

APPENDICES: Letter of Appointment

Ministry of Health
and Long-Term Care

Office of the Minister
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June 10, 2003

The Honourable Mr. Justice Archie G. Campbell
130 Queen Street West
Toronto, ON M5H 2N5

Dear Mr. Justice Campbell:

This letter will confirm your appointment as an independent Investigator, pursuant to section 78 of the *Health Protection and Promotion Act*, to investigate the recent introduction and spread of Severe Acute Respiratory Syndrome (SARS). I would like to express my thanks for your valuable input into the development of the Terms of Reference for this inquiry, a copy of which is appended hereto.

As you are aware, persons who disclose information to you in the course of your investigation will be protected from any adverse employment action, pursuant to Section 9.1(1) of the *Public Inquiries Act*.

As indicated in the Terms of Reference, you will deliver your reports to me and I will release them to the public. You will receive resources and support staff through the Ministry of the Attorney General, pursuant to paragraph 7 of the Terms of Reference.

In accordance with the attached Order in Council, all Government ministries, agencies, boards and commissions and their employees have been directed to co-operate with your investigation and to respect its independence.

On behalf of the Government and the people of Ontario, I thank you for agreeing to accept this most important mandate.

Yours very truly,

Tony Clement
Minister

Order in Council

Ontario
Executive Council
Conseil exécutif

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that: Sur la recommandation de la personne soussignée, le lieutenant-gouverneur, sur l'avis et avec le consentement du Conseil exécutif, décrète ce qui suit:

WHEREAS the Minister of Health and Long-Term Care has appointed the Honourable Mr. Justice Archie G. Campbell to investigate the recent introduction and spread of Severe Acute Respiratory Syndrome ("SARS") pursuant to section 78 of the Health Protection and Promotion Act;

WHEREAS the Minister of Health and Long-Term Care has provided Mr. Justice Campbell terms of reference for the investigation in a letter dated June 10, 2003;

WHEREAS persons who disclose information to Justice Campbell in the course of his investigation will be protected from any adverse employment action;

AND WHEREAS it is desirable to support Mr. Justice Campbell's investigation and to mandate full co-operation with him by all Government ministries, boards, agencies and commissions:

ALL Government Ministries, Boards, Agencies and Commissions, and their employees, shall assist Mr. Justice Campbell to the fullest extent in order that he may carry out his investigation;

ALL Government Ministries, Boards, Agencies and Commissions shall respect the independence of the investigation;

THE Attorney General shall furnish Mr. Justice Campbell with the resources and support referred to in paragraph 7 of the terms of reference for the investigation.

Recommended: _____
Minister of Health and
Long-Term Care

Concurred: _____
Chair of Cabinet

Approved and Ordered: June 10, 2003
Date

Lieutenant-Governor

O.C./Décret 1230/2003

Terms of Reference

Independent SARS Commission Terms of Reference

1. The subject matter of the investigation shall be:
 - (a) how the SARS virus was introduced here and what measures, if any, could have been taken at points of entry to prevent its introduction;
 - (b) how the SARS virus spread;
 - (c) the extent to which information related to SARS was communicated among health care workers and institutions involved in dealing with the disease;
 - (d) whether health care workers and patients in health care treatment facilities and long-term care facilities were adequately protected from exposure to SARS, having regard for the knowledge and information available at the time;
 - (e) the extent of efforts taken to isolate and contain the virus and whether they were satisfactory or whether they could have been improved;
 - (f) existing legislative and regulatory provisions related to or that have implications for the isolation and containment of infectious diseases, including the quarantine of suspected carriers;
 - (g) any suggested improvements to provincial legislation or regulations, and any submissions that the Province of Ontario should make concerning desirable amendments to federal legislation or regulations; and,
 - (h) all other relevant matters that Mr. Justice Campbell considers necessary to ensure that the health of Ontarians is protected and promoted and that the risks posed by SARS and other communicable diseases are effectively managed in the future.

