hospital for Sick Children; the wrongful conviction of Guy Paul Morin; the nature and extent of systemic racism in the criminal justice system; and the safety of Ontario's drinking water (the Walkerton Inquiry).

Appendix B – Ipperwash Inquiry Research Papers

PROJECT	RESEARCH PAPER/PROJECT	AUTHOR
1)	Description of Aboriginal Peoples in Ontario A summary description of the Aboriginal population in Ontario. Purpose is to profile aboriginal peoples in Ontario for background and context.	Inquiry Staff
2)	Addressing Aboriginal Land and Treaty Rights in Ontario: An Analysis of Past Policies and Options for the Future The purpose of this paper is to assist the Inquiry to design practical recommendations concerning the land claims process and; provide an accessible description of the land claims process, set out the challenges presented by the existing process and suggest some alternative approaches to land claims and other disputes.	Michael Coyle
3)	Aboriginal Burial and other Sacred Sites in Ontario A description of Aboriginal burial grounds and other sacred sites in Ontario and an analysis of why sacred sites are important to Aboriginal peoples and potential options for protecting them. Purpose is to identify potential “flashpoints” in Ontario and to identify relevant policy issues and options. Focus on off-reserve sites	Darlene Johnston
4)	History and Comparison of Aboriginal Land, Treaty and Rights Disputes An historical and comparative analysis of Aboriginal land, treaty or rights disputes/ occupations, including: description of disputes/occupations in Ontario and Canada, potential flashpoints, interests and perspectives Aboriginal and non-Aboriginal stakeholders, best practices/models for preventing violence. Purpose is to place Ipperwash in larger historical context and to identify best practices to resolve disputes peacefully and constructively	John Borrows
5)	Policing Public Order Events How do police forces manage public order events/protests? Description and analysis of operational practices and decision-making in policing of public order. Identify strategies to reduce violence in public order events	Willem de Lint
6)	Collection and Use of “Intelligence” in Policing of Public Order Events When and why do police collect “intelligence” when policing public order events? Police force protocols and best practices?	Wayne Warwyk

PROJECT	RESEARCH PAPER/PROJECT	AUTHOR
7)	Policing and Aboriginal Occupations A detailed analysis of policing and aboriginal occupations, including: Are aboriginal occupations different than other protests? Compare and contrast peaceful and aboriginal occupations that became violent. Discuss complexity of policing aboriginal occupations. Are violent confrontations between police and aboriginal occupiers inevitable or are peaceful solutions and positive outcomes possible? What do positive examples tell us about how to prevent violence in the future? Review recent protocols/ developments for crisis management	Don Clairmont/ Jim Potts
8)	Role of Regulatory Regimes in Aboriginal Rights Disputes in Ontario Analysis of historic and current relationship between enforcement agencies and Aboriginal peoples. Analysis of enforcement protocols employed by regulatory agencies. Analysis of regulatory regimes as flashpoints for disputes. Best practices/protocols.	Jean Teillet
9)	Trespass and Freedom of Assembly Purpose is to describe and analyze interaction of public order and freedom of assembly. Is there a right to protest? Analysis of right to protest, trespass and public order, and use of injunctions.	Wes Pue
10)	Aboriginal/Police Relations and Policing – Best Practices – Literature Review Comprehensive literature review of culturally appropriate reports, innovations and “best practices” policing services to Aboriginal people. Review to be supplemented by an interview examination of selected innovations considered best practice by the RCMP	Ron LaJeunesse
11)	Aboriginal/Police Relations and Policing – Best Practices – Survey and Focus Groups Review of Aboriginal, government and policing organizations “best” practices relating to Aboriginal-Police relations in Canada.	John Hylton
12)	Aboriginal Policing A summary and analysis of Aboriginal policing in Ontario, including description and overview, current or potential role for Aboriginal policing to reduce potential for violence, best practices/successful models, challenges.	Don Clairmont

