

## TRG briefs

### **Answers that Lead to Change When Do Governments Act on the Recommendations of Public Inquiries?**

**IPAC Toronto Regional Group  
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Public inquiries are often the instrument of choice when governments must chart a course of action on contentious issues. Consider Walkerton, Ipperwash, Macdonald on the economy, Romanow on health care, and many others. Far from putting issues on a back burner, public inquiries have re-shaped attitudes and helped guide governments to make far-reaching changes.

How have chairs of public inquiries, including judges and former politicians, improved the prospects that governments would implement their recommendations?

How has timing affected the chances that action will follow release of an inquiry's report? What techniques have public inquiries used to engage the public? How have chairs of inquiries and their staff ensured that recommendations would be relevant and feasible? What has motivated leaders and ministers to become champions of change and commit governments to act on the recommendations of inquiries?

These and related questions were discussed in "fireside chat" format, by a panel with first hand experience or who have studied public inquiries in Canada. The large audience attending the event also participated in the discussion.

**Pamela Bryant, moderator** - A former Ontario Deputy Minister, and now Fellow and Adjunct Professor in the School of Public Policy and Governance, University of Toronto. Professor Bryant introduced the topic and the panelists.

**Jeffrey Stutz, panelist** - Consultant in public policy, who served on the policy team of the recent Ipperwash Inquiry, and is the author of a forthcoming article about implementing the recommendations of public inquiries.

**Ian Clark, panelist** - Professor in the School of Public Policy and Governance, University of Toronto, and co-author of an award-winning article, "Advising for impact: lessons from the Rae review on the use of special purpose advisory commissions".

**Antonia Maioni, panelist** - Director of the McGill Institute for the Study of Canada, and published widely in Canadian and comparative politics with a focus on health and social policy.

**Pamela Bryant -**

Public inquiries address public issues in formats that include Committees, Panels, Commissions, and Judicial Inquiries, among others. The function can be retrospective - to investigate facts and faults; or prospective - to define issues and recommend policies. They are always independent of government. There have been 350 inquiries in Canada since confederation. While other countries also use public inquiries, Canada relies on them to a great extent.

We have asked the panel to consider three questions:

- When are inquiries and commissions used, and why?
- What are the political ingredients of success – what leads to the implementation of recommendations of inquiries?
- How do you measure success?

**Jeffrey Stutz** – One has to ask why governments create public inquiries. The answer is -- to address urgent public policy issues; and to gain public trust in the answers that are developed. Trust comes because of the perceived and actual independence of public inquiries from government. That is why judges are frequently chosen to chair inquiries.

An inquiry is also a political tool. Most inquiries do have political implications. For example, the current listeriosis inquiry will likely help take the issue off the table for the duration of the federal election campaign. Inquiries can also turn around and inflict political damage on the governments that appoint them. Consider the federal Liberals and the sponsorship inquiry, or the Ontario Conservatives and the Walkerton inquiry. On the other hand, not to appoint an inquiry in the face of media and public demands also exacts a political price.

**Ian Clark** - One form of inquiry is the “investigative inquiry”, which usually addresses a crisis. Investigative inquiries are never set up without a call for the resignation of a minister, and all involve the Premier or Prime Minister.

Another form is the “policy inquiry”, where the mandate is fact finding and policy development on a large public issue.

**Antonia Maioni** – The rule in Canadian government seems to be: when in doubt, strike a commission. Prime Ministers Diefenbaker and Mackenzie King (the master of procrastination) were both champions of commissions.

The Macdonald Commission in 1980 produced influential recommendations that led to the negotiation of free trade agreements between Canada and the US, and later Mexico. Commissions are also sometimes used to defuse explosive situations, rather than produce answers. The Bouchard-Taylor inquiry on accommodating minority cultures in Quebec had that goal, though it is questionable whether it did in fact calm the situation.

**Pamela Bryant –**

What are the ingredients of success?

**Ian Clarke** - The Ontario government implemented most of what was recommended in the Rae report on post-secondary education, when nine previous inquiries over 30 years had gone unimplemented.

Bob Rae roused public interest and support for the issues. The elements of success can be analyzed in the categories of environmental factors such as economic and fiscal conditions, process (how the inquiry operated) and, political acuity – that is writing recommendations that provide feasible answers for the government.