2. The investigation shall be conducted in a manner that does not impede ongoing efforts to isolate and contain SARS.
3. Mr. Justice Campbell may request any person to provide relevant information or records to him where he believes that the person has such information or records in his, hers or its possession or control.
4. Mr. Justice Campbell shall hold such public or private meetings as he deems advisable in the course of his investigation.
5. Mr. Justice Campbell shall conduct the investigation and make his report without expressing any conclusion or recommendation regarding the civil or criminal responsibility of any person or organization, without interfering in any ongoing criminal, civil or other legal proceedings, and without making any findings of fact with respect to civil or criminal responsibility of any person or organization.
6. Mr. Justice Campbell shall produce an interim report at his discretion and deliver it to the Minister of Health and Long-Term Care who shall make the report available to the public. Upon completion of his investigation, Mr. Justice Campbell shall deliver his final report containing his findings, conclusions and recommendations to Minister of Health and Long-Term Care who shall make such report available to the public.
7. To conduct his investigation Mr. Justice Campbell shall be provided with such resources as are required, and be authorized by the Attorney General and shall have the authority to engage lawyers, experts, research and other staff as he deems appropriate, at reasonable remuneration approved by the Ministry of the Attorney General.
8. The reports shall be prepared in a form appropriate for release to the public, pursuant to the *Freedom of Information and Protection of Privacy Act*.
9. These terms of reference shall be interpreted in a manner consistent with the limits of the constitutional jurisdiction of the Province of Ontario.

In the event that Mr. Justice Campbell is unable to carry out any individual term of his mandate, the remainder of these terms of reference shall continue to operate, it being the intention of the Minister of Health and Long-Term Care that the provisions of these terms of reference operate independently.

Commission Team

Commissioner

Mr. Justice Archie Campbell has served as a Superior Court trial judge since his appointment in 1986 as judge of the High Court of Justice of the Supreme Court of Ontario, after posts as deputy attorney general and senior Crown counsel.

For approval to serve as Commissioner I am grateful to the Honourable Heather Smith, Chief Justice of the Superior Court, and to the Honourable Warren Winkler, Regional Senior Judge for Toronto.

To my judicial colleagues who shouldered my share of work during the SARS investigation, and to Chief Justice Roy McMurtry for his continuing support and encouragement, I owe a debt of gratitude.

Commission Team

To hand-pick your own team is a rare opportunity. It was my great fortune to work with a small team, the brightest and the best, on whom depended the work of the Commission. Any merit that accrues to the work of the Commission is entirely to their credit.

Counsel

Doug Hunt, Commission Counsel, a leader of the Ontario bar and a former assistant deputy attorney general for criminal law, has earned the highest professional respect through his work in the courts as leading counsel and through his continuing service in many capacities to the administration of justice.

His wise counsel and advice, legal learning and superb judgment complimented his skill in the thoughtful and effective management, with great distinction, of a complex and challenging project. No Commissioner has been better served by counsel.

Associate Counsel

Jennifer Crawford, associate Commission counsel, is a 10-year assistant Crown attorney with an excellent reputation in the courts, seconded through the generosity of Mr. Paul Culver, Crown Attorney for Toronto.

An indefatigable, thoughtful, and enormously dedicated worker, tough-minded yet scrupulously fair, meticulous in her insistence on factual accuracy, gifted with the highest level of professional skill and judgment, she exacted the highest standard of professional performance from herself and inspired her colleagues to do the same.

Senior Adviser

Mario Possamai, a former journalist and seasoned investigative researcher, performed outstandingly and produced magnificent work as a senior advisor. No colleague could be more helpful and supportive. No researcher could be more determined or produce work of greater thoroughness, thoughtfulness and depth.

Investigators

It was the Commission's privilege to enjoy the services of three highly experienced and widely respected police officers, who served successively as senior investigator to the Commission: Deputy Chief Ron Bain of the Peel Regional Police Service (now retired), Superintendent Eugene Kerrigan of the York Region Force and Acting Inspector Rick Huffman of the Toronto Police Service.

These officers displayed the highest level of investigative skill and judgment in the same manner that has distinguished their outstanding careers in law enforcement.

