

**THE CORNWALL
PUBLIC INQUIRY**



**L'ENQUÊTE PUBLIQUE
SUR CORNWALL**

Public Hearing

Audience publique

Commissioner

The Honourable Justice /
L'honorable juge
G. Normand Glaude

Commissaire

VOLUME 191

Held at :

Hearings Room
709 Cotton Mill Street
Cornwall, Ontario
K6H 7K7

Wednesday, February 6 2008

Tenue à:

Salle des audiences
709, rue de la Fabrique
Cornwall, Ontario
K6H 7K7

Mercredi, le 6 février 2008

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Raija Pulkkinen	Commission Counsel
Mr. Mark Crane	Cornwall Police Service Board
Mr. David Rose Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. William Carroll	Ontario Provincial Police Association
Mr. Ian Paul	Coalition for Action

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NO.	DESCRIPTION	PAGE NO
P-1192	(115908) Email from Diane Brownell to Terrence Mroz - 07 Jul, 00	2

1 --- Upon commencing at 9:33 a.m./L'audience débute à 9h33

2 **THE REGISTRAR:** This hearing of the Cornwall
3 Public Inquiry is now in session. The Honourable Mr.
4 Justice Normand Glaude, Commissioner, presiding.

5 Please be seated; veuillez vous asseoir.

6 **THE COMMISSIONER:** Thank you. Good morning
7 all.

8 Good morning, Mr. Engelmann.

9 **MR. ENGELMANN:** Good morning, Mr.
10 Commissioner.

11 **THE COMMISSIONER:** How are you doing today?

12 **MR. ENGELMANN:** Good.

13 **DEBORAH NEWMAN, Resumed/Sous le meme serment**

14 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.

15 **PETER ENGELMANN: (Continued/Suite)**

16 **MR. ENGELMANN:** Good morning, Ms. Newman.

17 **MS. NEWMAN:** Good morning, Mr. Engelmann.

18 **MR. ENGELMANN:** Ms. Newman, I just have a
19 couple of areas to go back to and then I want to -- I then
20 want to get into some of the changes that have been put in
21 place here and then follow-up with some brief questions
22 thereafter, so I'm not going to be very long.

23 Going back though, in time, I wanted to ask
24 you about one more House notes or briefing notes, if we
25 can. And it's Document No. 115908.

1 **THE COMMISSIONER:** Thank you. It will be
2 Exhibit No. 1192.

3 **--- EXHIBIT NO./PIÈCE No. P-1192**

4 (115908) Email message from Diane Brownell
5 to Terrence Mroz, 07 Jul, 00

6 **THE COMMISSIONER:** Actually, it's an email
7 message.

8 **MR. ENGELMANN:** Yes, sorry, it's ---

9 **THE COMMISSIONER:** Diane Brownell, dated
10 July 7, 2000, just for identification purposes.

11 **MR. ENGELMANN:** And it's 118?

12 **THE COMMISSIONER:** One one nine two (1192).

13 **MR. ENGELMANN:** One one nine two, (1192)
14 sorry.

15 **THE COMMISSIONER:** Oh, I see, yes.

16 **MR. ENGELMANN:** Ms. Newman, I'm just trying
17 to understand this document, it was in our database from
18 the Ministry. It appears that we have an email message to
19 start and I think the name Terrence Mroz, we've seen
20 before; it's on the caption on the first page, the email
21 header.

22 **MS. NEWMAN:** Oh, I see. Thank you.

23 **MR. ENGELMANN:** Yes, that's a Ministry
24 lawyer; am I correct, this person?

25 **MS. NEWMAN:** With the Crown Law Office,

1 civil, as I recall.

2 MR. ENGELMANN: All right. And there's a
3 brief issue note reference on the first page and this is
4 just, if I understand it correctly, telling us the sources
5 for the information contained in the issue note?

6 MS. NEWMAN: Yes. This appears to be
7 someone, Diane Brownell, that works for the Information
8 Management Unit that creates these notes and she's emailing
9 the issue note itself to Terrence Mroz and what you see in
10 terms of all of the names, yes, are the various individuals
11 that have either generated the note, edited it or reviewed
12 it.

13 MR. ENGELMANN: And at this point in time,
14 in July of 2000 you would be a Regional Director?

15 MS. NEWMAN: That's correct.

16 MR. ENGELMANN: So according to the note at
17 least, you would have had some input into the issue note?

18 MS. NEWMAN: I ---

19 MR. ENGELMANN: At least at that time?

20 MS. NEWMAN: I wouldn't recall that
21 specifically, whether I was a source of information for the
22 note or not.

23 MR. ENGELMANN: All right. You're indicated
24 as one though, on the cover note; correct?

25 MS. NEWMAN: You're correct.

1 **MR. ENGELMANN:** All right. So if we turn
2 the page -- and I'm just trying to follow how this works
3 and I think you've given us an indication already that
4 these notes evolve.

5 So if we look at the second page which is
6 Bates page 1075119, we now have a date about a month later,
7 August 8 -- oh sorry, a couple -- we have August 8, 2002;
8 we have July 18th, 2001 crossed out. So if -- and I just
9 again want to understand how this note worked.

10 If there's a line through words, presumably
11 these are words that have been there before but are removed
12 in the subsequent copy?

13 **MS. NEWMAN:** That's right. So this is
14 noting tracked changes on the computer.

15 **MR. ENGELMANN:** All right, and those
16 underlined portions would be new to the last version?

17 **MS. NEWMAN:** That's right. So these would
18 be additions to the note, effective August 8th, 2002. The
19 note originated July 18th, 2001 and where you see words that
20 are crossed out they're being replaced with something else,
21 a revision.

22 **MR. ENGELMANN:** All right.

23 **MS. NEWMAN:** I do -- there's a question in
24 my mind, in the sense that the note is dated August 8th,
25 2002 but the covering email is July 7th, 2000; it doesn't

1 make too much sense to me.

2 **MR. ENGELMANN:** No, it's just how we
3 received the document. So it's one of the reasons I want
4 to just to try and clarify it with you.

5 But it would appear at least that in the
6 summer of 2002 an issue note is further amended and facts
7 are added, for example, about new charges in the Project
8 Truth investigation, also about new lawsuits and things of
9 that nature.

10 **MS. NEWMAN:** That's correct.

11 **MR. ENGELMANN:** All right. And as well, we
12 note there are numerous references to the website now and
13 you'll see those on page 4 of the note and some of the
14 interaction between your Cornwall office and the website
15 operator; all right?

16 **MS. NEWMAN:** That's correct.

17 **MR. ENGELMANN:** And this note is saying all
18 questions regarding this matter are to be referred to the
19 Ministry of the Attorney General and I think you told us
20 yesterday that there were a number of lawsuits. Would it
21 be fair to say, that in the years 2000, 2001, 2002 there
22 were several lawsuits outstanding, to your knowledge?

23 **MS. NEWMAN:** I think we began to receive
24 civil suits in 2000. And they continued through to the
25 present time.

1 **MR. ENGELMANN:** All right. There may have -
2 - you're aware or perhaps you're not, of some in the mid to
3 late '90s as well?

4 **MS. NEWMAN:** I'm not aware, no.

5 **MR. ENGELMANN:** All right.

6 And just if we follow the issue note
7 through, if we look at Exhibit 1104 again for a minute.

8 **THE COMMISSIONER:** Hang on; 1104.

9 **MS. NEWMAN:** Thank you.

10 **MR. ENGELMANN:** You might want to just keep
11 the note that we just had handy, which is 1192.

12 But in Exhibit 1104, at Bates page 1115014
13 we appear to have the final version of the note we were
14 just looking at in 1192, with the track changes removed.

15 **THE COMMISSIONER:** Say that again. What
16 Bates page?

17 **MR. ENGELMANN:** It's 1115014, which is now
18 up on the screen. It's the August 8, 2002 issue note
19 that's in this package, Ms. Newman. And I believe what
20 we're looking at is the final version of the document we
21 just examined; is that fair?

22 **MS. NEWMAN:** So the track changes have been
23 removed and ---

24 **MR. ENGELMANN:** Right.

25 And at least at this stage you're now an

1 Assistant Deputy Minister, in August of 2002?

2 MS. NEWMAN: That's correct.

3 MR. ENGELMANN: And it's noted that you
4 approved it, at the end, in August of 2002.

5 MS. NEWMAN: In practice. My executive
6 assistant would have approved it, not me.

7 MR. ENGELMANN: All right, and that was your
8 practice when you were the Assistant Deputy Minister?

9 MS. NEWMAN: Yes, it was.

10 MR. ENGELMANN: All right. Presumably you
11 have some discussion with your executive assistant from
12 time to time about these?

13 MS. NEWMAN: Yes, my executive assistant
14 would draw certain notes to my attention or new
15 developments.

16 MR. ENGELMANN: All right. I wanted to --
17 there was one item I missed yesterday and I wanted just go
18 back to it briefly. And it really deals with -- and I
19 realize you told us that in 2001 you had less to do with
20 Mr. Downing. But you talked to us about some of the
21 follow-up that you and Mr. Commeford asked him to do and
22 there was one issue that I believe you asked him to follow-
23 up and that was sort of three unnamed sources from the
24 website.

25 I just wanted you have a look at -- it's

1 Exhibit 1095.

2 THE COMMISSIONER: No; it's in the same
3 book.

4 MS. NEWMAN: Is it?

5 THE COMMISSIONER: It's in the same book;
6 1095.

7 MS. NEWMAN: Thank you.

8 THE COMMISSIONER: This is a CISU document;
9 1095, Mr. Engelmann?

10 MR. ENGELMANN: Yes, and this is -- and I
11 wanted to come back to this document for two reasons; yes,
12 CISU and I think the only reason is a reference to CISU is
13 that Mr. Downing has now moved on and he's the manager of
14 the CISU which had been formed on April 1, 2001; is that
15 correct?

16 MS. NEWMAN: That's correct.

17 THE COMMISSIONER: The administrative review
18 didn't -- didn't go to the CISU, it stayed with Mr. Downing
19 and he carried on his function until later in 2001; do I
20 have that right?

21 MS. NEWMAN: Mr. Downing, as I understand
22 it, Mr. Downing continued to conduct his review and in this
23 -- I can't recall the exact date in the spring of 2001
24 became the manager of the Correctional Investigations
25 Security Unit with supervision of additional investigators.

1 **MR. ENGELMANN:** Mr. Commissioner, when this
2 -- this document was put in by a counsel in cross-
3 examination ---

4 **THE COMMISSIONER:** M'hm.

5 **MR. ENGELMANN:** --- and it should have been
6 noted that the document should be subject to a publication
7 ban; the three names that are listed have monikers.

8 **THE COMMISSIONER:** Yes.

9 **MR. ENGELMANN:** So it we could just have a
10 publication ban put on this document, Exhibit 1095, and I
11 can address that when we address the other issues ---

12 **THE COMMISSIONER:** You won't have to.

13 **MR. ENGELMANN:** I -- the monikers are there.

14 **THE COMMISSIONER:** The -- yes, they are, so
15 what we're doing is we're doing as a courtesy to the media,
16 but they are to be aware of the monikers as well.

17 **MR. ENGELMANN:** Right, unfortunately that
18 wasn't caught when this went in.

19 **THE COMMISSIONER:** That's fine.

20 **MR. ENGELMANN:** Ms. Newman, just to get back
21 to my question, Mr. Downing met with you and we talked
22 about this earlier about stage one and then some of the
23 stage two work that he was going to do that you and Mr.
24 Commeford endorsed. And as I understand it, part of what
25 was endorsed or approved was trying to interview three

1 unnamed sources from the website.

2 MS. NEWMAN: That's correct.

3 MR. ENGELMANN: And, in fact, Mr. Downing
4 did do that later in 2001.

5 MS. NEWMAN: That's right.

6 MR. ENGELMANN: And this indicates that
7 although you didn't have a direct reporting -- he didn't
8 have a direct reporting relationship with you, you were
9 being kept in the loop by Mr. Downing and Mr. Commeford; is
10 that fair?

11 MS. NEWMAN: That's right.

12 MR. ENGELMANN: All right. Do you know if
13 there was any follow-up after this with these individuals?

14 MS. NEWMAN: No, I don't know that.

15 MR. ENGELMANN: Fair enough. And just on
16 the CISU, if we can, I don't know if we have a document,
17 but I was going to try and ask you to take a quick look at
18 it yesterday, Ms. Newman, document number is 600195. Sure.

19 THE COMMISSIONER: So we don't have that in
20 a hard copy. We'll have to ---

21 MS. NEWMAN: Thank you.

22 MR. ENGELMANN: So it's a document that's
23 entitled, "History of the Inspections/Investigations
24 Branch."

25 THE COMMISSIONER: Should we be -- will we

1 be marking this as an exhibit ---

2 MR. ENGELMANN: Yes, it should be marked as
3 an exhibit.

4 THE COMMISSIONER: --- once the hard copy's
5 found?

6 (SHORT PAUSE/COURTE PAUSE)

7 THE COMMISSIONER: Oh, I'm advised by Ms.
8 Daley that this was part of the Ministry's corporate
9 presentation and it's part of Exhibit 34. Okay.

10 MR. ENGELMANN: If I could just have a
11 moment. I'm not sure where in that document you'll find
12 it, Ms. Newman, so I can't really help.

13 THE COMMISSIONER: Can you ---

14 MR. ENGELMANN: Are there Bates pages?

15 THE COMMISSIONER: Madam Clerk, can you put
16 it back on the screen and I'll -- Exhibit -- oh, yeah,
17 Exhibit 34 so that would be under Tab 34.

18 MR. ENGELMANN: I thought the book went in
19 as one exhibit, sir, and there ---

20 THE COMMISSIONER: No, but there are
21 different tabs, no. All right, but we know it's there so
22 why don't we go on with the ---

23 MR. ENGELMANN: Fair enough, I just ---

24 THE COMMISSIONER: --- document on the
25 screen and if I find it, I'll let you know. Yes, it is.

1 Tab -- oh, you're good. Tab 67, Ms. Newman.

2 MS. NEWMAN: Thank you.

3 MR. ENGELMANN: All right so, for the
4 record, we're looking at Exhibit 34, Tab 67 which is a
5 document entitled, "CISU, History of the
6 Inspections/Investigations Branch." Do you have that now
7 before you?

8 MS. NEWMAN: I do, thank you.

9 MR. ENGELMANN: All right. And this
10 document talks about the history of various investigation
11 units in the Ministry of Corrections; is that correct?
12 Have you ever seen this document before?

13 MS. NEWMAN: No, I have not.

14 MR. ENGELMANN: Okay, all right. Well if
15 you look at the second page, it appears to trace some of
16 the investigation units that the Ministry had over time
17 and, for example, they talk about an
18 inspection/investigation branch in '86/'87, they talk about
19 what happens in 1989 and then in the bottom -- the second-
20 last paragraph on page 2, there's a reference to the IIU
21 being created in '92.

22 MS. NEWMAN: That's correct.

23 MR. ENGELMANN: And then if we turn over to
24 the next page, Ms. Newman, under "New Correctional
25 Investigation and Security Unit," the CISU appears to have

1 been re-established or established in -- on April 1st of
2 2001.

3 **MS. NEWMAN:** That's correct.

4 **MR. ENGELMANN:** And that's, I think,
5 consistent with your understanding that you gave us
6 yesterday that sometime in or about the spring of 2001,
7 this unit was established and that it had some concurrent
8 jurisdiction with the IIU until the IIU was disbanded in or
9 around 2006. I believe that's what you told us.

10 **MS. NEWMAN:** Yes, only in relation to
11 conversations from time to time about who would be best
12 positioned to do a particular investigation involving
13 employee misconduct.

14 **MR. ENGELMANN:** Right and I believe you told
15 us that workplace harassment discrimination issues always
16 were done by the IIU, but if there was some employee
17 misconduct of a sexual nature, it might go under CISU or
18 IIU.

19 **MS. NEWMAN:** That's correct.

20 **MR. ENGELMANN:** That they would talk about
21 it and make a decision as to who was going to follow
22 through.

23 **MS. NEWMAN:** Yes, essentially if it was
24 suspected employee criminal activity or serious misconduct
25 of a sexual nature, there could be a conversation about who

1 would be best able to take that on.

2 **MR. ENGELMANN:** All right and some of the
3 examples of the investigations the CISU inspectors take on
4 appear to be set out at the top of Page 4.

5 **MS. NEWMAN:** I see that.

6 **MR. ENGELMANN:** And it appears that at least
7 CISU investigations aren't necessarily put on hold if the
8 police are also investigating; correct? And just to help
9 you there, it's the third bullet from the bottom:

10 "Suspected employee criminal activity
11 (such investigations that may involve
12 contravention of Ministry rules would
13 be conducted parallel and in co-
14 operation with the police)."

15 **MS. NEWMAN:** Yes, I see that.

16 **MR. ENGELMANN:** All right.

17 **MS. NEWMAN:** I think that, you know, that
18 the point needs to be made that any Ministry investigation
19 into employee misconduct, in order to determine whether
20 there was a violation of Ministry policies, was conducted
21 very carefully in a way so as not to impede any police
22 investigation. There would have been caution exercised and
23 conversations with the police to make sure they were
24 comfortable with the avenue of investigation that was being
25 pursued so that the paramount principle of not impeding ---

1 **MR. ENGELMANN:** Yes.

2 **MS. NEWMAN:** --- the criminal justice system
3 would be protected.

4 **MR. ENGELMANN:** So clearly there would have
5 to be interaction between your investigators and police
6 investigators.

7 **MS. NEWMAN:** That's correct.

8 **MR. ENGELMANN:** And when it comes to
9 determining violations or possible violations of ministry
10 policies and regulations, presumably, your investigators
11 would have the lead function.

12 **MS. NEWMAN:** Their purpose, indeed, was to
13 determine whether there was a violation of ministry policy,
14 not to conduct a criminal investigation.

