



September 26, 2011

Commissioner Wally Oppal
Missing Women Commission of Inquiry
#1402 – 808 Nelson Street
Vancouver, BC
V6Z 2H2

VIA E-MAIL

Dear Commissioner Oppal:

RE: Transparency of operations of Missing Women Commission

I write to you on behalf of the B.C. Civil Liberties Association. We were surprised to learn that you had granted Police Constable Doug Fell full standing in this Commission of Inquiry. As you know, no submissions were provided to our office from Constable Fell's counsel, and we were granted no opportunity to provide reply submissions to any application for standing. As a result, this process took place entirely separate and apart from organizations and individuals who might have opposed a grant of full standing, as our organization would have done.

Our reason for opposing a grant of full standing for Constable Fell is simple – his interests are no more significant, pressing or overwhelming than those of the Union of B.C. Indian Chiefs, First Nations Summit, Assembly of First Nations, or the Women's Equality and Security Coalition, who have all been granted "limited" standing by you.

The message that this approach by the Commission sends is simple: the police are preferred to the community. The default grant of standing for police without application is full standing, and we would guess, full funding. There is no default grant of standing for community organizations made up of coalitions of thousands of members of affected populations. Those who are not government or police must attend public hearings, in person or by counsel, and make detailed submissions in order simply to get "limited" standing and no funding.

This is, unfortunately, not the first time our organization has written to you to express concern about preference being given to police officers and government over non-government organizations and those directly affected by the negligence and mishandling of the DTES disappearances and murders.

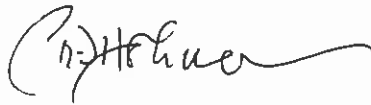
We write again to point out to you this preference in both the above-noted situation and the following situations, which reflect both this preference and the unwillingness of this Commission to consult non-government and non-police organizations on matters of considerable interest.

- Discussion and circulation of the transcript of Commissioner Oppal's phone message to former Attorney General Barry Penner, which was discussed and circulated among government and police organizations but not others granted standing before it was released to the media;
- The decision to retain "volunteer" Peel Police officers as expert witnesses on an ongoing basis and the terms of their review and access to documents, despite members of the same force being currently investigated by the RCMP for various drug offences;
- The terms of the document disclosure agreement between the Commission, the RCMP and the VPD, and what information will and will not be disclosed to all parties, which was negotiated at meetings to which parties granted standing were not invited;
- The decision to appoint independent counsel and the terms of retainer of such counsel, which process was established and applicants invited before those concerned about a lack of representation for marginalized communities could make submissions about the suitability of that approach;
- The preparation of an expert witness list and a witness list by the Commission, and the retainer of expert witnesses to prepare reports, despite repeated requests for access to that list by participant groups.

We do not need to point out to you that even though our organization has been granted "limited" standing by you, that we do have standing in this process, and that administrative law affords those with standing basic procedural protections, including the right to be heard.

We join counsel for the family members, along with independent counsel, in asking that – at a minimum – this Commission circulate all documents relating to applications, including correspondence it has received from all counsel, any voicemail recordings or other materials, electronic or otherwise, and that any applications made to the Commission be circulated *before* decisions are made so that interested groups may make submissions in favour of, or in opposition to, those applications.

Yours truly,

A handwritten signature in cursive script, appearing to read "R. Holmes", with a long, sweeping flourish extending to the right.

Robert Holmes, QC
President