They were ably assisted in a part-time capacity by Barry Hill, a retired Toronto Police officer.

The Commission is grateful to Chief Armand La Barge of York Region for the secondment of Superintendent Kerrigan and to Chief William Blair of the Toronto Police Service for the secondment of Acting Inspector Huffman.

Editor

To the task of editing and producing the Commission's reports to the highest standard Jim Poling, Sr., a master of the English language and a most skilful, thoughtful, and effective editor, applied his great depth of experience as a journalist, editor and author.

Administrators

The Commission was extremely well served by David Henderson as Chief Administrative Officer and by Kathy Genore as Manager, Finance and Operations, a key member of the Commission team who made an enormous contribution to its work. Their deep experience in the management of independent Commissions ensured the smooth running of the Commission's work. The taxpayer is well served by the tight fiscal accountability they ensured as watchdogs over the expenditure of public funds.

The Commission is grateful to Sarina Kashak, Manager Court Operations Durham for Ms. Genore's secondment to the Commission.

Communications Officer

The Commission benefited greatly from the skill and wise advice of Peter Rehak, admirably suited to the job through his distinguished record in journalism, television, and Commission administration.

Support Staff

The challenging tasks of office support in a demanding working environment were achieved cheerfully, with great skill and competence, by Clita Saldhana, Andrea Luedecke, Sandra Leal, Arlette Al-Shaikh, and Abbie Adelman with welcome assistance from Anita Tse of Hunt Partners LLP. They displayed the finest qualities of grace under pressure.

Consultants

Peter Lawson, a member of the Ontario bar and a legal researcher of formidable ability, assisted the Commission in a number of legal research projects. Michael O'Driscoll, a member of the Ontario bar and a legal consultant, also made a valuable contribution.

For medical research, the Commission is grateful to Dr. David Naylor, President of the University of Toronto, for recommending the services of Dr. Adrienne Chan, Dr. Christopher M. Booth and Dr. Sheldon Singh, who so ably assisted the Commission in a number of medical research projects.

Note on Public Hearings

SARS Commission Public Hearings List of Presenters and Commissioner's Remarks

September 29th, 2003

Opening Remarks — Mr. Justice Archie Campbell
Upon commencing at 10:00 a.m.

Mr. Justice Campbell: Good morning. Since March of this year forty-four (44) members of our community have lost their lives to SARS. Will you please stand for a minute of silence to remember those who died.

(Moment Of Silence)

Mr. Justice Campbell: Thank you. These three (3) days of public hearings were announced in early August and were widely advertised. We invited those who wished to make public submissions to do so. The response has been strong. We added five (5) hours to this week's hearings. We will hold the further public hearings on November the 17th to accommodate those who applied but could not be heard this week because so many had applied.

This is an investigation under the *Health Protection Act*. We conduct the investigation mainly by confidential personal interview. We have spoken so far to around ninety (90) people, perhaps closer to one hundred (100) as of today. We've spoken to victims of SARS. We've spoken to some of those who have lost family members. We've spoken to health care workers who became ill, some of them gravely ill, with SARS.

It is very difficult for people who have been through this to talk about the grief and to discuss their loss, even in a confidential interview. I thank those who have shared their

experiences with us and those who will be speaking to us in the months ahead. Although the interviews themselves are confidential, their stories will be told in the public report with due concern for their personal privacy.

These public hearings represent a very small portion of our work and they give to those who have asked an opportunity to reach a wider public audience. The transcripts of these proceedings will be available on the Commission's public web page.

The public has a right to know what happened during the SARS outbreak in Ontario. My job is, first, to investigate and to report publicly on what went right, what went wrong, what lessons should be learned. The full Terms of Reference are on our web page. I think a few copies are available here today. And I, in the report, will make public recommendations to improve our ability to protect the public and health care workers against deadly infections like SARS.

The *Public Inquiries Act* protects from any form of workplace reprisal every person who speaks to the Commission at these public meetings or in private interviews or who approaches us with information. The Commission cannot make findings of civil or criminal liability against any person or organization.