15 **MR. ENGELMANN:** All right. Now I'd like to
16 ask you a little bit about some of the evolution of
17 Ministry policies or practices that have taken place either
18 since of as a result of events that have taken place here
19 at your Cornwall office; and if you could address that
20 issue with, perhaps, broader Ministry practice in one sense
21 or practice specific to policies and procedures that have
22 changed here in Cornwall.

23 If they're the same that's fine, but I know
24 there are some things you've done here in Cornwall that may
25 be different then what you've done in other offices. Is

1 that fair?

2 MS. NEWMAN: I'm not clear on the intent of
3 your question.

4 MR. ENGELMANN: All right.

5 MS. NEWMAN: If you could help me.

6 MR. ENGELMANN: I'm trying to elaborate or
7 have you elaborate upon some of the changes to Ministry
8 policies and practices that may have arisen as a result of
9 these allegations that have arisen here in your Cornwall
10 office; allegations of historical sexual abuse by probation
11 officers against probationers and some of the policies and
12 practices that you've put in place subsequent to those
13 revelations coming forward.

14 MS. NEWMAN: In a particular area?

15 MR. ENGELMANN: Not necessarily.

16 My understanding is, for example, you've --
17 well, you've told us about some guiding principles and
18 you've told us about a local protocol that's been put in
19 place ---

20 MS. NEWMAN: Yes.

21 MR. ENGELMANN: --- dealing with how to
22 broach the subject with individuals who are on probation
23 now for a second or subsequent time and who may or may not
24 have -- or may have been on probation to one of two
25 officers. You've talked about that.

1 MS. NEWMAN: Right. That's right.

2 MR. ENGELMANN: And I'm wondering if there
3 are other steps that have taken place perhaps to ensure
4 that it's less likely that something like this would happen
5 again, either in your Cornwall office or in other offices
6 around the province?

7 MS. NEWMAN: Well ---

8 MR. ENGELMANN: It's a general question.

9 MS. NEWMAN: Okay. I'm not -- I may ask for
10 some further guidance but let me ---

11 MR. ENGELMANN: Certainly.

12 MS. NEWMAN: --- begin. As you indicated,
13 in the Cornwall office in particular they've developed a
14 particular expertise with respect to supporting victims
15 that come forward to make disclosures of sexual abuse and
16 to create safe and supportive environments for them to do
17 so.

18 Clearly, the Ministry has always had a
19 policy that if there are disclosures of criminal activity,
20 that must be reported to the police, and so once a
21 disclosure is made, whether it's in relation to sexual
22 abuse, criminal conduct of any nature, then there's a duty,
23 an obligation by policy, and in fact in the law because our
24 staff are peace officers, to report that to police. So
25 that has not changed. In fact, that's been reinforced in

1 subsequent iterations of policies across the Ministry.

2 There's been a heightened awareness,
3 certainly institutionally, in our Ministry with respect to
4 sexual abuse, as there has been in society generally, and
5 that is encompassed in part of our probation officer
6 training, the vigilance ---

7 **MR. ENGELMANN:** I was just going to ask you
8 that. Would that be training for new officers or would
9 that be training for current officers as well?

10 **MS. NEWMAN:** To my knowledge, new officers
11 are trained. I'm not aware as to whether there was
12 training conducted subsequently in the Ministry for pre-
13 existing employees. I don't have that level of detail.

14 But I do know that staff are very sensitive
15 to, and have a heightened vigilance, in relation to the
16 possibility of sexual abuse, as we work with other
17 professionals who have that same heightened vigilance and
18 sensitivity to this issue.

19 We have very strong conflict of interest
20 policies that have been renewed in the Ministry and new
21 procedures where if an employee is in a perceived conflict
22 of interest, he or she must report that conflict of
23 interest to the Deputy Minister -- to me and I will write
24 back to the employee in relation to what they must do
25 concerning that alleged or perceived conflict of interest.

1 In some cases it's a real conflict of interest, but they
2 must report that and I must reply to them. So they're
3 guided by the Deputy Minister's direction on that.

4 We have now new protection under the *Public*
5 *Service of Ontario Act* with respect to allegations of
6 wrongdoing. There is protection for employees who -- if
7 you like whistle blowing protection.

8 **MR. ENGELMANN:** When did that come about,
9 Ms. Newman?

10 **MS. NEWMAN:** That came about ---

11 **MR. ENGELMANN:** We've had some discussion of
12 that here.

13 **MS. NEWMAN:** That came about last fall. New
14 legislation was implemented. And so any employee in the
15 Ministry who wishes to do so can go directly to the Deputy
16 Minister, who is the Ethics Executive for the Ministry, to
17 bring forward any allegations of wrongdoing, and there will
18 be no reprisal and it's investigated in a very confidential
19 manner and the source of the disclosure is not made known.

20 **MR. ENGELMANN:** Is that something that's
21 investigated by Ministry investigators or is there a
22 broader public service investigator?

23 **MS. NEWMAN:** That would be up to me as the
24 Ethics Executive to determine how best to conduct a
25 confidential investigation and protect the identity of the

1 person coming forward.

2 And the employee, if they choose, may also
3 go to the Integrity Commissioner, which is a new position,
4 an officer of the legislature. So they can choose to
5 either come to the Deputy Minister as the Ethics Executive
6 or directly to the Integrity Commissioner, and there are
7 parameters and timeframes and so on within which these
8 allegations of wrongdoing must be looked into and responded
9 to.

10 So I think certainly we have a much more
11 open, transparent public service and, organizationally, a
12 heightened sensitivity to these types of allegations and
13 existence of abuse and wrongdoing.

14 **MR. ENGELMANN:** Let me ask you about a
15 couple of things within the Ministry that we've heard about
16 here that have been touched upon by other Ministry
17 officials or witnesses, and I just wanted to ask if you
18 wanted to say anything about them.

19 A new service delivery model has been put in
20 place in your Ministry. Can you give us some sense as to
21 how that's evolved and what its purpose is?

22 **MS. NEWMAN:** Yes. So in Probation and
23 Parole, as you indicate, there is a new service delivery
24 model that was implemented from 2000 on, as I recall. So
25 it's been in place now for a number of years which I think

1 serves our clients in a better way and it includes -- it's
2 a very evidence-based system that's empirical, that's based
3 on research about reducing re-offending behaviour.

4 And the cornerstone of this service delivery
5 model is a very comprehensive assessment of each
6 individual's risk factors and needs, and once the
7 assessment is completed then clients are placed into
8 different streams of probation supervision, from less
9 intensive streams to very intensive streams of supervision,
10 depending on their risk and needs. And so there is a
11 tailoring of probation service and response, including
12 extensive access to program delivery.

13 So we have a number of core programs as part
14 of this service delivery model that are tailored to the
15 risk factors that clients have.

16 **MR. ENGELMANN:** One of the issues that has
17 been brought forward by some of the victims and alleged
18 victims is -- and I don't think it's going to surprise you
19 that as victims there's a higher risk factor that they
20 would then also commit some kind of abuse, and when they
21 have, they've been treated as offenders but not necessarily
22 as victims as well.

23 Would that service delivery model assist
24 them by getting them to treatment programs for victims as
25 opposed to just treatment programs for offenders?

1 That has been an issue that's been raised
2 here.

3 **MS. NEWMAN:** We have access -- we both run
4 our own programs in Probation and Parole as well as access
5 programs that are offered by various community agencies,
6 including Victim Services, to refer individuals too to
7 receive the kind of treatment that they need.

8 The orientation, I suppose, of a service
9 provider will vary as to whether that individual is treated
10 as an offender or as a victim. I think we certainly
11 understand that offenders, in fact, I think the vast
12 majority of offenders who perpetrate sexual abuse have been
13 victimized themselves and that's one of the tragic
14 consequences of ---

15 **THE COMMISSIONER:** I'm sorry; what did you
16 just say?

17 **MS. NEWMAN:** The vast majority of offenders
18 that we have under supervision were victims themselves.

19 So in other words, they go on to perpetrate
20 a cycle of abuse. We end up with a number of sex
21 offenders; many of whom were victimized themselves.

22 **THE COMMISSIONER:** Well, all right, I think
23 there's some discussion about -- if you're saying that once
24 you're abused, the vast majority go on to abuse?

25 **MS. NEWMAN:** No.

1 **THE COMMISSIONER:** Okay, okay.

2 **MS. NEWMAN:** No, Mr. Commissioner. What I'm
3 saying is that the vast majority of sex offenders that we
4 have under our supervision, have experienced victimization
5 themselves.

6 So I'm not saying everyone who is victimized
7 goes on to come into conflict with the law. I'm saying
8 that those that do come in conflict with the law, many of
9 those individuals were victimized themselves and I know
10 that from my own experience, I'm not speaking empirically
11 now and statistically. As a former Superintendent of the
12 Ontario Correctional Institute where sex offenders were
13 sent for treatment, I know firsthand that the vast majority
14 of the sex offenders we had, and provided treatment to,
15 were victims themselves.

16 I think I may have lost your original
17 question, Mr. Engelmann.

18 **MR. ENGELMANN:** Oh no, that's fine.

19 I wanted to ask you about one other system
20 that I understand has been put in place and that's called
21 an "Offender Tracking Information System" or OTIS.

22 **MS. NEWMAN:** Yes.

23 **MR. ENGELMANN:** Can you tell us briefly
24 about that?

25 **MS. NEWMAN:** That's been a significant

1 advance as well in the Ministry in the sense that we now
2 have an electronic system for maintaining records of all of
3 the offenders under our care and probation officers input
4 case notes electronically, so that this allows for better
5 continuity of care for offenders as they move around.

6 If there's something significant in relation
7 to that offender, then the receiving probation officer, no
8 matter where they are in the province, will have access to
9 those records and be able to continue to provide the care
10 that was being provided in the other location.

11 **MR. ENGELMANN:** How long has that been in
12 place now?

13 **MS. NEWMAN:** I think ---

14 **MR. ENGELMANN:** Approximately.

15 **MS. NEWMAN:** --- if I'm recalling correctly,
16 that was implemented in 2001, as I recall.

17 **MR. ENGELMANN:** And that is province-wide?

18 **MS. NEWMAN:** It is province-wide. So we
19 have a one case file system for every offender under
20 supervision in the community.

21 **MR. ENGELMANN:** The -- one of the things
22 that you talked about that happened, I think it's four or
23 five years ago now, is this integration of young offenders
24 in another Ministry, so that your parole and probation
25 officers no longer deal with 16 and 17 year olds; they go

1 somewhere else, and that is youth and children?

2 **MS. NEWMAN:** Yes.

3 **MR. ENGELMANN:** The Ministry for Youth and
4 Children Services?

5 **MS. NEWMAN:** That's correct.

6 **MR. ENGELMANN:** I'm wondering, you've talked
7 about some of the policies you've put in place in your
8 Ministry and we're concerned about abuse of children and
9 young persons going forward as well. Has your Ministry
10 shared some of what it's been doing recently with the other
11 Ministry, Children and Youth Services? For example, the
12 protocol you had here in Cornwall, in your Cornwall office,
13 do you know if that's been shared or those ideas have been
14 shared with the local office of the other Ministry?

15 I mean that may be a question that's better
16 for Mr. Legault; I'm not sure.

17 **MS. NEWMAN:** I don't know specifically
18 whether the protocol has been shared with the Ministry of
19 Children and Youth Services but I can tell you that we have
20 a very close relationship between our Ministry and our
21 responsibility for adults under supervision and the
22 Ministry of Children and Youth Services who have young
23 people under supervision.

24 And if I may, I'd like to talk about what I
25 think is a very significant systems transformation that has

1 improved the way in which we deliver services to young
2 people, to adolescents and -- many of whom are what we're
3 talking about or who we're talking about here today.

4 **MR. ENGELMANN:** Sure.

5 **MS. NEWMAN:** So, this is, as I mentioned, a
6 very significant organizational and culture change with
7 respect to how adolescents are treated when they come into
8 conflict with the law in our province and in the Ontario
9 Public Service.

10 I mentioned yesterday that this began with
11 an integration, a single jurisdiction was created for young
12 people from ages 12 through 17 inclusive, and they were all
13 brought into one system, which was then a division of the
14 adult Ministry.

15 And I led that integration of service for
16 young people so that we would have, again, continuity of
17 care and a focus on the needs of young people as distinct
18 from adults. And so it began with the creation of a single
19 jurisdiction.

20 We then went further, in terms of the shift
21 in the ideology and the philosophy of care and being
22 responsive to and concerned about the particular needs of
23 young persons.

24 We then created a separate Ministry or we,
25 the government, created a separate Ministry for children

1 and youth and youth justice or young people under
2 correctional supervision comprised a part of that Ministry,
3 together with others, child welfare and children's mental
4 health.

5 So there's a dedicated focus and a
6 recognition that many of those young people cross over from
7 one system to another and we have -- we have kids in
8 common; whether they are in conflict with the law or
9 they're in the child welfare system or children's mental
10 health, they're often the same young person.

11 So there's been a dedicated focus on young
12 people who are troubled and experiencing difficulty and
13 with the advent of the *Youth Criminal Justice Act* as well,
14 we have reduced the over-reliance in Canada on the use of
15 incarceration or custody for young people and the less
16 serious offences, those young people are diverted, either
17 entirely out of the criminal justice system or to an
18 alternative called extra-judicial measures so that they may
19 write an apology to someone against whom they've offended
20 or have to provide some community service and once that's
21 completed they don't have a criminal record, essentially.

22 So the most minor youth -- and some of the
23 youth we're talking about here were minor, in terms of
24 their offending behaviour -- they're diverted out of the
25 criminal justice system. And I think that's a great thing

1 in terms of protections and benefits to young people, not
2 to become entrenched in a criminal justice system.

3 Those that are in the system, in the youth
4 justice system, we now take a very strong professional
5 clinical team approach in providing care and supervision.

6 So if you're a young person in the system
7 now, you're going to not only see your probation officer or
8 youth worker, you're going to see a team of professionals,
9 in all likelihood.

10 So there'll be a team of psychologists,
11 psychiatrists, social workers, addictions counsellors, and
12 so on, supports that will be providing programming,
13 together with that young person that's tailored to their
14 particular needs and whatever their risk factors are for
15 coming into conflict with the law.

16 We have a very positive relationship with
17 the child advocate, we've developed over the last several
18 years a very positive relationship and every young person
19 coming into our system is advised of the existence of an
20 access to the child advocate. So that information is made
21 very widely known.

22 I would say that young people have much more
23 a sense of empowerment than they used to; they understand
24 their rights; they understand their entitlements; they
25 understand that they can and they do have access to the

1 child advocate and there's been a growth in services for
2 young people and advocacy services as well. So
3 commensurate with the understanding and empowerment of
4 young people, there are service providers and advocates
5 that surround the system, so there's not a sense of
6 operating in isolation anymore.

7 I think that the kinds of activities that
8 are the subject of this Inquiry, which are reprehensible, I
9 think that there are much stronger safeguards and reduced
10 likelihood that that kind of abuse would be perpetrated
11 today and, at the same time, we have a heightened
12 sensitivity to it.

13 I think staff are particularly vigilant.
14 They have the examples of Cornwall, which are very well-
15 known in the system and understood and so -- and the
16 training to go with that so that staff remain vigilant and
17 they have that sensitivity to these issues.

18 Young people also have greater access to
19 legal aid, so as they're going through the system, now if
20 their parents either can't or -- cannot or -- or will not
21 provide support for a lawyer, the young person has access
22 to legal aid.

23 So there are a number of protections and
24 safeguards I think, the heightened awareness; the provision
25 of service; the shift in ideology; the understanding of the

1 needs of a young person and the opportunities to support
2 them so that you break the cycle of offending behaviour. I
3 think we've come a long way in terms of being a different
4 institution than we were 10 or 20 years ago.

5 And with the dedicated Ministry as well and
6 the focus on young people, I feel very passionate about
7 this because I led that transformation, and I feel that
8 while no system is ever perfect and in an ideal world we'd
9 have strong victim services and victim supports in
10 communities and we wouldn't have young people entangled in
11 the justice system -- and we're moving in that direction
12 but there's more to do, but once they're in the system, I
13 feel much more confident that we have a system that will
14 both safeguard young people, protect them and provide the
15 kind of services that they require.

16 **THE COMMISSIONER:** Okay. So assuming for a
17 moment that a Nelson Barque situation reappears, where he
18 has consensual -- it comes to light that he has a
19 consensual sexual relationship with a probationer, all
20 right, breach of policy and he resigns.

21 What happens then? What are your policies
22 now?

23 **MS. NEWMAN:** If -- if you had a Nelson
24 Barque -- first of all, if there -- if this was a young
25 person, it would obviously not be -- it would automatically

1 be a criminal offence.

2 If it was an adult person, arguably it would
3 still be a criminal offence because of the power
4 differential in the relationship and the lack of capacity
5 for consent on the part of the individual involved in that
6 relationship.

7 So I would argue that in either case, that
8 that ought to be subject of a criminal investigation. We
9 would certainly refer that to the police in either case.

10 And in terms of appropriate discipline, I
11 can assure you that that would be taken.

12 **THE COMMISSIONER:** No -- yeah, that I can
13 see.

14 What about victims? What about all the
15 probationers that are behind -- is there a policy there
16 that if someone does something of a sexual nature, whether
17 consensual or not in that regard, what's your policy?

18 Are you going to go back and check out all
19 the probation officers or at least will you come back and
20 make a decision in that regard as to whether or not you
21 should?

22 **MS. NEWMAN:** I plan to make recommendations
23 in that respect, Mr. Commissioner.

24 **MR. ENGELMANN:** I was just about to go
25 there, sir.

1 **THE COMMISSIONER:** All right. Sorry.

2 **MR. ENGELMANN:** But -- and just before I do,
3 I wanted to ask you -- we've not only asked witnesses about
4 recommendations, we've also asked them about effect.

5 **MS. NEWMAN:** M'hm.

6 **MR. ENGELMANN:** We've heard about vicarious
7 trauma from our experts, in other words, people who may
8 work in the criminal justice system or in other public
9 institutions who have to deal with these types of
10 allegations, these types of issues of sexual abuse of
11 children and young persons.

