

INQUIRY INTO SERIOUS CRIMES – BERMUDA 2000

Opening Statement by The Chairman of The Inquiry

- 1 My colleagues and I have been appointed by His Excellency The Governor, to be members of This Commission Of Inquiry pursuant to the Commissions of Inquiry Act 1935, Title 28 Item 19 of the 1989 Revision of the Laws of Bermuda. We shall, throughout these proceedings, refer to this statute as "The Act".
- 2 Our Terms of Reference are:

TO CONSIDER:

THE PROCESS OF THE PROSECUTION OF SERIOUS CRIMINAL OFFENCES IN BERMUDA;

THE GATHERING OF EVIDENCE AND THE POLICE PROTOCOLS FOR INVESTIGATING SERIOUS CRIMINAL OFFENCES IN BERMUDA;

THE MANNER IN WHICH THE POLICE INVESTIGATION THEN RELATES TO PROSECUTORIAL DECISIONS AND THE ADMINISTRATION OF JUSTICE IN BERMUDA; AND

TO MAKE RECOMMENDATIONS ARISING THEREFROM,

And to report your findings, and to make such recommendations in relation thereto as the Commissioners shall think fit.
- 3 For the purpose of this Inquiry under the Terms of Reference, 'serious crimes' have been defined as those which involve serious personal injury - such as the use of violence or endangering life - and for which the offender could be sentenced to 10 years or more. It will be observed that we have not been mandated to conduct an Inquiry into any particular offence or offences.
- 4 This morning, each of us subscribed before His Excellency the Governor, The Oath of Commissioner required under the Act, and deposited it with the Secretary to the Cabinet as provided.
- 5 Our duties as Commissioners are, inter alia, to make a full, faithful and impartial inquiry into the matters set out in our Commission; to conduct the inquiry in accordance with the direction in the Commission; to report to the Governor in writing the result of our Inquiry; and to make such recommendations in relation to our findings as we may think fit.

- 6 His Excellency has appointed Mrs. Carlita O'Brien as Administrator for the Commission. Arrangements have been made for the retention of Mr. Richard Hector Q.C. to marshal the evidence, assist in presenting it to us, and generally to assist us in the analysis of the legal and factual issues which may arise.
- 7 Notices have already appeared in the press inviting any person who feels that he or she is able to assist the Inquiry to come forward. The Commission would welcome the full cooperation and assistance of members of the public in this regard.
- 8 Any person desirous of giving evidence, should contact The Administrator, Commission of Inquiry, c/o Department of Personnel Services, 3rd Floor, Global House, 43 Church Street, Hamilton HM 12, or via fax at 295-2855. Those wishing to give oral evidence should also contact the Administrator at 295-5151 ext. 1460.
- 9 The Commission will follow the practice normally adopted by Commissions of Inquiry into matters of this kind. It must be remembered, however, that we are not sitting as a Court. These proceedings are not adversarial. There is no plaintiff and defendant; no prosecutor and accused; no petitioner and respondent. Our tasks are to inquire into, to report upon, and to make recommendations in relation to the matters set out in our Terms of Reference.
- 10 Parties wishing to be legally represented may apply for leave to retain Counsel. Such applications will be sympathetically considered.
- 11 As a general rule, all evidence at the hearing is to be led through counsel assisting The Commission, including that of persons seeking to adduce evidence on their own behalf. Such persons will be required to submit, in advance, to Counsel assisting The Commission a copy of the evidence sought to be adduced.
- 12 Where circumstances justify such a course, any particular person may be allowed, by special direction of the Commission, to produce evidence through his or her own Counsel.
- 13 Counsel will not, however, be entitled as of right to examine persons testifying, other than their clients, unless such persons give evidence which could lead to the making of a finding of condemnation in relation to their clients. Counsel or other persons concerned will be allowed to put questions to a witness through the Commission.

- 14 Statements made by witnesses in response to the advertisement soliciting such assistance will not be circulated. If such statements do contain imputations critical of any person, they will be made available to that person to permit adequate time for response.
- 15 The Commission will sit in this Courtroom #4 each day as necessary from Monday to Friday. The hours of sitting will in general be from 10:00 a.m. to 1:00 p.m. and from 2:30 p.m. to 4:30 p.m. However, The Commission reserves the right to vary these times in extenuating circumstances.
- 16 Although the date for the submission of statements is **Friday, August 11, 2000**, members of the public wishing to submit statements after the deadline may still do so to The Administrator, Mrs. Carlita O'Brien, c/o Department of Personnel Services.
- 17 We have sought to set out the procedures by which we hope to conduct the Inquiry in this Opening Statement. But since we cannot foresee every contingency, we may have need to make further decisions regarding procedure during the course of the Inquiry.
- 18 We are delighted to welcome the media to the opening of this Inquiry. Copies of this opening statement are available and may be obtained from the Administrator.
- 19 Arrangements have been made for the media to be able to give full coverage to all of our public sittings, if they desire to do so. For it is our belief, that the public benefit flowing from these proceedings will be considerably enhanced if the media are afforded every facility, not only to report the proceedings, but also to make informed and responsible comment for the consideration of the public.
- 20 Having had the honour of visiting Bermuda previously, it is a distinct pleasure for me to be here once more in these beautiful Islands. One incidental bonus is the opportunity of seeing my Bermudian grandson once again. Mr. Dovaston is here for the first time, but both he and his wife are already struck by the scenic beauty of the place and the warmth and hospitality of the people. We all look forward to conducting this Inquiry in a cordial and constructive atmosphere.
- 21 After the reading of this statement, the sitting of this Commission will be adjourned to 10:00 a.m. tomorrow August 8, 2000. During the interval, counsel assisting the Commission and the Administrator will make such arrangements as are necessary for the smooth commencement of the presentation of the evidence.