Please keep in mind these public hearings are not a forum to point fingers or to allege blame in relation to individuals. We are still in the information-gathering phase of the investigation and during these public hearings I will not question the presenters. I will not question any presenter at this time, except perhaps for clarification.

At a later stage in the investigation, we will continue to interview in depth people about detailed problems, particular problems, specific concerns and at that phase of the investigation, we will probe more deeply.

We have a lot of people here today. All the time slots have been scheduled in advance, and as you can see, it's a pretty tight schedule. If you have not registered to speak but you would like to speak to us; if there's something you want to tell us and you want to have a confidential interview, please speak to members of Commission staff who are here today.

For the presenters, I really would ask you please respect your time limit so that each presenter has a fair chance to be heard.

Ontario Nurses' Association
Registered Nurses Association of Canada

Ontario Medical Association
Ontario Association of Community Care Access Centres
Community Coalition Concerned About SARS
Dr. Colin D’Cunha – Chief Medical Officer Of Health
The Ontario College of Family Physicians and the Family Physicians Toronto
Sunnybrook & Women’s College Health Sciences Centre
Toronto Emergency Medical Services

September 30th, 2003

Dr. Richard Schabas
Dr. James Young
St. Michael’s Hospital
Customs Excise Union Douanes Accise
Canadian Union of Public Employees
Service Employees International Union
Ontario Public Service Employees Union
Ontario Ministry of Health and Long-Term Care
North York General Hospital
Scarborough Hospital
Ontario Hospital Association
Ontario Association of Radiologists

October 1st, 2003

Peterborough County-City Health Unit
Association of Local Public Health Agencies
York Regional Public Health, Health Services Department, Public Health Branch
Ontario Long Term Care Association
Victorian Order of Nurses
Ontario SARS Scientific Advisory Committee
Mr. David McKinnon and Dr. David McLeod
College of Respiratory Therapists of Ontario
College of Physicians and Surgeons of Ontario
Humber River Regional Hospital
York Central Hospital
University Health Network
William Osler Health Centre
Rouge Valley Health System
The Hospital for Sick Children

November 17th, 2003

Upon commencing at 9:00 a.m.

Mr. Justice Campbell: As we begin this second session of public hearings, it's important to us to remember again the deaths from SARS of forty-four (44) members of our community. Their deaths and the sacrifices made by the front-line workers, all of those who suffered from SARS and all of those who fought it continue to motivate the work of all of us who are concerned about the outbreak and everyone who investigates it in the search for the facts of what happened and of the lessons we must learn.

Beginning in August of this year, a series of newspaper ads and radio announcements invited public submissions from anyone who wished to speak out in public about SARS. From September 29th to October 1st, we heard thirty-seven (37) presentations and in the next three (3) days, we will hear from the rest of those who asked to be heard in public.

It's important to note that those who present at these hearings are not questioned or cross-examined publicly. This investigation under the *Health Protection and Promotion Act* is driven by confidential personal interviews. There's no provision for adversary-type hearings and there's no provision for cross-examination. During the course of this investigation questioning, as in any other investigation, takes place during the course of the confidential interviews. We have followed up in the confidential interviews with a number of those who presented at the last sessions and we will continue to do so with those who presented then and those who present in these sessions.

We've interviewed about two hundred (200) people and hundreds of interviews and followup interviews remain to be conducted. There is a great mass of documents to analyze.

In order to present the public with a full account of what happened in the SARS outbreak, in order to make sensible recommendations for future change, a great deal of work remains to be done. It will be approximately a year before I can be confident that the facts have been thoroughly enough investigated to support a final report that tells the public what happened and answers the questions that the public need to have answered.

In the meantime, other reports have been released to the public. Dean Naylor's excellent report for the federal government, *Learning from SARS: Renewal of Public Health in Canada*, is extremely helpful, provides great insight and sheds a lot of light on many

of the areas under investigation by this Commission. Senator Michael Kirby's Commission – Senate hearings have produced a similarly outstanding and very useful report on public health infrastructure, after hearing from the wide range of public health people including some of those involved in the recent SARS outbreak.