12 So I guess I want to ask you first about the
13 effect either on yourself or the effect you may have
14 noticed on some of your staff, whether that's in the
15 Cornwall office today or in the past few years?

16 **MS. NEWMAN:** It's a very good point.

17 It's very, very difficult and very
18 emotionally difficult to be in the position to hear about
19 the trauma and the trauma that has been experienced by
20 other people and I -- the Ministry is very aware of that
21 and so we -- we do provide supports to our staff with
22 respect to taking these kinds of disclosures and
23 recognizing the impacts on them and their own emotional
24 health and so we have service providers under employee
25 assistance programs that provide access for staff -- any

1 staff to treatment, to counselling; a variety of services
2 essentially designed to support staff who are experiencing
3 that kind of trauma. Those are contracted psychological
4 services that are provided under the employee assistance
5 program.

6 Internally, we also have what we call
7 "Critical Incident Stress" teams. So we have teams in
8 every region of our Ministry that are designed to provide
9 critical incident stress support -- debriefing and support
10 to staff who witness or are involved in any type of
11 critical incident, whether it's a disclosure of sexual
12 abuse or whether it's -- they witness an offender suicide,
13 for example.

14 So we do provide those kind of -- pardon me
15 -- we do provide those services.

16 **MR. ENGELMANN:** All right. And on the
17 recommendations -- and I think the Commissioner started the
18 dialogue with you -- that sometimes despite best efforts by
19 institutions -- reduced risks, heightened sensitivity,
20 heightened awareness, we hear of new cases -- not just new
21 "old" cases, but new "new" cases as well.

22 So we're interested, given the mandate of
23 this Commission to examine institutional response, make
24 recommendations not just for the people of Cornwall but for
25 the people of this province on how better to respond to

1 allegations of this nature and we welcome your
2 recommendations for the Inquiry. Not just for cases that
3 are current or cases that come up now, but individuals who
4 may have been abused who are still out there.

5 And we talked about this a little yesterday,
6 perhaps of the two officers here in Cornwall or others, how
7 do we help these people; how do we provide them support.
8 What are your recommendations?

9 **MS. NEWMAN:** Thank you.

10 And so I do have some recommendations that I
11 would like to make and before I do that, I would like to
12 talk about the Ministry's deep regret.

13 So we're aware that the faith and the trust
14 of the members of the Cornwall community has been
15 compromised and part of the mandate of this Inquiry is to
16 lead the community healing and reconciliation process.

17 I want to assure you that the Ministry
18 shares this goal and that we are striving to regain the
19 community's trust.

20 So we acknowledge, certainly, that two
21 former probation and parole officers were involved in the
22 events giving rise to this Inquiry.

23 We've been working diligently, as I've
24 described, to deal with disclosures of sexual abuse that
25 come to our attention and to strongly support victims

1 coming forward.

2 The Ministry deeply regrets any harm that
3 our clients may have suffered, and we will continue with
4 individuals coming forward and disclosing incidents to
5 support them in the most compassionate way possible.

6 I have noted that the Ministry has evolved
7 greatly since these historical events transpired.

8 We're not the same institution that we were
9 when these events occurred but we certainly acknowledge
10 that further improvements can be made.

11 So in that vein I would like to propose to
12 the Commission the following recommendations.

13 Just a preamble with respect to the first
14 recommendation; the intent of this recommendation is to
15 ensure that information is shared among justice partners
16 and that any activity that we take does not interfere with
17 any police investigation.

18 So the first recommendation is that the
19 Ministry consult with its justice partners, police and
20 Crowns in developing a protocol with respect to the sharing
21 of information regarding complaints or allegations of
22 sexual impropriety or other employee misconduct against
23 current and former Ministry employees, and that the
24 protocol provide for an appropriate mechanism for liaison
25 between the Ministry and the police to ensure that the

1 Ministry response does not interfere with any police
2 investigation.

3 The second recommendation is turning our
4 attention to the potential that there are other victims in
5 terms of other cases under supervision, and so it addresses
6 serious criminal conduct and sexual impropriety by staff
7 against offenders.

8 And the recommendation is that a protocol be
9 developed to address the completion of a file review,
10 including interviews. The protocol would address whether
11 this review be conducted internally or whether a request
12 would be made for the review to be conducted by or with the
13 assistance of the police.

14 So this is intended to get at the potential
15 that there may exist other victims under supervision by a
16 probation officer who is engaged in serious criminal
17 conduct or sexual impropriety.

18 The third recommendation concerns the sudden
19 departure of a probation officer. So in the event that a
20 probation and parole officer leaves or dies under
21 suspicious circumstances, it's recommended that the area
22 manager conduct a file review of that employee's active
23 caseload. In the event that any patterns are discovered
24 that arouse suspicion of improper conduct toward clients, a
25 formal internal Ministry investigation would be launched,

1 including a review of historical files and interviews.

2 The fourth recommendation concerns the
3 statement of ethical principles.

4 And the recommendation is that the code of
5 conduct for probation and parole officers titled "Statement
6 of Ethical Principles," which was introduced in 1995 and
7 which was recently reviewed and updated, continue to ensure
8 that clear and comprehensive direction is given to all
9 employees regarding conflict of interest, and that all
10 dealings with those currently or formerly under the
11 Correctional Services authority are fair, impartial and
12 free from impropriety. This statement will be distributed
13 in handbook format to all probation and parole employees
14 with regular updates and refresher training provided as
15 needed.

16 The fifth and final recommendation concerns
17 the information management in relation to critical
18 incidents; that a system be developed to ensure that
19 information is collected systematically on critical
20 incidents by cost centre and that information is easily
21 retrievable and accessible to Ministry officials at the
22 local and regional level.

23 **THE COMMISSIONER:** I'm sorry; help me out on
24 the last one. How is that different from the IFIS system?

25 **MS. NEWMAN:** The OTIS system?

1 **THE COMMISSIONER:** OTIS, right.

2 **MS. NEWMAN:** We do have an IFIS system as
3 well.

4 **THE COMMISSIONER:** Yes.

5 **MS. NEWMAN:** The OTIS system is collection
6 of offender records.

7 **THE COMMISSIONER:** Right.

8 **MS. NEWMAN:** What we're trying to get at
9 here is the gap in having historical corporate memory in
10 relation to critical incidents involving employees and
11 offenders.

12 **THE COMMISSIONER:** Okay.

13 **MS. NEWMAN:** The issue notes that Mr.
14 Engelmann has been painfully walking me through.

15 **THE COMMISSIONER:** So, for example, the
16 Varley incident in the Seguin file would be available
17 electronic -- no, in that system?

18 **MS. NEWMAN:** It will be electronic, I'm
19 certain. You're right, yes, it would be.

20 **THE COMMISSIONER:** Okay. I see what you
21 mean. Thank you.

22 **MR. ENGELMANN:** Thank you very much, Ms.
23 Newman. Those are all my questions.

24 **MS. NEWMAN:** Thank you.

25 **MR. ENGELMANN:** There are counsel here that

1 will have questions for you. They will identify themselves
2 by name and they'll explain to you who they are
3 representing.

4 MS. NEWMAN: Thank you very much.

5 THE COMMISSIONER: Good morning.

6 MS. DALEY: Good morning.

7 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

8 DALEY:

9 MS. DALEY: Good morning, Ms. Newman.

10 MS. NEWMAN: Good morning, Ms. Daley.

11 MS. DALEY: You know me already.

12 Ms. Newman, my name is Helen Daley, as you
13 know, and I'm here on behalf of the Citizens for Community
14 Renewal, which is a community-based group interested in
15 institutional change directed to the protection of
16 children.

17 On their behalf I do want to acknowledge and
18 in fact thank you for the comments you've made this morning
19 and the expression of regret that you offered. So please
20 accept their acknowledgement.

21 The first area that I want to speak to you
22 about has to do with what you think the appropriate
23 relationship is between an area manager and his or her
24 direct report. So that would be the person at the regional
25 level. And I'm certainly going to talk about the specifics

1 of Cornwall, but I wondered whether in general terms you
2 could offer us some information on this subject.

3 What should an area manager inform his or
4 her regional manager about and seek guidance on versus what
5 is he or she expected to handle on his own? Can you speak
6 to that?

7 **MS. NEWMAN:** I'll try to speak to that
8 broadly. Of course, it's always subject to appropriate
9 judgment being exercised.

10 I think an area manager should be -- is the
11 local manager responsible for managing a probation and
12 parole office and should be operating in a way that's
13 exercising their managerial responsibilities appropriately;
14 supervising staff, ensuring the welfare of clients. They
15 should be, in other words, managing their own operation.

16 And what they should be engaging the
17 regional director on is when they need guidance in relation
18 to any kind of a difficult issue. Whether it is an issue
19 concerning staff or offenders, labour relations for
20 example, they should be reporting up to the regional
21 director any critical incidents such as those that we've
22 been talking about, and they should be making
23 recommendations, providing advice to their regional
24 director who will in turn collaborate with them, consult
25 and help them to deal with the difficult situation in an

1 appropriate way.

2 MS. DALEY: So the latter part of your
3 answer helps with my next question.

4 Assuming that an unusual incident has been
5 reported by the AM to the regional manager, the regional
6 manager's role is to provide guidance and assistance
7 working through the problem?

8 MS. NEWMAN: That's correct.

9 MS. DALEY: Now, I wonder if you could look
10 briefly with me at Exhibit 927 and just to help you out,
11 that's an incident report prepared by a Mr. Seguin on
12 January 16th, 1992.

13 Take a moment to look at the document, Ms.
14 Newman, but this is the incident report which he prepared
15 pertaining to the shooting incident that we've discussed
16 and his involvement in that.

17 (SHORT PAUSE/COURTE PAUSE)

18 MS. NEWMAN: Yes, I've reviewed it.

19 MS. DALEY: Do you see that? And I think
20 you would have learned via Mr. Downing's report that this
21 document was given to and initialled by Mr. Robert and his
22 initial appears on the front page.

23 MS. NEWMAN: Okay, thank you.

24 MS. DALEY: If you recall that.

25 Now, is this -- should this have been sent

1 on to Mr. Hawkins upon receipt by Mr. Robert?

2 MS. NEWMAN: Yes, it should have been.

3 MS. DALEY: All right. And I take it it's
4 an occurrence that should have been immediately raised with
5 Mr. Hawkins and discussed between Robert and Hawkins. Is
6 that fair?

7 MS. NEWMAN: I agree.

8 MS. DALEY: Now, should this incident report
9 have also been sent to the Information Management Unit for
10 consideration, as an issue or as a House Note?

11 MS. NEWMAN: Yes, I would say, in this case.

12 THE COMMISSIONER: Can I just stop you for a
13 second?

14 MS. DALEY: M'hm.

15 THE COMMISSIONER: I just want to make sure
16 when you're answering -- back in 1992 ---

17 MS. NEWMAN: M'hm.

18 THE COMMISSIONER: --- would your decision
19 have been the same? And I'm just ---

20 MS. NEWMAN: You're correct, and my
21 headspace is today.

22 THE COMMISSIONER: Right, right.

23 MS. NEWMAN: So back -- the question is,
24 back in 1992 would my answer be the same?

25 THE COMMISSIONER: It may well be, I don't

1 know, but I just want to make sure that we're aware of the
2 dichotomy.

3 **MS. NEWMAN:** Ms. Daley, you're asking for my
4 own view ---

5 **MS. DALEY:** Yes.

6 **MS. NEWMAN:** --- and as my own view, whether
7 it was in 1992 or it was today, my answer would be the
8 same. Yes, it ought to have been the subject of discussion
9 as soon as possible between the area manager and the
10 regional manager and it ought to have been faxed, in those
11 days, to the Information Management Unit.

12 **MS. DALEY:** All right. And I take it the
13 fact that neither of those two things happened in part is
14 why you were concerned about Mr. Robert as Area Manager?

15 **MS. NEWMAN:** Of course, I didn't know this.
16 I had other concerns about Mr. Robert's management of the
17 office but certainly today it's a significant -- or when I
18 became aware of this, it was a significant concern in 2000.

19 **MS. DALEY:** Right, as a result of the
20 Downing report, these are some of the circumstances that
21 caused you to question his abilities as an area manager?

22 **MS. NEWMAN:** I had had previous questions
23 about his abilities as an area manager. This awareness of
24 this, through Mr. Downing's report, caused me serious
25 concern.

1 **MS. DALEY:** Right, because in some respects
2 this goes a little bit beyond simply being not a good
3 people person; correct?

4 **MS. NEWMAN:** I think it suggests poor
5 judgment.

6 **MS. DALEY:** Thank you.

7 If you could just help us briefly with this
8 document itself, I'm still asking you to look at 927.

9 The incident report, at the very top, has a
10 variety of boxes to be ticked. I'm assuming from those
11 boxes that the incident report is meant to be generated in
12 a situation in which something critical has occurred?

13 **MS. NEWMAN:** That's correct. You are
14 supposed to identify the category.

15 **MS. DALEY:** And there are various
16 categories. And in this instance none of them were
17 applicable, but Mr. Seguin devised his own category which
18 was "out-of-office contact"?

19 **MS. NEWMAN:** That's correct.

20 **MS. DALEY:** But, again, the out-of-office
21 contact which he's reporting here is a very significant
22 one?

23 **MS. NEWMAN:** It is.

24 **MS. DALEY:** Now, if I could ask you,
25 briefly, to look at Exhibit 929; we're staying with the

1 same subject.

2 This is the September 3rd, 1992 letter that
3 Officer Millar sends to Mr. Robert with further details
4 about the incident.

5 (SHORT PAUSE/COURTE PAUSE)

6 MS. NEWMAN: Yes, I've reviewed it.

7 MS. DALEY: Thank you. And if could sort of
8 encapsulate this document.

9 The further details about the incident,
10 which Seguin himself did not reveal, are the fact that he
11 served alcohol, he allowed them to take alcohol, and he
12 felt intimidated by them. Is that a fair summary?

13 MS. NEWMAN: Yes.

14 MS. DALEY: And in fairness to Mr. Robert,
15 he did make Mr. Hawkins aware of this, but there's a
16 discrepancy between what Mr. Seguin has reported in his
17 incident report and what the police officer is aware of and
18 I take it you would consider it a very important
19 discrepancy?

20 MS. NEWMAN: Yes, I would.

21 MS. DALEY: And in reacting to the
22 information that Millar has provided the police, I'm
23 assuming you would agree that the incident displays very
24 serious judgement problems on the part of Mr. Seguin and
25 potentially a compromised ability to do his job if he's

1 intimidated by these people.

2 Would you agree with that concept?

3 **MS. NEWMAN:** Yes, I would.

4 **MS. DALEY:** And I take it, Ms. Newman, with
5 the benefit of hindsight, at this point in the piece, is it
6 your feeling that an investigation of some sort ought
7 reasonably to have occurred?

8 **MS. NEWMAN:** If that were my decision at
9 that time, yes, I would have requested an investigation.

10 **MS. DALEY:** If you were sitting in Mr.
11 Hawkins shoes at that time and became aware of these facts,
12 I'm assuming that you would have wanted an investigation?

13 **MS. NEWMAN:** Certainly, on the face of it,
14 unless there were circumstances I'm unaware of, I would
15 have felt the need to have more information about exactly
16 what happened.

17 **MS. DALEY:** And would it be appropriate --
18 assuming for a moment that the area manager himself wasn't
19 inclined to investigate, I'm assuming the regional manager
20 could have overridden that and said, "No, we're going to
21 investigate". Is that not fair?

22 **MS. NEWMAN:** That's correct.

23 **MS. DALEY:** All right. Would you agree with
24 the proposition that had those steps been taken there is at
25 least some possibility that Mr. Seguin himself might have

1 opened up and disclosed a little bit about what was really
2 happening with him?

3 MS. NEWMAN: It's a little speculative.

4 MS. DALEY: All right, that's fine, that's
5 speculative.

6 At a minimum though, I take it the fact
7 there was no investigation you would see as a missed
8 opportunity to potentially have found out more?

9 MS. NEWMAN: Yes.

10 MS. DALEY: And, again, to step back for a
11 moment to your thoughts and concerns about the area
12 manager, I think you would agree that when you learned
13 about this occurrence via Downing, the fact that the area
14 manager had delayed taking any action until a third-party
15 police force brought it forward was an additional source of
16 concern?

17 MS. NEWMAN: Yes, it was.

18 MS. DALEY: And I take it you're in
19 agreement, an area manager or a regional manager ought
20 never to have condoned the type of behaviour that occurred
21 here?

22 MS. NEWMAN: If you mean having clients or
23 accused or offenders in one's home and having them consume
24 alcohol, absolutely.

25 MS. DALEY: Can I get your comment on this?

1 This entire incident and the way Mr. Robert handled it was
2 not reflected in the subsequent evaluation that was
3 prepared by Mr. Hawkins of him. And I can certainly show
4 you the document, but if you're -- it is in fact -- just
5 for the record, it's Exhibit 949; we've already seen it
6 here.

7 **THE COMMISSIONER:** I just want to make sure,
8 are you aware of the whole stream of -- first of all the
9 incident, the Varley incident, in the sense that Seguin on
10 the very next day puts in an incident report, 10 months
11 later in November, so this happens in early New Year. This
12 happens on January the 8th, he files the incident report,
13 it's not forwarded anywhere.

14 The letter comes in -- no, the letter comes
15 in September 3rd, 1992 from the police to Robert, saying,
16 "Here's my report" and includes a few more facts about the
17 alcohol and the intimidation and things like that.

18 And then what happens after that. Then
19 there's an exchange of letters with Mr. Hawkins and says,
20 "Take care of this thing" and then there's a letter of
21 counsel. Are you aware of that?

22 **MS. NEWMAN:** Yes, I am.

23 **THE COMMISSIONER:** Okay. And then after
24 that comes the appraisal?

25 **MS. DALEY:** Correct.

1 **THE COMMISSIONER:** Okay.

2 **MS. DALEY:** Thank you for that.

3 You were aware of those facts, eventually,
4 as a result of the Downing review; correct?

5 **MS. NEWMAN:** That's correct.