Rae was extremely skilled at

- getting participants to move toward consensus on recommendations
- getting government and political officials up to the highest levels ready to implement

**Antonia Maioni** – The right kind of leadership for a commission is essential, and that person must be presented as a competent leader. Other key factors are evidence to support the recommendations and feasible plans for implementation.

What governments do as a result of an inquiry or a commission can be: 1) directly implement the findings, including legislation. The Hall Report on health insurance is an example; or 2) reject the commission report, either out of hand, or, simply indicating the time is not right for changes recommended. The Kent report on newspapers was so radical no government would act on it; or 3) dissect the findings. This approach can be fraught with risk. Cherry picking findings and recommendations can lead to more harm than good. Romanow's report on health care suffered this fate.

**Jeffrey Stutz** - The role of judges and prominent politicians is crucial in framing recommendations which are feasible, and in cultivating the government to accept the recommendations. Such inquiry leaders can become “policy entrepreneurs”.

Another factor which helps is getting the answer right. The Walkerton inquiry, for example, is regarded as being “right” on the issues.

The capacity of an inquiry to generate public engagement and respond to public interests creates the environment for governments to act. Public hearings, like those of the Ipperwash inquiry, can set the stage for action. They raise public and media knowledge and expectations.

It's been noted already there have been a flood of health inquiries in the last decade, none of which provided consensus or answers. Why? It could be because of the fractured federal-provincial jurisdiction with respect to health, or the strong vested interests in the field. The bottom line is commissions cannot always provide answers to the issue.

**Pamela Bryant** –

What would define success for a public inquiry?

## Responses --

- Are the conclusions consistent with the evidence?
- Did the commission spark public debate, and did the public learn something?
- Do we know more than before as a result of new research or insight?
- Did the commission address the right problems? (This may underlie the lack of success with healthcare commissions: there is no accord on what the problem really is).
- Did the commission listen to the interests at work, and did they find a balance of competing interests?
- Did the government act on the recommendations? Did it pass new legislation or change policies?
- Did the story get told; did the truth come out?

*The audience engaged panel members with questions and dialogue:*

**Question:** What is the role of the public in public inquiries? Is the public effectively engaged, or are inquiries just to influence opinions and agendas.

**Discussion:** Not all commissions and inquiries are mandated to include public engagement. The Ontario public commissions on health, for example, were commissioned only to bring forward recommendations. Some commissions have a public dimension, and some don't.

The resources and tools for involving the public which are available to a public inquiry are usually more extensive than those of ministries or even legislative committees. The public consultation process provides a good forum for discovery of public issues, interests and ideas. It is also a forum for testing ideas and public opinions.

The role of the public in the Ipperwash inquiry was on the investigative side, rather than the policy side of the agenda. Public participation was also an important part of the "healing" process.

Inquiries can play a cathartic role. Taking the Walkerton inquiry to the town of Walkerton was a good example.

The Royal Commission on Aboriginal Peoples created the first real opportunity for a public conversation on the issues since the founding of Canada. What it did was provide the big picture, and a benchmark on consensual solutions that remains of interest around the world. .

Does the choice of researchers really affect the findings? Whom you ask, will affect the answers you get.

The choice of researchers is crucial. The object is to identify issues, gather facts, distill them, and propose frameworks of analysis. This helps to build the commission agenda. A particularly awkward risk is ending up with dueling researchers, unable to distil or narrow down the issues and options.

Implementation of findings presents its own set of problems and challenges. An example of one approach adopted in Northern Ireland after the Patten commission on reform of policing, was to appoint an oversight body to publicly track the progress. This innovation built credibility for the process, including political support.

**Question:** Why do some issues call for an inquiry and some do not?

**Discussion:** All inquiries work in a political environment. Sometimes, a public inquiry can be used to park an issue. In other circumstances, they can be used to put the hard questions to experts and to the public. Consider the different responses to the listeriosis outbreak from tainted meat and the huge propane explosion in Toronto this year. The first led to an announcement of a federal public inquiry and the second to a plan of action by the Ontario government

**Question:** What is the impact on the bureaucracy? During an inquiry, there is a suspension of decisions and solutions. Does anything still go on within the bureaucracy?

**Discussion:** Commissions can engage public servants before the end of an inquiry, such as stimulating them to take action on impending recommendations for action. The Guy Paul Morin inquiry encouraged police and Crown counsel to take action even before the inquiry report appeared – and they did.

**Pamela Bryant** – Thanks to the panel and the audience. This has been a truly rich discussion.

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