Dean David Walker's forthcoming report to the provincial Ministry of Health is expected to explore in detail a number of research areas with a focus on future recommendations in the nature of policy lessons learned from SARS and health systems approach to consider for the future. One of our tasks is to integrate the results of all that work into our detailed investigations, the findings and analysis of the introduction and spread of SARS in Ontario.

The next two (2) days of public hearings, tomorrow and Wednesday, and today, will accommodate the balance of those who asked to make public statements. During the daytime session today, we're also having an evening session, but during the daytime session we'll hear from those invited by the Commission to explore a fundamental yet somewhat ignored issue of critical importance.

And that critical issue is workplace health and safety. It is fundamental that we understand that hospitals are workplaces. It's fundamental we understand that hospitals, like all workplaces, are subject to a system of legal obligations under the *Occupational Health and Safety Act* and regulations; that legal system is designed to protect the health and safety of hospital workers and other health workers; that legal regime depends on the principle of internal responsibility supported by a system of workplace health and safety committees and enforced and supported by a system of inspection and investigation through the Ontario Ministry of Labour.

The application of workplace health and safety principles in hospitals during the SARS outbreak will provide a focus for most of the daytime presentations today. This evening, we will continue with presentations by family members and concerned citizens affected by SARS.

Ontario Nurses' Association and Ontario Public Service Employees Union
Registered Nurses Association of Ontario
Service Employees International Union
Canadian Union of Public Employees
Ontario Ministry of Labour
Ontario Hospital Association
Occupational Health Management Services
Occupational Health Clinics for Ontario Workers Inc.

Dr. Peter Strahlendorf
Bernadette Stringer
Lisa Karunakaran
Kathleen Valin
Linda Rumble
Christine Gibson
Jan Nichols
The Toronto Health Coalition and Families Advocating for Reform of the
Coroner's Office
Susan Fraser

November 18th, 2003

Ontario Health Coalition
Ontario Public Health Association
Medical Staff Association of the Rouge Valley Health System and the Coalition of
Family Physicians of Ontario.
Dr. Joyce Nyhof-Young
Ontario Restaurant Hotel and Motel Association
Ontario Council of the Canadian Federation of University Women
Metro Toronto Chinese & Southeast Asian Legal Clinic

November 19th, 2003

CMO Health Care
Canadian Centre for Emergency Preparedness
James Ashton
Ontario Pharmacists Association
Association of Ontario Midwives
Dr. Jean-Louis Durier
Elivery Solutions Inc. and Dr. McQuigge
Micrylium
GE Lighting Canada
Bonnie Case

Mr. Justice Campbell: Thank you for your presentation. That concludes this second session of public hearings – in the course of the six (6) days of public hearings for a total of about seventy-five (75) presentations on behalf of many organizations and many individuals affected by SARS.

On Monday night, two (2) evenings ago, we heard how SARS affected families. The presentations by family members and their personal stories were compelling. It was

difficult for people to talk about their grief and we thank them, and all participants who came here, for sharing their experiences, their thoughts, their recommendations with us in public.

These public hearings represent but a very small portion of our work and they give, to those who have asked, an opportunity to reach a wider public audience. The bulk of our work consists of confidential personal interviews and we have so far conducted about two hundred (200) of those.

Those who present at the public hearings, you obviously noted, are not questioned or cross-examined publicly. Questioning takes place during the course of our confidential interviews and not in public. We have conducted follow-up interviews with a number of those who presented at the last public session. We continue to do so with them and we will continue to do with a number of those who presented at the earlier sessions and at these sessions.

Again, I wish to thank everyone who participated in these hearings. The purpose of these Public hearings is now fulfilled. Everyone who asked to make a public presentation has now been heard and no further public hearings are scheduled at this time. The investigation continues. Thank you.

Note

Transcripts of the public hearings are available on the Commission's website, which will remain active for another year at www.sarscommission.ca and after that on the website of Ministry of Health and Long-Term Care.