6 **MS. DALEY:** All right. And I just, you
7 know, I don't suggest that you need to read the entirety of
8 this Exhibit 949, but I can tell you that it does not refer
9 to Mr. Robert's handling of the incident with Mr. Seguin
10 that we've just been commenting on.

11 I just wondered if I could get your view on
12 it because you've spoken to institutional memory and the
13 difficulties with it.

14 Would you have expected Robert's handling of
15 the Seguin incident to have been reflected somewhere in his
16 evaluation?

17 **MS. NEWMAN:** If I -- if I were the regional
18 manager I would have reflected that.

19 I -- you know, when I -- I still don't
20 comprehend why, for example, I can only assume, that the
21 regional manager was satisfied with the handling of the
22 situation.

23 As I understand it, there's no evidence to
24 the contrary, that the regional manager was informed,
25 didn't have all the facts until some time much later in

1 relation to the alcohol, also understood that -- what the
2 outcome of the disciplinary meeting was.

3 So assuming the regional manager, for
4 whatever his reasons were, was satisfied with the handling
5 of that, I can understand I guess why he never reflected it
6 in the appraisal.

7 I would have taken a different approach
8 under the circumstances.

9 **MS. DALEY:** In fairness to you, when you
10 became responsible for supervising Mr. Robert, I guess in
11 1996, it probably would have been helpful to you to have
12 known something about this incident would it not?

13 **MS. NEWMAN:** Yes, it would.

14 **MS. DALEY:** And one of the ways you might
15 have learned about it would have been to have seen it at
16 least mentioned or reflected somehow in a performance
17 appraisal?

18 **MS. NEWMAN:** In one fashion or another, yes,
19 it would have been helpful to know.

20 **MS. DALEY:** All right.

21 **THE COMMISSIONER:** Can I just stop you for a
22 second?

23 **MS. DALEY:** Yes.

24 **THE COMMISSIONER:** I'd like to know this.
25 You keep saying -- you say, "Well if it was

1 my decision". What I'm interested in finding out is --
2 there's some discretion in a manager, in the regional
3 manager. Is this something where you would say -- well, I
4 guess I use the appeal thing -- when reviewing someone
5 else's work, if it's in the realm whether you agree with it
6 or not, it's there. You might not like it but it's there
7 and it's within his discretion.

8 Is this something that is within his
9 discretion or is this something that just cries out that
10 something else should have been done?

11 **MS. NEWMAN:** Well, I think -- I think it's
12 reasonable to say that if it's in the realm of what you
13 think is appropriate then you wouldn't dictate to your area
14 manager that it needs to be a 20-day suspension instead of
15 a 15-day suspension.

16 **THE COMMISSIONER:** Right.

17 **MS. NEWMAN:** If it's a letter of counsel
18 versus something disciplinary, that's much more serious.

19 I would in a situation like this, as the
20 regional manager, have been saying, "I want you to consult
21 me before you make a determination in relation to
22 discipline. I think this is a very serious situation,
23 let's talk."

24 **THE COMMISSIONER:** M'hm.

25 **MS. NEWMAN:** Does that get at your question,

1 Mr. Commissioner?

2 **THE COMMISSIONER:** Was Mr. Hawkins wrong?
3 Outside of his discretion, should he have done something
4 else? Not using you as a guide but in the Corrections
5 system, was his just totally insufficient response to what
6 he was facing?

7 **MS. NEWMAN:** In my opinion, there ought to
8 have been an investigation conducted when the incident
9 report came in to uncover all of the facts, including
10 liaison with the police and sharing of information.

11 Based on the findings and determinations of
12 the investigation, then there ought to have been a
13 disciplinary meeting and there ought to have been
14 consultation between the regional manager and the area
15 manager as to the appropriate degree of discipline. And I
16 would suggest, under the circumstances, it would have been
17 more serious.

18 **THE COMMISSIONER:** And would -- we've heard
19 labour relations is not the best and that there are a lot
20 of grievances. Would the fact that a grievance may or may
21 not have come out of this, should that effect what a
22 manager decides with respect to discipline?

23 **MS. NEWMAN:** Whether or not a grievance
24 would be generated, in my view, is entirely irrelevant.
25 You know, we manage grievances, we manage a volume of

1 grievances.

2 I think what's more relevant is considering
3 the seriousness of the violation, but one also has to be
4 mindful of the reality of jurisprudence in case law when
5 making a determination in relation to discipline. You have
6 to exercise due diligence in reviewing case law and
7 considering the employment record of the employee; whether
8 or not they've ever had any previous violation; the length
9 of service -- are all determinations in relation to
10 discipline that's sustainable.

11 Because any time we have a grievance, we
12 have to take this to the Grievance Settlement Board and
13 they will arbitrate this grievance and they will consider
14 all of those factors.

15 So in order to have discipline that's
16 upheld, there may be times when you think you'd like to
17 take more serious discipline but you know that it won't be
18 upheld and that -- if you terminate that employee they will
19 be reinstated.

20 **THE COMMISSIONER:** No, I'm not talking about
21 -- when you're looking at discipline and the severity of
22 discipline as opposed to a letter of counsel and a
23 reprimand, let's say, do people grieve the difference
24 between a letter of counsel and a reprimand?

25 **MS. NEWMAN:** Absolutely, yeah.

1 If they get a letter of counsel, it's not
2 subject of grievance. If they get a letter of reprimand,
3 it is subject of grievance and employees will make a
4 determination anytime they're disciplined as to whether
5 they wish to grieve it and they do. We have about 10,000
6 grievances a year.

7 **THE COMMISSIONER:** Okay. So back in 1992,
8 was there a culture of being beaten down by grievances that
9 would or might have affected Mr. Hawkins?

10 **MS. NEWMAN:** That would really be
11 speculative on my part.

12 **THE COMMISSIONER:** Well, all right, never
13 mind Mr. Hawkins then.

14 Has there ever been -- in the 90s, has your
15 Ministry been beaten down by the number of grievances to
16 the point where it became an effort and would creep in the
17 decision-making as to what kind of discipline, if any,
18 wouldn't be applied?

19 **MS. NEWMAN:** I wouldn't be surprised that it
20 became a consideration for some managers that, yes, we were
21 beaten down by grievances. As I say, we have a backlog of
22 10,000 grievances at any given time.

23 **THE COMMISSIONER:** M'hm.

24 **MS. NEWMAN:** This is a very litigious
25 Ministry with a very strong tendency to file grievances as

1 a response and we've had cases go to the grievance
2 settlement board where you may think it's a very clearcut
3 case for termination, and we've lost those -- we've lost
4 those ---

5 **THE COMMISSIONER:** M'hm.

6 **MS. NEWMAN:** --- cases and had employee
7 reinstated, so it does get to be -- people become weary of
8 trying to do the right thing and getting beaten down, I
9 guess, in the view of some managers. Personally, my -- my
10 approach has always been to do the right thing, to do the
11 thing that you think is the right thing and then after that
12 whatever will be, will be.

13 **MS. DALEY:** Thank you. I just want to come
14 back to your thinking about Mr. Robert as area manager just
15 momentarily before I move on and I take it that as a result
16 of the Downing report, you did learn additional facts, and
17 to paraphrase your own notes -- I can show them to you, but
18 I think you used the expression "willful blindness" on his
19 part and a number of other problems that you hadn't known
20 about before that I think you would agree with me, go to
21 his judgment; correct?

22 **MS. NEWMAN:** Those were certainly questions
23 and concerns that we had as a result of Mr. Downing's
24 report about whether he did know or didn't know and what he
25 did do, and certainly the Varley incident and so on that we

1 became aware of were of significant concern.

2 MS. DALEY: And I understood your evidence
3 to be that when he transferred up to Ottawa as the area
4 manager there, you imposed some sort of strict supervision
5 on him.

6 MS. NEWMAN: That's correct.

7 MS. DALEY: And who administered that strict
8 supervision?

9 MS. NEWMAN: It was Mr. Gilbert Tayles.

10 MS. DALEY: And he was the equivalent of the
11 regional manager.

12 MS. NEWMAN: That's correct so when I made
13 arrangements to place Mr. Robert in Ottawa, I did a
14 briefing of Mr. Tayles before I left to -- in fact, I
15 enlisted him before I left so he was fully aware of the
16 circumstances as I knew them in relation to Mr. Robert, and
17 asked him as a regional manager to keep a close watch on
18 Mr. Robert and close supervision and monitoring of how he
19 was doing in the Ottawa office.

20 MS. DALEY: Did Tayles report back to you on
21 his supervision of Robert?

22 MS. NEWMAN: As ADM, yes he did.

23 MS. DALEY: Did you make Tayles aware of the
24 additional concerns that emanated from the Downing report
25 concerning Mr. Robert's ability to be an AM?

1 **MS. NEWMAN:** I cannot recall if I had a
2 conversation with him. I believe that I did.

3 **MS. DALEY:** Did you direct him to take any
4 particular steps concerning Mr. Robert as a result of those
5 -- that additional information and those concerns?

6 **MS. NEWMAN:** He was reporting in to me
7 regularly with respect to all manner of things and I asked
8 -- had already asked him -- he was well aware of Mr.
9 Robert's shortcomings as a manager and he was keeping a
10 close eye on him. I believe I discussed the Downing report
11 with him, but we'd have to ask Mr. Tayles.

12 **MS. DALEY:** I'm assuming that as a person
13 who wants to do the right thing, it would've been important
14 that some action be taken even if it's only discussions,
15 short of employment discipline with Mr. Robert because I
16 understand the difficulties and the advice you received,
17 but surely it was important that the message given to Mr.
18 Robert that his judgment had been extremely poor in
19 Cornwall; would you agree?

20 **MS. NEWMAN:** I think we were well past that
21 with Mr. Robert and, you know, given that this was now, I
22 don't know, many years later -- what, almost 20 years later
23 that we already knew what we were dealing with and in
24 trying to monitor, supervise and support Mr. Robert to
25 become a better manager.

1 **MS. DALEY:** But he was left in the role as
2 Ottawa AM after the year 2000.

3 **MS. NEWMAN:** For some period of time until
4 January of 2002.

5 **MS. DALEY:** Did he retire then?

6 **MS. NEWMAN:** He left.

7 **MS. DALEY:** All right, let's move to a
8 different topic, and I want to get your thoughts about the
9 interaction between the police and the probation office and
10 the probation officers because that's a factor in the story
11 that we're dealing with in Cornwall.

12 And -- and just to help you -- I don't know
13 if you're aware of this information, but Mr. Sirrs said
14 that in 1982, there were two police forces, the local force
15 and the RCMP, who had suspicions and concerns about Mr.
16 Barque and had not contacted him with those concerns and
17 Sirrs had told he was distraught over that. He had
18 expected this information to be brought to him by the
19 police so that's some context I want to provide you with in
20 relation to some of these questions.

21 So moving forward from the Barque era, in
22 1992, we know that Ken Seguin was under investigation by
23 the Cornwall Police Services as a result of Mr. Silmser's
24 complaint; that's the complaint that you became aware of in
25 late 1993, but it -- there had been a police investigation.

1 There's no indication we have ---

2 **THE COMMISSIONER:** Just a second. Just a
3 second. I don't know if it's fair to say there was a
4 police investigation on Mr. Seguin. There had been a
5 complaint filed with the Cornwall police.

6 **MS. DALEY:** Yes.

7 **THE COMMISSIONER:** Okay?

8 **MS. DALEY:** That's correct and ---

9 **THE COMMISSIONER:** Well you said there was
10 an investigation, I think.

11 **MS. DALEY:** Well, perhaps that's the wrong
12 terminology. There had certainly been a criminal complaint
13 made ---

14 **THE COMMISSIONER:** That's right.

15 **MS. DALEY:** --- and it was resting with the
16 Cornwall police; whatever was occurring, that's where --
17 that's where the complaint had been made by Mr. Silmser.

18 I take it you knew that; did you come to
19 learn that?

20 **MS. NEWMAN:** In 2000, yes I did.

21 **MS. DALEY:** All right. And another piece of
22 information I want you to consider -- maybe you knew about
23 it, but we've heard evidence here that probation officers
24 in the year, perhaps 1993, prior to Seguin's suicide, were
25 hearing rumours about a police investigation about Mr.

1 Seguin. For example, when they would go and do their court
2 duties, they would be speaking to Cornwall probation,
3 sorry, Cornwall police individuals and they would hear
4 these rumours and naturally they were concerned; is that
5 something that you ever knew about, Ms. Newman?

6 **MS. NEWMAN:** No.

7 **MS. DALEY:** All right. In any event, there
8 was a bit of a climate of rumour about a police
9 investigation, but no evidence -- no indication so far that
10 the police directly told Mr. Robert about it. Let me ask
11 you your thoughts about that. In your experience over the
12 years managing offices at a higher level, would you not
13 have expected the police to make an area manager aware of a
14 criminal complaint involving a probation officer and a
15 probationer?

16 **MS. NEWMAN:** There's -- there are no rules
17 governing that. There's no obligation on the part of the
18 police to do so. Obviously, that's why my first
19 recommendation specifically addresses this and that I
20 indicate that, really, to address the kind of circumstances
21 you're outlining, for which there is no obligation, that we
22 develop a protocol between justice partners including
23 police, Crowns, and probation and parole to share
24 information under the circumstances you describe.

25 **MS. DALEY:** So obviously the intent of your

1 recommendation is to fill a gap and it follows that this
2 type of information, in your view, needs to be shared;
3 correct?

4 **MS. NEWMAN:** Yes.

5 **MS. DALEY:** Because the area manager may
6 need to respond to it; right?

7 **MS. NEWMAN:** Yes, that's correct.

8 **MS. DALEY:** And particularly in a small town
9 like this one, things are much, much worse if rumours are
10 flying around but no one is directly dealing with the
11 situation; correct?

12 **MS. NEWMAN:** Yes, I -- I can't speak to why
13 decisions were taken and maybe the police will have a
14 better understanding of that so I can't speak to why that
15 didn't happen, but I -- I do agree that the sharing of the
16 information under similar circumstances would be helpful.

17 **MS. DALEY:** All right.

18 **THE COMMISSIONER:** Any time you want to take
19 a break.

20 **MS. DALEY:** Yes, this is fine. I have a bit
21 more to go.

22 **THE COMMISSIONER:** Thank you.

23 **MS. DALEY:** Thank you.

24 **THE COMMISSIONER:** We'll take a morning
25 break.

1 **THE REGISTRAR:** Order; all rise. À l'ordre;
2 veuillez vous lever.

3 This hearing will resume at 11:20 a.m.

4 --- Upon recessing at 11:03 a.m./

5 L'audience est suspendue à 11h03

6 --- Upon resuming at 11:21 a.m./

7 L'audience est reprise à 11h21

8 **THE REGISTRAR:** This hearing is now resumed.
9 Please be seated. Veuillez vous asseoir.

10 **DEBORAH NEWMAN, Resumed/Sous le même serment:**

11 ---**CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. DALEY**
12 **(C'ont/Suite):**

13 **MS. DALEY:** Thank you.

14 I want to move to another topic, Ms. Newman,
15 and this has to do with the transition from Mr. Roy to
16 yourself when you take responsibility for Cornwall in 1996.
17 And I think you told us in-chief that you had no precise
18 recollection of whether there was a briefing conversation
19 with Mr. Roy or not, and that's fine.

20 I'm going to suggest this to you; given the
21 extraordinary nature of the events surrounding Mr. Seguin
22 and your testimony about just how unprecedented that whole
23 occurrence was, I think it's -- is it safe to say it's more
24 likely than not that he didn't talk to you about Seguin?
25 Because I've got to imagine that would have stuck in your

1 mind.

2 MS. NEWMAN: Well, I think that's a
3 reasonable proposition.

4 THE COMMISSIONER: I'm sorry; I missed --
5 who?

6 MS. DALEY: It's Mr. Roy ---

7 THE COMMISSIONER: Yes. Okay.

8 MS. DALEY: --- because she assumed his
9 responsibility for Cornwall.

10 THE COMMISSIONER: Okay. Fine.

11 MS. DALEY: All right.

12 And, you know, I'm not -- I'm going to try
13 to truncate my questions to you so I don't want to take you
14 necessarily back to all the briefing or the House notes
15 we've looked at. But it's fair to say that by the time you
16 arrived on the scene in early 1996 there had been a number
17 of extraordinary occurrences, including Mr. Barque's
18 conviction for sexual assault of a probationer; including,
19 you know, the details pertaining to Mr. Seguin and that
20 information. So there was certainly plenty to have talked
21 about. Is that not fair?

22 MS. NEWMAN: Yes, that's fair.

23 MS. DALEY: And I have to assume that as the
24 incoming regional manager it would have been helpful to you
25 to have that factual background; correct?

1 **MS. NEWMAN:** Yes.

2 **MS. DALEY:** And had you had that background
3 I've got to think that you might have focused on additional
4 matters in Cornwall, matters in addition to Mr. Emile
5 Robert's performance as area manager.

6 **MS. NEWMAN:** I think that's fair.

7 **MS. DALEY:** Right. Because I'm assuming
8 that you would have wanted to certainly get to the bottom
9 of some of these incidents and you would also have wanted
10 to ensure that whatever had happened in the past there was
11 not going to be a blind eye turned in the present or in the
12 future in that office; correct?

13 **MS. NEWMAN:** Absolutely.

14 **MS. DALEY:** All right.

15 Now, I want to speak to you about the House
16 note and the issue note. And can you help me; who had
17 access to those notes?

18 **MS. NEWMAN:** The Information Management Unit
19 generated those notes and they were accessed by the offices
20 of the Assistant Deputy Minister and the Deputy Minister
21 and the Minister's office.

22 **MS. DALEY:** So prior to the time you assumed
23 the ADM role in the year -- in September of 2000, when you
24 were at the regional level, you did not have access to
25 those notes?

1 **MS. NEWMAN:** I did not. And our regional
2 office continue not to receive these notes. The purpose of
3 these notes is to brief the Minister on the issues most
4 likely to generate questions in the legislature.