PROJECT	RESEARCH PAPER/PROJECT	AUTHOR
13)	Aboriginal Peoples and the Criminal Justice System A paper analyzing Aboriginal peoples and the criminal justice system in Ontario including perceptions of aboriginal peoples within criminal justice system and society generally, statistical analysis, Aboriginal overrepresentation and how to improve situation of Aboriginal peoples within the criminal justice system and reduce Aboriginal overrepresentation.	Jonathan Rudin
14)	Overview of Police Independence An overview of the history and theory of police independence, including: 1) UK and Canadian experience 2) Reports and practical experiences 3) Limitations of independence and accountability dichotomy	Kent Roach
15)	Police Independence -- Core Principles How is police independence and accountability regulated and experienced in practice at both organizational and individual levels?	Dianne Martin
16)	Politics and Policing What is nature and frequency of policing in politically-charge contexts in Canada?	Margaret Beare
17)	Oversight of Government-Police Relationship – International Comparisons What mechanisms govern police and politicians in other jurisdictions? • International comparisons • Best practices, lessons learned?	Philip Stenning
18)	Oversight of Government-Police Relationship – Public Law Democratic or constitutional mechanisms exist in Canada to govern or oversee police and politicians.	Lorne Sossin
19)	Government-Police Relationship in Aboriginal Context What models have been developed to govern or manage relationship between police and Aboriginal peoples?	Gord Christie
20)	Description of Police in Ontario A summary description of police in Ontario. Purpose is for background and context.	Dena Demos

PROJECT	RESEARCH PAPER/PROJECT	AUTHOR
21)	Warrior Societies in Contemporary Indigenous Communities Concept of the Warrior among indigenous peoples, history of Warrior societies, indigenous warrior mythologies, structure and organization of societies, relation to indigenous communities, societies in conflict situations	Taiaiake Alfred and Lana Lowe
22)	Emergency Medical Procedures Literature review, a jurisdictional comparison and analysis, and best practices report about medical services in public order events. In partnership with the Office of the Chief Coroner.	The Office of the Chief Coroner of Ontario

Appendix C –Ipperwash Inquiry Consultations up to June 30, 2006

Osgoode Hall Law School and Ipperwash Inquiry symposium on police and government relations - **June 28 and 29, 2004**

Indigenous Knowledge forum - **October 13 and 14, 2004**

Aboriginal burial and other sacred sites community meeting at Aazhoodena - **February 26, 2005**

Consultation about the draft paper entitled “The Role of the Natural Resources Regulatory Regime in Aboriginal Rights Disputes in Ontario” by Jean Teillet - **March 15, 2005**

Emergency Medical Preparedness Education Session - **April 15, 2005**

Youth and Elder Forum about Aboriginal and Police Relations - **April 22, 2005**

Consultation about draft Inquiry paper “Addressing Aboriginal Land and Treaty Rights in Ontario: An Analysis of Past Policies and Options for the Future” by Michael Coyle - **April 29, 2005**

Policing of Aboriginal Occupations and History of Aboriginal Occupations - **August 19, 2005**. This event was web cast and can be viewed on the Inquiry web site.

Aboriginal Burial and other Sacred Sites in Ontario - **December 8, 2005**. This event was taped.

Ontario Provincial Police presentation, “Aboriginal Initiatives - Building Respectful Relationships” – **January 26 and 27, 2006**. This event was web cast and can be viewed on the Inquiry web site.

Chiefs of Ontario presentation – **March 8 and 9, 2006**. This event was web cast and can be viewed on the Inquiry web site.

“An Evening with the Ipperwash Inquiry Commisisoner” - **June 21, 2006**. This event took place in the Ipperwash area and was an opportunity for community members to talk about how the events at Ipperwash impacted on the community and on peoples’ lives.

Appendix D – List of Parties with Standing before the Ipperwash Inquiry

Parties with both Part I and II Standing before the Ipperwash Inquiry

1. Aazhoodena and George Family Group
2. Aboriginal Legal Services of Toronto
3. Charles Harnick
4. Chief Coroner
5. Chiefs of Ontario
6. Chippewas of Kettle and Stony Point
7. Estate of Dudley George
8. Marcel Beaubien
9. Michael Harris
10. Municipality of Lambton Shores
11. Ontario Provincial Police
12. Ontario Provincial Police Association
13. Province of Ontario
14. Residents of Aazhoodena
15. Robert Runciman

Parties with Part I Standing only

1. Chris Hodgson
2. Deb Hutton

Parties with Part II Standing only

1. Aboriginal Peoples Council of Toronto
2. African Canadian Legal Clinic
3. Amnesty International
4. Anishinabek Police Services
5. Canadian Civil Liberties Association
6. Centre Ipperwash Community Association
7. Chippewas of Nawash
8. George Simpson and Rowland Carey
9. Law Union
10. Mennonite Central Committee Ontario
11. Nishnawbe-Aski Police Services Board
12. Ontario Federation for Individual Rights and Equality
13. Union of Ontario Indians