5 So they're created for a specific purpose
6 and the purpose is that. So they're actually not
7 distributed to the regional office.

8 **MS. DALEY:** I understand that. But subject
9 to a change and the recommendation that you've made about
10 how institutional memory is captured, at the relevant time
11 the notes also, as I understood it, were the only source of
12 chronological information about an event or a problem. Is
13 that correct?

14 **MS. NEWMAN:** Yes, although I wouldn't say
15 that they would be the final word on any event or problem
16 either. They're a running record that are essentially -- I
17 wouldn't count on them as a systematic way of ensuring an
18 institutional record.

19 **MS. DALEY:** And that's because, as you said,
20 there's no effort to verify the content, necessarily.

21 **MS. NEWMAN:** That's right.

22 **MS. DALEY:** All right.

23 So what we have is a document which the
24 accuracy of which can't be relied upon but it is at this
25 point the only document that would present a chronological

1 record of an occurrence or an incident that one could look
2 at for background detail. Have I got that right?

3 MS. NEWMAN: It's probably the best we have,
4 to the extent that an issue note exists. It doesn't
5 always.

6 MS. DALEY: Fair enough.

7 And it's the area manager's role, I think,
8 to initiate forwarding incident reports so that they might
9 be incorporated in an issue note?

10 MS. NEWMAN: That's correct.

11 MS. DALEY: And as we sit here today, even
12 that resource, if I can call it that, the issue note
13 resource, is not available to a regional -- a person at the
14 regional level?

15 MS. NEWMAN: No, it's not.

16 MS. DALEY: And not to dwell on the point
17 you made about the accuracy, there are a few -- there's a
18 document or two that I'd like to take you to. Just one
19 second.

20 If, for example, you had a look at -- this
21 is within Exhibit 1104. It's the issue - I'm sorry, the
22 issue note of January 8th, 1996.

23 THE COMMISSIONER: Just a -- 1104.

24 MS. DALEY: I have Bates page 1115006, which
25 is the second page of that note.

1 **THE COMMISSIONER:** In 1104, and the second
2 page. Okay.

3 **MS. DALEY:** Yes.

4 Just to help you a little bit, Ms. Newman.
5 This is an issue note of January 8th, '96 and I picked this
6 because that's the year that you went to Cornwall, right,
7 so this was the information that had been captured at that
8 time.

9 **MS. NEWMAN:** Sorry, Ms. Daley, I think I
10 might have the wrong note. It's dated February 4th, 1994.

11 **THE COMMISSIONER:** Exhibit 1104.

12 **MS. DALEY:** Yes. It comes after 1104.

13 **THE COMMISSIONER:** What are you looking at?

14 **MS. DALEY:** Bates page 1115005, which is the
15 January 8, '96 note.

16 **THE COMMISSIONER:** January 1996.

17 **MS. DALEY:** Yes.

18 **THE COMMISSIONER:** All right.

19 **MS. NEWMAN:** I have it now too. Thank you.

20 **MS. DALEY:** Do you have that?

21 **MS. NEWMAN:** Yes. There were several notes
22 in this section.

23 **MS. DALEY:** I know that you've looked at
24 this in your evidence in-chief. I don't know if you need a
25 minute to refresh your mind about the content but if so

1 just let me know.

2 MS. NEWMAN: It's fine.

3 MS. DALEY: All right.

4 Now, I know you didn't author this note and
5 I know you can't speak to its correctness, but there's one
6 or two points I wanted to see if you could help me with.

7 First of all, as with many of the other
8 notes, the position that the Minister is to take is that
9 allegations of sexual assault are taken seriously and
10 referred to appropriate authorities for investigation.
11 That's the core message and that message is found in many
12 of these notes; correct?

13 MS. NEWMAN: That's correct.

14 MS. DALEY: And in the text of the note
15 itself, if I could take you to the second page, 1115006,
16 and ask you to look at the bullet point that's third from
17 the bottom.

18 THE COMMISSIONER: It starts with "The
19 Ottawa Citizen"?

20 MS. DALEY: Correct.

21 And, again, Ms. Newman, I know that you
22 don't speak to this being accurate. But this creates the
23 impression that the allegations of abuse pertaining to Mr.
24 Seguin were referred to two police departments for
25 investigation, and that ties back to the Minister's message

1 which is we're doing the right thing by referring to the
2 authorities.

3 Do you see that?

4 **MS. NEWMAN:** Yes, I do.

5 **MS. DALEY:** And in fairness what we've heard
6 at this Inquiry is that the role played by the Lancaster
7 OPP was not an investigation of sexual abuse by Mr. Seguin,
8 it dealt with something different. Would you know that?
9 Today do you know that?

10 **MS. NEWMAN:** No.

11 **MS. DALEY:** All right.

12 **MS. NEWMAN:** I'm not aware of that.

13 **MS. DALEY:** But, in any event, if you accept
14 my premise then this issue note is incorrect on that point
15 and again that would be an example of the failure of the
16 notes because they're not vetted for accuracy, correct?

17 **MS. NEWMAN:** No, they're based on reports
18 coming in from the field without any ---

19 **MS. DALEY:** Right.

20 **MS. NEWMAN:** --- independent validation.

21 I think in this case, as I understand it,
22 Mr. Roy and Ms. Bradburn had contacted the two police
23 forces identified here.

24 **MS. DALEY:** That's correct.

25 **MS. NEWMAN:** What happens ---

1 **MS. DALEY:** But those police forces were not
2 investigating sexual assault.

3 **MS. NEWMAN:** I think what they've said, it's
4 been referred for investigation.

5 **MS. DALEY:** Right.

6 **THE COMMISSIONER:** I think the witness is
7 correct in the sense that, that all that's been said here
8 is that the Ministry referred it to Lancaster and the
9 Cornwall Police Force for an investigation. I mean so
10 that's the most -- it's not saying that they are
11 investigating.

12 **MS. DALEY:** I guess my point was slightly
13 different.

14 **THE COMMISSIONER:** Okay.

15 **MS. DALEY:** The Lancaster Police was not
16 dealing with sexual assault allegations because Mr. Seguin
17 was deceased.

18 **MS. NEWMAN:** I think the note is attempting
19 to indicate that both police services were contacted by the
20 Ministry.

21 **MS. DALEY:** Well -- and that's correct;
22 that's not wrong.

23 But would you allow as how that might create
24 -- if this information were put forward in the public,
25 people might not have a correct impression of exactly what

1 had happened?

2 **MS. NEWMAN:** Not having seen the Ottawa
3 Citizen article, I don't know if that's how it was
4 characterized.

5 I can tell you that we don't publicly
6 release our issue notes.

7 **MS. DALEY:** All right. Were you aware -- if
8 you look at the prior bullet, the one that starts:

9 "On January 5, '94, the media began to
10 report extensively on a sex scandal
11 cover-up involving church, police and
12 deceased P.O."

13 At some point in time, Ms. Newman, you must
14 have become aware that the media reportage in Cornwall was
15 focused on matters of that nature?

16 **MS. NEWMAN:** I have no specific
17 recollection.

18 **MS. DALEY:** Okay. But in any event,
19 certainly to the extent that the media was talking about a
20 cover-up, you would agree with me that it -- to this point
21 in time, there had been no step taken by the Ministry to
22 try and uncover or reveal information that it had
23 discovered concerning Mr. Seguin?

24 **MS. NEWMAN:** Not that I'm aware of.

25 **MS. DALEY:** All right. There's just one

1 other issue note I wanted to take you to and that, of
2 course, it's also within Exhibit 1104, but this is -- this
3 is the note of -- I guess it's January 10th, 2000, and I'm
4 on Bates page 1115013.

5 (SHORT PAUSE/COURTE PAUSE)

6 MS. DALEY: And this document, Ms. Newman,
7 focuses on a number of things but on the first page, the
8 last bullet, it's talking about Mr. Barque and it's
9 pertaining to his 1995 conviction. There was, of course, a
10 subsequent investigation and charges that were about to be
11 laid and then his suicide.

12 THE COMMISSIONER: I'm sorry, which?

13 MS. DALEY: I'm sorry, I was just helping
14 her by looking at the -- at the very bottom bullet of the
15 first page of this note, which is 1115012.

16 THE COMMISSIONER: Right. Okay.

17 MS. DALEY: So -- right? That's the
18 context.

19 THE COMMISSIONER: Yes.

20 MS. DALEY: So if you then look forward,
21 look at the first bullet on this following page, Bates
22 page 5013, there's a statement that following his
23 conviction, which we know was in the summer of '95, a civil
24 suit was brought -- and I don't quarrel with that -- but
25 the next line reads:

1 "At that time, the matter was also
2 referred to the Ministry's
3 Investigation Unit and the Independent
4 Investigations Unit."

5 Now, of course, it doesn't suggest an
6 investigation happened, but I was just curious about that
7 because I didn't understand from your testimony that that,
8 in fact, had happened.

9 MS. NEWMAN: Now I'm not clear on this; is
10 this Mr. Barque or ---

11 THE COMMISSIONER: Yes, yes.

12 MS. DALEY: Yes.

13 MS. NEWMAN: --- Mr. Seguin?

14 MS. DALEY: This is Mr. Barque we're
15 discussing.

16 MS. NEWMAN: So this is Mr. Barque and the
17 note is indicating that following his conviction of sexual
18 assault -- which I believe happened in 1995?

19 MS. DALEY: Correct.

20 MS. NEWMAN: The matter, it says, was
21 referred to the Ministry's Investigations Unit and the
22 Independent Investigations Unit; I'm not aware of that.

23 MS. DALEY: I wasn't either and I -- I took
24 from your testimony that had that happened, you would have
25 been aware, because this comes close to the time that you

1 were back involved in Cornwall.

2 So again, an example of an error in a note.

3 **MS. NEWMAN:** Yes.

4 **MS. DALEY:** Correct?

5 **MS. NEWMAN:** As I've indicated, they are not
6 always accurate.

7 **MS. DALEY:** Okay.

8 **MS. NEWMAN:** Essentially, as I mentioned,
9 they're created to give the Ministry a general
10 understanding of a situation and to prepare him to
11 understand what's -- what's transpired and then what he
12 needs to speak to appropriately in the Legislature.

13 **MS. DALEY:** All right. Just continue, for a
14 moment, with the notes themselves and the linkage between
15 the notes, and I think you've addressed this in one of your
16 recommendations this morning, but when I -- before I heard
17 your recommendations, when I sat and looked at these notes,
18 it occurred to me that the linkage was quite easy and
19 obvious because they were all about Cornwall, correct?

20 **MS. NEWMAN:** Yes, these notes are all about
21 Cornwall.

22 **MS. DALEY:** And all one really needs to do
23 is to collect incidents on a per office basis to see a
24 pattern, correct?

25 **MS. NEWMAN:** It's not quite that easy in the

1 sense that -- well, I'm going to leave it to my Regional
2 Directors to recommend to me what the best way of
3 maintaining a record is and having it retrievable; the
4 volume of these and other incident reports that come on --
5 say in on any given probation and parole office would mean
6 that it would get buried in the volume of paper; you
7 wouldn't be able to discern a trend or a pattern because
8 there's far too much paper, everything that comes in is
9 placed on a file called "Cornwall Probation and Parole," it
10 would mean that you would never be able to find a needle in
11 the haystack.

12 **MS. DALEY:** Oh, all right. So there would
13 be an additional problem that would go along with
14 collecting things on a per office basis?

15 **MS. NEWMAN:** It wouldn't -- it wouldn't be
16 helpful in terms of discerning trends or patterns or
17 putting pieces of a puzzle that you should notice together,
18 in the sense that you're going to have all sorts of reports
19 over time coming in from Cornwall Probation and Parole
20 dealing with any number of different issues and if you were
21 looking at this historically, it would become, probably
22 within one year, unmanageable.

23 **MS. DALEY:** All right.

24 **MS. NEWMAN:** So I'm -- all I'm suggesting is
25 that I will certainly ask that the people that need to have

1 ready access to that information and be able to use it to
2 make operational decisions at the local and regional level,
3 I'll ask them for their advice on how best to create this
4 system of information management. It may be using some of
5 this, it may be something else; it probably would be
6 electronic and retrievable where you would be able to
7 search a database to retrieve specific types of incidents
8 and so on.

9 **THE COMMISSIONER:** So, for example, you --
10 theoretically you could type in, for lack of a better name,
11 "Seguin" and you could -- "Peel," and you could go in, in
12 the future, you could come up with anything that was
13 relevant to that name?

14 **MS. NEWMAN:** Exactly.

15 **THE COMMISSIONER:** So you could do a pattern
16 that way if you were going for an individual?

17 **MS. NEWMAN:** That's right.

18 I think we're going to need to work with our
19 technology wizards as well as our operational folks to come
20 up with the best system.

21 **MS. DALEY:** But whatever that looks like, I
22 think we're recognizing that the failure of the past, so to
23 speak, was that there was -- the issue notes are generated
24 on a per issue basis, correct? They don't attempt to
25 connect to other issues that might have occurred in the

1 same office?

2 MS. NEWMAN: Not necessarily.

3 MS. DALEY: All right. And that was part
4 of, as you saw it, the problem here because the
5 institutional memory didn't exist?

6 MS. NEWMAN: That's fair.

7 MS. DALEY: All right. And I take it what
8 follows from all of this is that back in 1993, if the dots
9 had been connected by the area manager or the regional
10 manager, a review might well have occurred and that might
11 have led to an earlier intervention, fair?

12 MS. NEWMAN: I think that's fair.

13 MS. DALEY: And I take it from where we sit
14 today, we're all agreed that an earlier intervention would
15 have been very desirable?

16 MS. NEWMAN: Absolutely.

17 MS. DALEY: I just want to speak to you --
18 again, I'm sorry, because I'm going back to a topic we've
19 addressed a little bit -- but I wanted to clarify something
20 from your evidence about your appraisal of Mr. Robert and
21 that was Exhibit 1187.

22 (SHORT PAUSE/COURTE PAUSE)

23 MS. DALEY: Do you have that?

24 MS. NEWMAN: I have it, yes.

25 MS. DALEY: On the first page, there is the

1 definition section that tells you what the various numbers
2 mean. And am I right in reading this, to the effect that
3 category two is a satisfactory reading?

4 **MS. NEWMAN:** No.

5 **MS. DALEY:** It's not?

6 **MS. NEWMAN:** It's not. Anyone who received
7 a category two would be getting a message that their
8 performance needs significant improvement.

9 **MS. DALEY:** All right. Because the text
10 itself suggests that the rating represents a performance
11 which is overall satisfactory, but you say no, that's not
12 really what a two means?

13 **MS. NEWMAN:** No. And then it goes on to
14 say, "Improvement in specified areas will result in full
15 competency".

16 **MS. DALEY:** Right.

17 **MS. NEWMAN:** Category three is the fully
18 satisfactory. Category four is above average. Category
19 five is exceptional.

20 **MS. DALEY:** Let's try it this way.

21 Would two be at least a passing grade,
22 although a bare minimum passing grade?

23 **MS. NEWMAN:** It means that there's still
24 hope that you could improve. In other words, we haven't
25 given up on you, we're not firing you.

1 **MS. DALEY:** All right. Would I be right to
2 think this?

3 If you had chosen to give Mr. Robert a one
4 for that area that was his Achilles Heel, as you said
5 yesterday, would that have disqualified him from becoming
6 an area manager in Ottawa?

7 **MS. NEWMAN:** It probably would not been --
8 well, we moved him to Ottawa because we needed him to be
9 out of the Cornwall office; the relationships there were
10 irreparably damaged.

11 If your question is really would he have
12 been terminated, I'm guessing at what the intent of your
13 question is, would we not have moved him to Ottawa? No.
14 We would have moved him to Ottawa if he had a category one.

15 **MS. DALEY:** Is it your belief that the
16 problems he had were unique to the staff in Cornwall or did
17 -- I thought what you were saying was that you thought
18 overall he was just lacking the skills to interact
19 appropriately with people, on a general basis?

20 **MS. NEWMAN:** He did. He had difficulties in
21 terms of interpersonal relationships and to the point that
22 his relationships in the Cornwall office, as I said, were
23 irreparably damaged. There was hope that with support and
24 coaching and supervision and training that he could
25 overcome that and improve his interpersonal relationship

1 skills.

2 **MS. DALEY:** I want to move to a slightly
3 different topic and that's the relocation of the Cornwall
4 probation office.

5 Is it not the case, Ms. Newman, that a
6 relocation of the office was being considered two years
7 prior to the abuse allegations starting coming in, due to a
8 lack of space?

9 **MS. NEWMAN:** I can't recall. I know my own
10 impetus was as a result of concerns expressed by the staff
11 in relation to victims returning to the office.

12 It may well have been something that had
13 been identified at an earlier stage for different reasons.
14 It was significantly accelerated based on the concerns
15 expressed to me.

16 **MS. DALEY:** That's fine. The reason I pose
17 the question, if you look at page -- Bates page 1160636
18 inside Mr. Robert's 1997 appraisal, the very last sentence
19 under the paragraph prior to the header "Providing
20 Leadership". Did you find that?

21 **MS. NEWMAN:** Yes, I see that.

22 **MS. DALEY:** "Inadequate space is a problem
23 in the Cornwall office and efforts to
24 resolve this through additional space
25 and a relocation would be necessary."

1 (As read)

2 So I just take it that it was a pre-existing
3 problem; there was a need to move -- potentially move or
4 get additional space back in 1997?

5 **MS. NEWMAN:** Yes, it appears this was an
6 early notification that we were going to need to have a
7 look at that.

8 **MS. DALEY:** Now ---

9 **MS. NEWMAN:** As I said, my own involvement
10 in terms of acceleration of that because, as I mentioned,
11 this is not an easy thing to accomplish, was -- the impetus
12 was the concerns expressed by the staff.

13 **MS. DALEY:** One of the things that I was
14 curious about and I want to explore a little bit is, you
15 understood that certain probationers said that they had
16 been abused at 502 Pitt, that the abuse had actually
17 occurred there; that being one of the reasons that you also
18 thought it was worthwhile to move?

19 **MS. NEWMAN:** That's correct.

20 **MS. DALEY:** Do you know if any investigation
21 was ever conducted as to how that would have been possible?

22 In other words, were the physical premises
23 such that that kind of thing could have occurred at that
24 location?

25 **MS. NEWMAN:** I don't know. I suppose, you

1 know, behind closed doors.

2 **MS. DALEY:** What about behind locked doors?
3 Did anybody ever look to see if the probation officers had
4 the ability to lock their door from the inside?

5 **MS. NEWMAN:** I don't recall. I can tell you
6 that the office accommodation standards have changed since
7 in the Ministry, in the sense that we now have the ability
8 to see into offices.

9 So in other words, there's a glass sidelight
10 to a door that provides visibility into the office.

11 **MS. DALEY:** Is that in Cornwall or
12 throughout the operation?

13 **MS. NEWMAN:** That's the Ministry's
14 accommodation standard. So as we identify new office
15 space, we ensure that those standards are met whenever an
16 office relocates.

17 **MS. DALEY:** All right.

18 I want to now move to my last main area,
19 which the Downing report and what you learned.

20 Obviously, as you said before, you knew
21 nothing about Mr. Barque until the Downing era; correct?

22 **MS. NEWMAN:** Ninety-nine - two thousand
23 ('99-2000).

24 **MS. DALEY:** My question is this -- and we
25 dealt in this Inquiry with Mr. Sirrs and Mr. Sirrs had

1 created a report about that occurrence which was fairly
2 detailed.

3 Do you know where the Sirrs report was
4 located between 1982 when it was created and I guess the
5 year 2000, when Mr. Downing did his review?

6 **MS. NEWMAN:** I have no idea.

7 **MS. DALEY:** Do you know, based on your
8 knowledge of the Ministry, where it ought to have been
9 located?

10 **MS. NEWMAN:** One would assume that it was
11 filed in a confidential file at the area office and one
12 would hope that it would have been forwarded to the
13 regional office as well.

14 **MS. DALEY:** So ideally there should have
15 been a copy in both places?

16 **MS. NEWMAN:** Ideally.

17 **MS. DALEY:** How would it have been indexed
18 or stored?

19 **MS. NEWMAN:** I'm not an expert in file
20 retention. I'm not sure I can answer those questions.

21 I know we do have retention records and
22 after a period of time records are either archived or
23 destroyed depending on the retention schedule of the
24 archivist.

25 **MS. DALEY:** Do you have any idea how -- if

1 someone -- this is somewhat hypothetical I suppose but not
2 really. Let's say you get knowledge that an occurrence
3 happened with a fellow named Mr. Barque, where would you
4 look to find the Sirrs report?

5 **MS. NEWMAN:** You'd begin a search. Right
6 now, there wouldn't be any failsafe way of identifying
7 where that record existed, so you'd probably have to go
8 conduct a manual search of the area office, of the regional
9 office, potentially the Investigations Branch if an
10 investigation was conducted, the archives.

11 **MS. DALEY:** So that would be a very onerous
12 process?

13 **MS. NEWMAN:** Yes, it would.

14 **MS. DALEY:** And it's probably unlikely that
15 too many people would, I guess, embark upon that process.
16 Would you agree?

17 **MS. NEWMAN:** I'd go for it.

18 **MS. DALEY:** All right.

19 Let's focus now on the Downing report and
20 your involvement. You were asked numerous questions by Mr.
21 Engelmann, some of them fairly probing, about why other
22 staff -- apart from Mr. van Diepen -- probation officers
23 and administrative personnel were not interviewed.

24 Do you recall that exchange that occurred
25 yesterday?

1 **MS. NEWMAN:** Yes.

2 **MS. DALEY:** And in part you responded by
3 talking about the importance of not interfering in the
4 investigation. Of course I certainly accept that. But you
5 did, in fact, direct Mr. Downing to interview Mr. van
6 Diepen; correct? You did give him that direction?

7 **MS. NEWMAN:** That was -- I did send him an
8 email saying at minimum I think we need to interview Mr.
9 van Diepen in the early stages as he was doing some sort of
10 assessing of the situation, yes.

11 **MS. DALEY:** That's right. And you don't
12 need to look at it, but that's your email to him of August
13 21, 2000, Exhibit 1079.

14 So you felt it was appropriate to at least
15 give him that direction; fair?

16 **MS. NEWMAN:** Mr. van Diepen was named in the
17 website and that was my rationale.

18 **MS. DALEY:** Well, I was going to come
19 immediately to that, because that's logical because van
20 Diepen is the only current probation officer who is named
21 in the website.

22 **MS. NEWMAN:** Correct.

23 **MS. DALEY:** And the only other individual
24 who was associated with Corrections, and that's Father
25 Maloney, he's also named in the website; he's also

1 interviewed by Mr. Downing. Fair enough?

2 **MS. NEWMAN:** That's correct.

3 **MS. DALEY:** So I don't know if you can
4 answer this, but it seems to me that's the reason why van
5 Diepen is the only probation officer mentioned because he's
6 on the website?

7 **MS. NEWMAN:** That was the initial thinking
8 is what's this website about; are there any current
9 employees about whom we need to be concerned. So that's
10 where the investigation was launched, if you like.

11 And following that, Mr. Downing would have
12 conducted his investigation interviewing whomever he, as an
13 investigator, felt was appropriate to interview.

14 Once his report was submitted there were,
15 from our perspective, some clearly identifiable concerns
16 that caused us to ask him to undertake some further
17 interviews. He could have supplemented those interviews in
18 any way he felt was appropriate.

19 **MS. DALEY:** I understand.

20 But it's quite logical that his initial
21 focus is on Jos and he's trying to be able to confirm or
22 refute what the website says about Mr. van Diepen, right?

23 **MS. NEWMAN:** That's right.

24 **MS. DALEY:** And I took it from your comments
25 that Mr. van Diepen -- I think you called him a difficult

1 to manage employee ---

2 MS. NEWMAN: Yes.

3 MS. DALEY: --- or words to that effect.

4 So he was always a bit of an odd man out, if
5 I can put it that way, in the Cornwall office, or did you -
6 --

7 MS. NEWMAN: I'm not aware ---

8 MS. DALEY: --- form that impression?

9 MS. NEWMAN: No. No, I'm not aware of that.

10 MS. DALEY: But certainly ---

11 MS. NEWMAN: Just he had a strong
12 personality and was very assertive and wasn't always the
13 easiest for the manager to manage.

14 MS. DALEY: Right. So he stood out in that
15 respect?

16 MS. NEWMAN: Yes.

17 THE COMMISSIONER: He was the union rep for
18 a while?

19 MS. NEWMAN: I think he was. I can't
20 recall, but I think he was.

21 MS. DALEY: And of course the website
22 allegations about Mr. van Diepen, I think you will agree,
23 are very dramatic and very serious. Do you agree?

24 MS. NEWMAN: Yes, they are.

25 MS. DALEY: And let me just skip for a

1 moment -- and I want to use Father Maloney as an example
2 because I want to come back to Mr. van Diepen but I want to
3 do it via Father Maloney.

4 Obviously there are also very serious
5 allegations about him on that site as well; correct?

6 **MS. NEWMAN:** I believe so, although I must
7 admit I didn't pay as close attention because it was on the
8 institutional side and not part of my responsibility.

9 **MS. DALEY:** Not to drag you into the
10 details, the gist of the allegations about Father Maloney
11 on the site amounted to paedophilia, amounted to sexual
12 abuse of minor boys. You do recall that, do you?

13 **MS. NEWMAN:** Yes.

14 **MS. DALEY:** All right.

15 So you would agree with me that that type of
16 allegation was very detrimental to Father Maloney's
17 reputation in the community; correct?

18 **MS. NEWMAN:** Absolutely.

19 **MS. DALEY:** And it would certainly undermine
20 his ability to work within the community for that
21 allegation to be made about him; correct?

22 **MS. NEWMAN:** I would imagine so.

23 **MS. DALEY:** And, in fact, Father Maloney was
24 exonerated to the extent that both the police and Mr.
25 Downing informed you that those allegations were not

1 substantiated; correct?

2 **MS. NEWMAN:** That's true.

3 **MS. DALEY:** However, I think you'd agree
4 with me that damage to Father Maloney's reputation had
5 still occurred as a result of the website; correct?

6 **MS. NEWMAN:** I would imagine so. I don't
7 have firsthand knowledge of that but I think it's
8 reasonable. It's difficult, even when one is exonerated,
9 to have had those allegations made against them.

10 **MS. DALEY:** And just on a common sense
11 humane basis I think we can all understand that that would
12 be the case. Do you agree?

13 **MS. NEWMAN:** Certainly, yes.

14 **MS. DALEY:** And this -- you know, the
15 website is a matter of interest to my clients because other
16 people in the community were treated in the same way as
17 Father Maloney, but not accurately, they were not, in fact,
18 paedophiles but they were labelled that way. So, again,
19 those type of allegations I think we all understand are
20 quite detrimental to people; correct?

21 **MS. NEWMAN:** I agree.

22 **MS. DALEY:** Now, -- and, again, this is
23 information that you may not have but we heard at this
24 inquiry from an individual who had some role to play in
25 that website, that they did not attempt to verify the

1 postings but they took an approach that if a person claimed
2 to be a victim they would post his statement without trying
3 to verify it in any way, they would just publish it. That
4 was what we were told here. And, again, I don't expect you
5 to know that but that's information that we're operating
6 with.

7 Did you not at some point in your
8 investigation conclude that some of the website allegations
9 about Mr. van Diepen were false?

10 **MS. NEWMAN:** The outcome of Mr. Downing's
11 investigation was that the allegations against Mr. van
12 Diepen were certainly inconclusive. There was no clear
13 evidence as to what he did or did not know. Mr. Downing
14 had a different view of that, as we heard, but that was our
15 assessment of the situation.

16 **MS. DALEY:** I understand that. I'm going to
17 put that to one side and deal with the other website
18 allegation that Mr. van Diepen was himself a paedophile,
19 that he'd been present at a sex orgy.

20 You knew fairly early on from Mr. Downing
21 that that allegation wasn't substantiated because he said
22 that the police had essentially told him Jos was not
23 implicated in that type of behaviour; correct?

24 **MS. NEWMAN:** I think it was clear there were
25 no allegations that he was a paedophile or that he was

1 engaging ever in that kind of activity, notwithstanding
2 that even that allegation that he was present when such
3 behaviour was occurring wouldn't suggest he himself was a
4 paedophile.

5 **MS. DALEY:** But the police -- I can show you
6 in your note. I'm sure you will agree with me that the
7 police had said "We're not investigating him either as an
8 active paedophile or as somebody who was present when it
9 happened."

10 So did you not conclude that, at least to
11 the extent the website suggested he'd been present when
12 this activity occurred, it was incorrect?

13 **MS. NEWMAN:** Yes.

14 **MS. DALEY:** All right.

15 Now, did anybody at the Ministry ever say
16 that, either to Mr. van Diepen or to his co-workers? In
17 other words, say "We accept that this allegation about you,
18 that you witnessed paedophilic acts, we know that's not
19 true, Mr. van Diepen"?

20 **MS. NEWMAN:** I don't know if that occurred.

21 **MS. DALEY:** Do you know whether the
22 community was ever informed that the Ministry of
23 Corrections was satisfied that Mr. van Diepen, in fact,
24 hadn't engaged in that activity?

25 **MS. NEWMAN:** The Ministry didn't issue any

1 public statement.

2 MS. DALEY: All right.

3 MR. NEUBERGER: I guess the real issue is,
4 to be clear on that point, there is no answer to that until
5 this Inquiry came and the person who made that assertion
6 indicated they lied about that.

7 So back in 2000 their conclusion may have
8 been there is no evidence to substantiate that and whatever
9 their actions are. But I guess the mischief that's made
10 from that type of an allegation continued regardless of
11 whatever Corrections may or may not have determined on
12 their own and may have identified in the local office.

13 And I think it would be fair to the witness
14 to understand that they're not investigating the website in
15 its entirety. So it was not just hoisted upon the Ministry
16 in that regard, and I'm just worried about that perception.

17 THE COMMISSIONER: Well -- Mr. Engelmann.

18 MR. ENGELMANN: I think, as well, the only
19 thing that was stated in the notes was that he was not
20 being investigated, in other words.

21 THE COMMISSIONER: Right.

22 MR. ENGELMANN: Not with respect to whether
23 he was present or anything else. I think the point has
24 been made by the witness, that I think there was a mistake
25 and he was not accused of being a pedophile.

1 **THE COMMISSIONER:** No, no, I understand
2 that. I understand that.

3 But I guess Ms. Daley's point is -- I think
4 is -- okay, why not tell at least the office staff, "Look,
5 you know, we've done -- we've investigated and he's still a
6 probation officer", and there's nothing that came of it.

7 I think it's a reporting back; is that what
8 you're getting at?

9 **MS. DALEY:** Yes. Primarily.

10 **MS. NEWMAN:** Maybe the only comment I can
11 make in relation to that is that investigations of
12 individual employees are matters that are labour relations
13 -- employee relations matters are not publicly released or
14 discussed, that they're confidential employment records
15 that they've -- the privacy of the individual.

16 In other words, we wouldn't have said to the
17 staff in the office either, "It's alleged that Mr. van
18 Diepen did X, Y, Z", nor that "We've cleared Mr. van
19 Diepen" or "We've convicted him" or "Found evidence to
20 substantiate X, Y. Z". I mean ---

21 **MS. DALEY:** I appreciate that context but,
22 Ms. Newman, in this circumstance, all the staff new about
23 the allegations because they viewed the website. that was
24 causing a problem in the office; right?

25 **MS. NEWMAN:** Yes.

1 **MS. DALEY:** And I guess, and you can
2 disagree with me, but it seems to me that ultimately Mr.
3 van Diepen became compromised because people who were on
4 probation had read the website allegations and they decided
5 to play the "pedophile card", right, when they had breached
6 parole, and that compromised van Diepen as a probation
7 officer, compromised his career; correct?

8 **MS. NEWMAN:** It -- it compromised his
9 ability to perform his duties as a probation officer.

10 **MS. DALEY:** Right. And that's what led to
11 him being reassigned to the -- in quite a different area
12 from the one he had been in all his career; right?

13 **MS. NEWMAN:** Actually, we offered him
14 another position as a probation officer in another office,
15 out of Cornwall, as one of the options available to him or
16 a position at the Cornwall jail. He chose the Integrated
17 Justice assignment.

18 **MS. DALEY:** I appreciate that detail, but is
19 it not possible -- at least possible, Ms. Newman --that if
20 the Ministry had stood behind him and said unequivocally,
21 "This man is not a pedophile", then he might not have been
22 compromised in the fashion that he was?

23 **MR. NEUBERGER:** I'm going to object to that.

24 **THE COMMISSIONER:** Okay.

25 **MR. NEUBERGER:** This -- this is getting into

1 something which is very difficult.

2 There is no way the Ministry, through that
3 investigation or any other, can battle the allegations in
4 that website and I think this speaks about the whole
5 mischief that's caused by the website and when people post
6 affidavits and other things on a website with reckless
7 regard for the truth, I think that's something which is
8 important.

9 But this Ministry, in conducting it's
10 investigation, can't be foisted upon them the obligation to
11 try and determine whether somebody who's on there is a
12 pedophile.

13 **THE COMMISSIONER:** No.

14 **MR. NEUBERGER:** I mean they can't crawl
15 inside his head, start doing testing to determine if he is.
16 I mean, this is an assertion which can't be done through
17 the Ministry in their investigation.

18 **THE COMMISSIONER:** No. I think -- I
19 understand.

20 I think what I'm looking for -- and it might
21 not be what Ms. Daley's looking for -- is you've got these
22 staff members who are being hit with two suicides, all
23 kinds of things ---

24 **MS. DALEY:** Yes.

25 **THE COMMISSIONER:** --- and Mr. Robert

1 disappears, Jos van Diepen disappears, and I guess it would
2 be on human terms -- never mind labour relations and all
3 the rest -- to have a meeting with these folks and say,
4 "Look it, we've done our investigation..." ---

5 **MR. NEUBERGER:** M'hm.

6 **THE COMMISSIONER:** --- "...and while we
7 can't say whether he's a pedophile or not, we know the
8 police aren't investigating this guy and we have -- our
9 investigation shows, to date, that there's nothing to it".

10 **MR. NEUBERGER:** Okay. I understand what
11 you're saying and I'm more comfortable with the way you're
12 phrasing that ---

13 **THE COMMISSIONER:** Yes.

14 **MR. NEUBERGER:** --- than Ms. Daley, with all
15 due respect, but ---

16 **THE COMMISSIONER:** Sure.

17 **MR. NEUBERGER:** And I understand where she's
18 driving at it, but if it's a question of then how do you
19 inform the office about the events surrounding the website
20 ---

21 **THE COMMISSIONER:** Right.

22 **MR. NEUBERGER:** --- and the steps that are
23 being taken by the Ministry in that regard ---

24 **THE COMMISSIONER:** Exactly.

25 **MR. NEUBERGER:** --- and how it impacts?

1 **THE COMMISSIONER:** Exactly. So it's simply
2 in human terms.

3 Yes, Mr. Engelmann?

4 ---**SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. ENGELMANN:**

5 **MR. ENGELMANN:** I think as well though, to
6 put the question fairly to the witness ---

7 **THE COMMISSIONER:** Yes.

8 **MR. ENGELMANN:** --- I mean the concern about
9 the staff -- and it's set out in many of these letters --
10 is his knowledge.

11 **THE COMMISSIONER:** Right.

12 **MR. ENGELMANN:** And were they duped?

13 **THE COMMISSIONER:** M'hm.

14 **MR. ENGELMANN:** They're not saying we're
15 concerned that he's allegedly in a sex orgy ---

16 **THE COMMISSIONER:** M'hm.

17 **MR. ENGELMANN:** --- and that's repeated in
18 several things. It's repeated in the Legault email to
19 Deborah Newman on -- it's Exhibit 1093, for example.

20 So I -- you know I think we should -- first
21 of all, the website doesn't say he's a pedophile.

22 **THE COMMISSIONER:** No.

23 **MR. ENGELMANN:** I mean it does say bad
24 things, I'm not suggesting it doesn't, but I think the
25 questions should -- the facts should be clear and shouldn't

1 be misstated in any way.

2 **THE COMMISSIONER:** Sure.

3 **MR. ENGELMANN:** And clearly what the staff
4 seemed to be upset about -- had some of them here as well
5 have giving evidence -- but from these earlier documents,
6 is his knowledge.

7 **THE COMMISSIONER:** Right.

8 **MR. ENGELMANN:** And that's clearly what the
9 Ministry was looking into, whether he knew or ought to have
10 known or suspected.

11 **THE COMMISSIONER:** M'hm.

12 **MR. ENGELMANN:** And Ms. Newman's talked
13 about her views and Mr. Downing's views and we've heard
14 about Inspector Hall's views, and surely we will later.

15 I think that's really what's going on with
16 the staff though.

17 **THE COMMISSIONER:** Okay. Well -- but
18 regardless, what I'm trying to point out is, you know, I
19 guess I'm using the Ken Dryden analogy. I don't know if
20 you heard that one, I'm sure your lawyers will explain it
21 to you, but sometimes you have to think with your heart.

22 And so you've got these people that don't
23 know what's going on and sometimes somebody's got to come
24 in there and say things and, I guess, one way of doing it
25 is going to see Mr. Jos van Diepen and saying, "Look it, do

1 you want to sign this thing here saying that we can talk?
2 And this is what we're going to say to you. Are you okay
3 with that?" Fine. Let's go in and we talk to people and
4 we say to them, "Look it, this is what's happening" because
5 then we would get away from the misunderstandings that Mr.
6 van Diepen harbours against the Ministry that he wasn't
7 able to get a lawyer.

8 And we've learned that from your
9 perspective, "Yeah, yeah, you can get a lawyer and we'll
10 reimburse you", and that was miscommunication and that
11 builds on mistrust, distrust, suspicion and poisons the
12 atmosphere even more.

13 So the question is, from my perspective --
14 and we'll let Ms. Daley correct me -- is, what did you do?
15 Could you have thought of doing something for these poor
16 folk in the office to give them some information, reassure
17 them?

18 **MS. NEWMAN:** With respect to Mr. van Diepen,
19 I think as has been pointed out, there was never in our
20 view any allegation that he was a pedophile, and when he
21 endured those comments from clients coming into the office,
22 I did meet with him and I did say -- I was very supportive
23 and I told him, "Listen, Jos, don't think that we believe
24 that. There is absolutely no issue with respect to that as
25 far as the Ministry is concerned."

1 So I was reassuring of him in relation to
2 that. I was sympathetic to the damage that it was being
3 done, the trauma he was experiencing, and I offered him
4 three options for reassignment because he was interested in
5 doing so and he selected the one that he wanted.

6 In other words, I would say -- I would
7 certainly assert that I took a very supportive and
8 compassionate approach to Mr. van Diepen under the
9 circumstances.

10 At the end of the Downing investigation,
11 where it was inconclusive in terms of what he knew or
12 didn't know, I'm not sure how we -- or what we would have
13 said, I guess, to staff in the office, that our
14 investigation is inconclusive? We don't know what he knew
15 or didn't know?

16 I'm not sure that would have been helpful,
17 notwithstanding the parameters under which we operate
18 legally and in relation to privacy and in a labour
19 relations framework.

20 Having said that, I take your point. I
21 think we have to think about what else we can do to provide
22 support and reassurance to the staff in the office as well
23 as in the case of Mr. van Diepen; what can be shared.

24 I think -- again, you know, I as the
25 Regional Manager and those who came after me, tried to be

1 very supportive of the staff in the Cornwall office and, in
2 fact, they indicated to me they felt supported.

3 So I've always operated and -- and many
4 others do, too, from the heart, and have a very
5 values-based leadership approach and I would say that was
6 the case here.

7 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

8 DALEY (CONT'D/SUITE)

9 MS. DALEY: We're all learning lessons and
10 nobody was criticizing your approach, we're just trying to
11 see if there's something that we can learn from this that
12 would maybe make things work better in the future if -- if
13 something along these lines should happen again.

14 Now, you mentioned Claude Legault and the
15 fact that you had a lot of confidence in him and when he
16 first wrote to you about this occurrence, the website, I
17 think the point he was making was that Jos had been absent
18 from the office on vacation and that when he came back he -
19 - people were -- I guess he came back and then he was sent
20 to do some training on the IJ Project and that his absence
21 from the office was causing his coworkers anxiety because
22 they wanted to hear from him, they wanted him to say,
23 "Listen, I wasn't in cahoots with Ken Seguin. I wasn't
24 covering up for him. I wasn't complicit with him."

25 You recall that that was Mr. Legault's view

1 of the situation?

2 MS. NEWMAN: I recall that the staff wanted
3 to hear from their colleague that he was innocent of all
4 charges.

5 MS. DALEY: Right.

6 MR. ENGELMANN: In fairness to the witness,
7 it's document number 1093 and perhaps the email should be
8 put to her (off mic and inaudible).

9 THE COMMISSIONER: Ten ninety-three (1093),
10 the same book.

11 MR. ENGELMANN: They did not replace it.

12 THE COMMISSIONER: No.

13 MR. ENGELMANN: It's a fairly long email.

14 THE COMMISSIONER: No, it's not there.
15 The next -- next three-ring binder.

16 MS. NEWMAN: Yeah, I've got it.

17 THE COMMISSIONER: Ten ninety-three (1093)?

18 MS. DALEY: Ms. Newman, I was focusing my
19 comments on the email that Claude sent to you of August
20 11th, 2000, the very length one.

21 MS. NEWMAN: Yes, it is lengthy, yeah.

22 Is there a particular part you wanted me to
23 focus on?

24 MS. DALEY: Well, no, just that I was
25 drawing my comments from, for example, paragraph 4, where

1 he talks about Jos being in Toronto and his absence might
2 increase their doubts and, I guess, on the third last
3 paragraph of that memo, he talks about Sue Larivière and
4 her concerns that Jos isn't speaking to her about it,
5 et cetera, et cetera.

6 **MS. NEWMAN:** Yes.

7 **MS. DALEY:** So if that helps you, that --
8 that's what -- that's the only thing I was referring to
9 there.

10 And I guess my question for you is this;
11 would you acknowledge that removing him from the office,
12 the reassignment perhaps fed in to his coworkers'
13 anxieties?

14 **MS. NEWMAN:** I would hope that -- and I
15 don't know this, that Mr. van Diepen did return to the
16 office and tell his coworkers that he was not involved. In
17 other words, he had a relationship with them such that he
18 could have that conversation with them.

19 His reassignment was at his own request.

20 **MS. DALEY:** All right. Let me deal finally
21 with Mr. Downing's conclusion, if you'll let me.

22 This is Exhibit 958, I guess "A," it's the
23 Downing report and you were directed to page numbered 5 of
24 that report, Bates 1001522 ---

25 **THE COMMISSIONER:** Hang on.

1 MS. DALEY: --- yesterday.

2 That's the ---

3 MS. NEWMAN: Do I have that?

4 THE COMMISSIONER: Nine five eight (958); I
5 don't know.

6 MS. NEWMAN: I don't believe I have that.

7 MS. DALEY: Sorry.

8 THE COMMISSIONER: Okay.

9 I'm sorry, what?

10 MS. DALEY: Bates 1001522 has a section
11 called "Conclusion."

12 THE COMMISSIONER: M'hm.

13 MS. DALEY: And I'm concentrating on the
14 first paragraph under that section.

15 And I guess the question I'd like to put to
16 you is this, Ms. Newman; as I interpret his first
17 conclusion, it seems to me to speak to or to reflect
18 perhaps a bit of a different problem from the one you took
19 from it and that is, is this not an indication that we have
20 an office culture in Cornwall that turns a blind eye to one
21 another's breach of policies?

22 MS. NEWMAN: It does suggest that, according
23 to Mr. Downing, if he believes that staff suspected and
24 didn't report.

25 I would expect staff to come forward if they

1 suspected something of this nature.

2 **MS. DALEY:** You've made that clear.

3 And so to a certain extent, the picture he's
4 painting is a little bit of an office culture of turning
5 the blind eye to that; is that fair?

6 **MS. NEWMAN:** Potentially, yes.

7 **MS. DALEY:** All right. Now did you think
8 that more work could have been done -- and I don't
9 necessarily mean investigative work, but could more work
10 have been done so that the Ministry was truly satisfied
11 that if there had been a "blind eye" approach taken in the
12 past, it wouldn't occur again?

13 **MS. NEWMAN:** Well, I think that's fair. You
14 know, I could imagine, for example, a staff meeting to say
15 that, "There's some sense that people may have known
16 something and didn't report it and I don't know if that's
17 true or not, folks, but I want to reiterate to you that in
18 a situation like this that you ought to come forward."

19 **MS. DALEY:** Well, do you think an
20 intervention of that sort might have been helpful in this
21 situation?

22 **MS. NEWMAN:** It's possible.

23 **MS. DALEY:** Because you spoke about the
24 whistleblower legislation in some depth and we all
25 understand that, but if there's a corporate culture of just

1 turning a blind eye, that's a problem that that policy
2 doesn't necessarily solve, right?

3 MS. NEWMAN: Except that the policy does
4 require staff -- essentially if -- if you're aware of a
5 conflict of interest situation, it's incumbent upon you to
6 report it.

7 MS. DALEY: All right. Just a few questions
8 to conclude.

9 I take it -- you've said here that your
10 overall take-away conclusion from Downing's report was that
11 there was certainly no present danger in the office of
12 people being abused by a probation officer, that was one of
13 your main conclusions, correct?

14 MS. NEWMAN: That's correct.

15 MS. DALEY: Now, given the operation of the
16 website, given the other media in Cornwall focused on this
17 issue and related issues of sexual abuse, could the
18 Ministry have found some way to communicate that finding to
19 the community so it could be reassured?

20 MS. NEWMAN: I'm not sure how that -- I'm
21 not sure how that would be done in the face of an ongoing
22 police investigation.

23 MS. DALEY: Well, let's just stop there for
24 a second.

25 We know that Seguin and Barque are both

1 deceased, so there's no investigation that pertains to
2 them, correct?

3 **MS. NEWMAN:** I'm not certain of that and I
4 wouldn't have had the details of the police investigation
5 or any extensions of Barque and Seguin in relationship to
6 others that might be ---

7 **MS. DALEY:** But they're dead.

8 **MS. NEWMAN:** --- under investigation.

9 **MS. DALEY:** The reality is they're dead, so
10 they're not there to abuse people in any event ---

11 **MS. NEWMAN:** They're not, no.

12 **MS. DALEY:** --- going forwardedly.

13 And you know that the police have indicated
14 they're not investigating Mr. van Diepen for anything,
15 correct? In any event, he's not in Cornwall at all at this
16 point either, is he, right?

17 **MS. NEWMAN:** No.

18 Well, he is. He is. He's back and forth to
19 -- to Cornwall; he still lives in Cornwall.

20 **MS. DALEY:** Well ---

21 **MS. NEWMAN:** He's not working in the office.

22 **MS. DALEY:** But, Ms. Newman, it just occurs
23 to me that this was a situation that required perhaps some
24 sort of creative solution, in terms of communicating a
25 message of reassurance to this community, would you agree

1 with that?

2 **MS. NEWMAN:** I'll take your point under
3 consideration.

4 **MS. DALEY:** What about something like a town
5 hall meeting; is it out of the question that the Ministry
6 would ever participate in something like that to inform
7 citizens that, you know, they don't need to worry about the
8 present employees at the probation office?

9 **MS. NEWMAN:** It's not something that's ever
10 been done.

11 You said, you know, you're thinking of
12 creative solutions, so that's something to -- to think
13 about.

14 **MS. DALEY:** All right. Thank you very much.

15 **MS. NEWMAN:** Thank you.

16 **THE COMMISSIONER:** Thank you.

17 We'll take the lunch break now.

18 Thank you.

19 **THE REGISTRAR:** Order; all rise. À l'ordre;
20 veuillez vous lever.

21 This hearing will resume at 2:00 p.m.

22 --- Upon recessing at 12:22 p.m./

23 L'audience est suspendue à 12h22

24 --- Upon resuming at 2:02 p.m./

25 --- L'audience est reprise à 14h02

1 **THE REGISTRAR:** This hearing is now resumed.
2 Please be seated; veuillez vous asseoir.

3 **THE COMMISSIONER:** Thank you.
4 Mr. Paul?

5 **DEBORAH NEWMAN:** Resumed/Sous le même serment

6 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**

7 **PAUL:**

8 **MR. PAUL:** Good afternoon, Ms. Newman.

9 My name is Ian Paul and I appear for a
10 citizens group called the Coalition for Action.

11 Firstly, I would like to ask you a few
12 questions about the area that the last counsel was asking
13 you questions about, the website; and the website and how
14 that related to the conclusions in the Downing report.

15 I think you were asked about the website and
16 the Downing report in relation to Mr. Seguin and Mr.
17 Barque.

18 Just taking Mr. Seguin first. It would be
19 my belief that essentially the Ministry, after the Downing
20 report, really always operated on the assumption that there
21 was in fact some form of abuse by Mr. Seguin?

22 **MS. NEWMAN:** After the Downing report.

23 **MR. PAUL:** And so in terms of the Downing
24 report, the Downing report didn't really contradict
25 anything in terms of the basic allegations on the website

1 against Mr. Seguin?

2 **MS. NEWMAN:** I don't -- I didn't have an
3 intricate knowledge of exactly what was on the website in
4 relation to Mr. Seguin in detail.

5 **MR. PAUL:** All right, but in terms of either
6 Mr. Seguin or Mr. Barque, after the Downing report, the
7 Ministry did operate on the assumption that there was some
8 form of abuse likely by those two individuals?

9 **MS. NEWMAN:** That's correct.

10 **MR. PAUL:** Now, in terms of Mr. van Diepen,
11 I think you indicated the results of the review of Mr.
12 Downing were a little bit less conclusive with respect to
13 Mr. van Diepen?

14 **MS. NEWMAN:** That's correct.

15 **MR. PAUL:** Now, would you agree that in
16 terms of Mr. van Diepen that his response to the interviews
17 or the interview by Mr. Downing, in part, was the cause of
18 the difficulty with making a decision with respect to Mr.
19 van Diepen?

20 **MS. NEWMAN:** My recollection is that Mr.
21 Downing felt that -- it was his sense that Mr. van Diepen
22 knew more than he was saying but there wasn't any
23 conclusive evidence in that regard.

24 **MR. PAUL:** But it was also fairly clear from
25 the Downing report that Mr. van Diepen seemed to contradict

1 himself when he was confronted by various pieces of
2 evidence, like the previous OPP statements?

3 **MS. NEWMAN:** That seems to -- yes, that
4 seemed to influence Mr. Downing's thinking, the fact that
5 there were inconsistencies between his interview with the
6 OPP and his interview some years later with Mr. Downing.

7 **MR. PAUL:** So in terms of how far the
8 Ministry was willing to come forward and support Mr. van
9 Diepen, was it affected by the fact that there were a
10 number of contradictions when Mr. van Diepen was called
11 upon to explain this?

12 **MS. NEWMAN:** I think -- no, I think we
13 treated Mr. van Diepen as though there was no conclusive
14 evidence that he had done anything wrong, essentially.

15 **MR. PAUL:** But certainly the conclusion in
16 the Downing report didn't come across to you as Mr. van
17 Diepen is vindicated and everything on the website is
18 wrong. That wasn't the conclusion?

19 **MS. NEWMAN:** That wasn't Mr. Downing's
20 conclusion.

21 **MR. PAUL:** And, in fact, the Downing report,
22 in some ways or degree, seemed to cast some suspicion even
23 further than what the website did in a sense. It seemed to
24 cast some suspicion with respect to that office as a whole
25 did it not?

1 **MS. NEWMAN:** Yes. I think Ms. Daley
2 referred me to a paragraph at the conclusion of Mr.
3 Downing's report that suggested that he felt staff
4 suspected something.

5 **MR. PAUL:** And that seemed to be staff in
6 general including, for example, Mr. Robert?

7 **MS. NEWMAN:** I don't think he distinguished.

8 **MR. PAUL:** Just a few things I wanted to
9 clarify with respect to Mr. Robert for example.

10 I was a little bit confused whether when
11 he's transferred to Ottawa, is that on his request -- he's
12 being transferred on his request or is he being ordered to
13 go there?

14 **MS. NEWMAN:** I think he had indicated an
15 interest in going there previously. At this juncture that
16 he was transferred, it was clear to me that he could not
17 remain in that office. So to the extent that had he not
18 agreed, we would have had some difficulty in the sense that
19 I was determined to have him moved out of that office.

20 Nevertheless, I think he was agreeable in
21 terms of the transfer.

22 **THE COMMISSIONER:** There was a letter, I
23 think.

24 **MR. PAUL:** Yes.

25 **THE COMMISSIONER:** At some point beforehand

1 from -- Mr. Robert indicated he wanted a transfer to
2 Ottawa.

3 **MR. PAUL:** Yes. So in the way it's sort of
4 a meeting of a minds, both management and Mr. Robert both
5 want the same thing in terms of going to Ottawa?

6 **MS. NEWMAN:** I think that's fair to say.

7 **MR. PAUL:** Now, as far as from 1993 to 2000,
8 I'm just wondering -- make sure I'm correct in terms of the
9 timeframe when you're in the direct chain of command over
10 the Cornwall probation office -- is it '96 to '98 that
11 you're in the direct chain of command?

12 **MS. NEWMAN:** That's right.

13 **MR. PAUL:** But is that the only timeframe?

14 **MS. NEWMAN:** From '96 to '98 and then from
15 November of '99 till August of 2000.

16 **MR. PAUL:** Now, I'm going to ask you a few
17 questions about area of the Varley shooting.

18 Ms. Daley had asked you some questions about
19 the incident in which Mr. Seguin is implicated in the
20 shooting, where there's alcohol served at his residence.
21 Okay, you're familiar with that?

22 **MS. NEWMAN:** Yes, I'm familiar with that
23 incident.

24 **MR. PAUL:** And I think that you had agreed
25 that that was a very serious incident?

1 **MS. NEWMAN:** Correct.

2 **MR. PAUL:** And, of course, subsequent to
3 that, the suicide of Mr. Seguin followed by some form of
4 complaint by Mr. Silmsler of sexual misconduct relating to
5 the role of a probation officer.

6 Obviously, you'd view that as a very serious
7 incident as well, or serious issue?

8 **MS. NEWMAN:** Yes, very much so.

9 **MR. PAUL:** Now, as far as the Varley
10 incident, I believe there was reference to some delay I
11 believe about -- possibly about 10 months from the time the
12 incident until Mr. Robert takes action with his supervisor,
13 Mr. Hawkins?

14 **MS. NEWMAN:** That's correct.

15 **MR. PAUL:** And your belief was that -- I
16 think your words were, "That was an error of judgement" on
17 behalf of Mr. Robert?

18 **MS. NEWMAN:** I think -- well, yes, I think
19 it's fair to say there were errors in judgement made, based
20 on what I know.

21 **MR. PAUL:** Okay, given it was -- the Varley
22 incident was a serious incident, 10 months delay in taking
23 action was an error of judgement; correct?

24 **MS. NEWMAN:** I understand there were other
25 reasons proposed for that but I have no firsthand knowledge

1 of why it took 10 months. I'd need to know more about
2 that. On the face of it, it appears to be inaction when
3 there should have been action.

4 **MR. PAUL:** All right, but I thought they
5 were your words, you classified that as an error in
6 judgement. Do you not agree that you indicated that was an
7 error of judgement to wait that period of time?

8 **MS. NEWMAN:** Unless there were other good
9 and valid reasons for waiting, I would say yes.

10 **MR. PAUL:** Okay. And you're not aware of
11 any other valid reasons?

12 **MS. NEWMAN:** I don't know, no.

13 **MR. PAUL:** Now, as far as the suicide of Mr.
14 Seguin and the allegation of Mr. Silmser, your
15 understanding is it, that was referred -- there was some
16 referral of that matter to the IIU in around 1993; correct?

17 **MS. NEWMAN:** Yes, that's correct.

18 **MR. PAUL:** And no action was in fact taken,
19 no form of investigation was actually taken to your
20 knowledge until about 2000?

21 **MS. NEWMAN:** I'm sorry. Could you repeat
22 that, please?

23 **MR. PAUL:** To your knowledge, no
24 investigation was taken between the period of 1993, when
25 the referral was made to the IIU, and the year 2000 when

1 you initiate an investigation?

2 **MS. NEWMAN:** That's correct.

3 **MR. PAUL:** So a period of about seven years,
4 roughly about seven years?

5 **MS. NEWMAN:** That's correct if you're
6 referring to a Ministry investigation.

7 **MR. PAUL:** So given that the suicide and the
8 allegations of Mr. Silmsler are all -- you agree are also a
9 serious incident, the delay of seven years, do you not
10 agree that similar to Mr. Robert's lack of judgement that
11 that seven-year delay involved perhaps some bad judgement
12 by the IIU?

13 **MS. NEWMAN:** I think we've heard about some
14 of the miscommunication in relation to that and the
15 expectation by the IIU that Mr. Silmsler was going to put
16 his complaint in writing. I don't think I'd characterize
17 it as an error in judgement but rather -- certainly a
18 miscommunication.

19 **MR. PAUL:** But you had knowledge of that
20 situation and take no action, nothing being done for seven
21 years. Do you not agree that that's an error in judgement?

22 **MS. NEWMAN:** I think there should have been
23 an investigation conducted at that time.

24 **MR. PAUL:** And you would agree that not to
25 do an investigation in a matter that you agreed was a

1 serious matter of that nature, would be an error of
2 judgement or mistake?

3 MS. NEWMAN: I think it was a mistake based
4 on some miscommunication.

5 MR. PAUL: I just want to ask you,
6 generally, in terms of your experience in dismissals of
7 employees, given the nature of the civil service and the
8 union structure, was your experience with actual dismissal
9 proceedings limited?

10 MS. NEWMAN: My own experience?

11 MR. PAUL: Yes.

12 MS. NEWMAN: I've had some experience with
13 dismissals.

14 MR. PAUL: So you have knowledge and
15 experience with respect to dismissing employees?

16 MS. NEWMAN: Yes.

17 MR. PAUL: Training as well?

18 MS. NEWMAN: Yes.

19 MR. PAUL: So in terms of issues surrounding
20 dismissal, you would have had general knowledge enough to
21 know how to identify issues or problems with respect to
22 dismissal; that would be part of your job?

23 MS. NEWMAN: Yes, where our managers are
24 trained and they also rely on the support and advice of
25 specialized practitioners and human resources, staff

1 relations and our Legal Branch. One always seeks their
2 advice before proceeding.

3 **MR. PAUL:** And in terms of, for example, the
4 Legal Branch, you'd try to identify the general issues and
5 you'd go to them for the finer points, the grey areas. Is
6 that it?

7 **MS. NEWMAN:** I think that's fair.

8 **MR. PAUL:** I did want to refer you to a
9 portion of yesterday's evidence.

10 Mr. Commissioner, there was a portion in
11 yesterday's evidence at Volume 190 at page 243. I believe
12 it would be at the bottom of page 243, the last answer on
13 paragraph 20 and it goes on to page 244, the next page.

14 And it talks about needing to deal with
15 employees in a timely way or there could be a loss of
16 jurisdiction?

17 **MS. NEWMAN:** That's correct.

18 **MR. PAUL:** Now, I'm assuming that given that
19 you're claiming privilege with respect to legal advice, I
20 assume that that answer is not the legal advice, that's
21 your general knowledge by which you identify issues before
22 you even go to a lawyer; correct?

23 **MS. NEWMAN:** That is my general knowledge,
24 yes.

25 **MR. PAUL:** So you're aware that long time

1 lapses can make it difficult to effect discipline on
2 employees?

3 **MS. NEWMAN:** Yes, undue delays definitely
4 mitigate against taking discipline.

5 **MR. PAUL:** So in the present case, in terms
6 of looking at potential discipline with respect to either
7 Mr. Robert or Mr. van Diepen, you earlier on identified
8 delays such as a delay between '93 and 2000 as a potential
9 roadblock to discipline?

10 **MS. NEWMAN:** I think I'm treading into the
11 area of our legal opinion in response to that question
12 which is privileged and I'm not in a position to waive
13 privilege.

14 **MR. PAUL:** All right, but prior to going to
15 a lawyer, I'm understanding from your response at 243 to
16 244 that you identified that as a problem even before going
17 to a lawyer, did you not?

18 **MS. NEWMAN:** Yes. I think it's fair to say
19 that that is a factor that needs to be considered. It's
20 not the only factor in terms of taking discipline but it is
21 a significant one. Nevertheless, as you see, we did seek
22 legal advice.

23 **MR. PAUL:** And you identified the inaction
24 of the IIU as a potential roadblock to discipline, the fact
25 that they didn't do anything and it went on for seven

1 years; correct?

2 **MS. NEWMAN:** I don't think it was a
3 roadblock to discipline.

4 **THE COMMISSIONER:** Mr. Neuberger.

5 **MR. NEUBERGER:** If I can just break that up
6 for a moment because I think we're putting different facts
7 in there.

8 From what I understand from the question IIU
9 in 1993 made a decision; that decision was not to take any
10 action at that point. Seven years later there was the
11 Downing investigation which looked back on what happened
12 back in 1993.

13 So that's the framework of facts that we
14 have to operate in.

15 **THE COMMISSIONER:** Mr. Paul.

16 **MR. PAUL:** Would you agree, even before
17 seeking legal device, you had a concern that the inaction
18 of the IIU followed by that delay was potentially
19 compromising discipline of your employees?

20 **MS. NEWMAN:** I think the issue there was the
21 concern that there hadn't been an investigation done at
22 that time and trying to understand why that didn't occur,
23 as opposed to looking at an employee discipline situation.

24 **MR. PAUL:** Now, I think you had indicated at
25 some point that the issue of publicity surrounding

1 grievances was raised at some point, that grievances could
2 raise publicity; correct?

3 **MS. NEWMAN:** That's correct.

4 **MR. PAUL:** And you had indicated that
5 publicity surrounding grievances would not inhibit you from
6 proceeding with discipline?

7 **MS. NEWMAN:** That's correct.

8 **MR. PAUL:** But, nevertheless, did you view
9 this case as unusual in the sense that publicity
10 surrounding this case might raise issues surrounding delay
11 involving the IIU and that was a concern?

12 **MS. NEWMAN:** It never crossed my mind.

13 **MR. PAUL:** In addition to delay before
14 seeking any legal advice, did you have a concern that there
15 was another roadblock to discipline in the sense of it
16 appeared that some of the activities of employees was
17 condoned by management?

18 **MS. NEWMAN:** No, I think we had some
19 concerns that had been identified through Mr. Downing's
20 report. We were aware that this was some years later and
21 we sought legal advice because we had serious concerns and
22 we acted in accordance with the legal advice.

23 **MR. PAUL:** Were you not aware that Mr.
24 Hawkins at times directly involved Mr. Robert in dealing
25 with issues surrounding Mr. Seguin?

1 **MS. NEWMAN:** No, I wasn't.

2 **MR. PAUL:** Okay. You weren't aware that Mr.
3 Hawkins was involved in discussions surrounding whether Mr.
4 Seguin could live with an ex-probation client?

5 **MS. NEWMAN:** I can't recall that
6 specifically. Somehow through this process I've become
7 aware of Mr. Hawkins' involvement but I can't recall
8 exactly how that came to me.

9 **MR. PAUL:** But you weren't necessarily aware
10 of that in the year 2000?

11 **MS. NEWMAN:** I'd have to go back and review
12 whether that was contained in Mr. Downing's report or
13 whether I've become aware of that subsequently.

14 **MR. PAUL:** What about the issues surrounding
15 the Varley incident?

16 **MS. NEWMAN:** I was made aware of that
17 through Mr. Downing's report.

18 **MR. PAUL:** Okay. Were you aware that Mr.
19 Hawkins had knowledge of that during the timeframe of when
20 that was going on?

21 **MS. NEWMAN:** I don't have a clear
22 recollection that I became aware of Mr. Hawkins'
23 involvement through the Downing report.

24 **MR. PAUL:** In terms of discipline, apart
25 from Mr. Robert and Mr. van Diepen, was there any thought

1 to raising issues of discipline with respect to their
2 supervisor, Mr. Hawkins?

3 **MS. NEWMAN:** He was also retired long since,
4 in any event.

5 **MR. PAUL:** All right. In terms of a review
6 of his conduct or whether he should have intervened in
7 terms of Mr. Robert's actions, was there any intent to or
8 any discussion surrounding doing that?

9 **MS. NEWMAN:** No.

10 **MR. PAUL:** I realize you're claiming
11 privilege for a number of matters. I believe those would
12 include the discipline -- the discipline aspect to Mr. van
13 Diepen and Mr. Robert?

14 **MS. NEWMAN:** That's correct.

15 **MR. PAUL:** And also surrounding the letter
16 of reference involving Mr. Sirrs?

17 **MS. NEWMAN:** Yes, that's correct.

18 **MR. PAUL:** I don't want to ask you about
19 anything in relation to the legal opinion, but just in
20 terms of privilege, are you able to indicate who in the
21 department makes the decision to make a claim of privilege?

22 **MS. NEWMAN:** Decisions in relation to claims
23 of privilege are beyond the scope of a single ministry.
24 Those are -- there are 26 ministries in government and so
25 those decisions are made on behalf of the employer as a

1 whole, in other words, on behalf of the provincial public
2 service. So they're not made by any one ministry, they
3 would be made in consideration of the overall provincial
4 government sort of implications.

5 **MR. PAUL:** I realize that. I'm not asking
6 for the rationale in terms of who actually makes the
7 decision to say this is privileged. Is there a specific
8 person or individual who makes that decision in the
9 department?

10 **MS. NEWMAN:** Not in my department, no.

11 **MR. PAUL:** So your department isn't even
12 involved in making that decision?

13 **MS. NEWMAN:** That's correct.

14 **MR. PAUL:** What department is it that makes
15 the decision?

16 **MS. NEWMAN:** The Ministry of the Attorney
17 General on behalf of -- the Ministry of the Attorney
18 General would make that decision on behalf of the
19 government.

20 **MR. PAUL:** I had a couple of questions for
21 you on the IIU and the disbandment of the IIU. You
22 indicated that that was as a result of an order of a
23 Tribunal?

24 **MS. NEWMAN:** That's correct.

25 **MR. PAUL:** And that was a human rights case

1 by the name of McKinnon?

2 **MS. NEWMAN:** That's right.

3 **MR. PAUL:** And you indicated that there were
4 recommendations of a consultant, is that what's called a
5 Devlin recommendation?

6 **MS. NEWMAN:** That's correct.

7 **MR. PAUL:** I understand that for the most
8 part most of the recommendations were initially accepted by
9 your Ministry. Would it be fair to say that with respect
10 to the IIU and changes to that, your Ministry initially
11 opposed that recommendation?

12 **MS. NEWMAN:** That's correct. So Devlin, the
13 consultant, had conducted a review of the workplace
14 discrimination and harassment policy and practices and
15 indicated that because there was a perception on the part
16 of some staff, that the IIU was not perceived to be
17 independent; that we ought to shut them down essentially.

18 Initially the Ministry felt that we could
19 mitigate that, because while there seemed to be a
20 perception, there was no evidence that that was true in
21 reality. So initially the Ministry was proposing to try to
22 work through that, to work with people to try to mitigate
23 the perception and so ultimately, in any event, those
24 recommendations were presented to a Human Rights Tribunal,
25 and the Tribunal chair ordered us to implement that

1 recommendation.

2 MR. PAUL: As a mandatory order?

3 MS. NEWMAN: Yeah, well all orders of the
4 Human Rights Tribunal are mandatory.

5 MR. PAUL: And that order would have been to
6 replace the existing structure with a panel of independent
7 investigators; is that the case?

8 MS. NEWMAN: In relation to workplace
9 discrimination and harassment cases only, yes.

10 MR. PAUL: And is that generally -- the idea
11 of an independent panel, is that generally consistent with
12 what other Ministries do?

13 MS. NEWMAN: Yes, other Ministries have used
14 external, outside government investigators to do workplace
15 discrimination and harassment investigations and so that's
16 the system that we're now using also.

17 MR. PAUL: And at the time -- the time of
18 the order, was your Ministry the only Ministry in the
19 Province of Ontario that was using internal investigators
20 for those type of complaints?

21 MS. NEWMAN: We were the only Ministry with
22 any substantial number of those complaints. Other
23 Ministries used external investigators because they had so
24 few complaints that they didn't need to have an internal
25 capacity to manage it; so yes, that's true.

1 **MR. PAUL:** The reasoning for wanting to keep
2 that entity within the Ministry was to have it more closely
3 associated with management and have more connection to
4 management?

5 **MS. NEWMAN:** No.

6 **MR. PAUL:** Was there any particular reason?

7 **MS. NEWMAN:** Simply that we thought that
8 they were a skilled group of people who had developed
9 expertise in conducting these very difficult
10 investigations. And that it was unfortunate there was a
11 perception that we hoped to be able to address and have
12 them continue to provide the service that they were
13 providing to staff.

14 **MR. PAUL:** In terms of the present system,
15 the independent investigators there's been no difficulties
16 with that?

17 **MS. NEWMAN:** I wouldn't say that; we have
18 had some difficulties.

19 **MR. PAUL:** On another area, as far as
20 parallel investigations and difficulties surrounding police
21 investigations and your own internal investigation, have
22 you used resources from other agencies or Ministries, such
23 as, for example, the Children's Aid, who have more
24 experience, possibly, in doing parallel investigations?

25 **MS. NEWMAN:** I'm not sure -- no, we haven't.

1 We have our own correctional investigation and security
2 unit to do certain types of investigations, as I think you
3 know, and we now have external -- a roster of external
4 investigators to do workplace discrimination
5 investigations.

6 **MR. PAUL:** But as far as not interfering
7 with the police and as far as how that relates to your
8 recommendations, is there any thought to using advice or
9 assistance of other agencies, such as the Children's Aid,
10 who perhaps deal with that type of parallel investigation
11 on an ongoing basis all the time?

12 **MS. NEWMAN:** If you're speaking to my
13 recommendation number one, that we would consult with our
14 partners in the justice system, Crowns and police, I
15 wouldn't preclude if the CAS has some lessons learned to
16 offer us, I'd be happy to hear those.

17 **MR. PAUL:** I just want to ask you a few
18 questions about the investigations that were conducted in
19 terms of the reasoning behind not going forward with a more
20 extensive investigation in 2000, what was called a "Phase
21 II" investigation.

22 Now, we understand that you had some
23 concerns about interference with the police investigation?

24 **MS. NEWMAN:** That's correct.

25 **MR. PAUL:** Now, I don't think Mr. Downing

1 necessarily suggested much in the way of further
2 investigations with complainants. Was there any thought to
3 further contact with complainants, to get their viewpoint?

4 **MS. NEWMAN:** On whether -- on whether he
5 ought to go further?

6 **MR. PAUL:** Yes.

7 **MS. NEWMAN:** No, not that I'm aware of, that
8 would have been his investigation. I may not be aware of
9 everything he did.

10 **MR. PAUL:** In your view was it, by that
11 point, a file review wouldn't necessarily be that effective
12 by 2000?

13 **MS. NEWMAN:** In 2000 we didn't turn our mind
14 specifically to doing a retroactive file review, going back
15 to a decade earlier and beyond to 20, 30 years previous.
16 We didn't turn our minds to that specifically.

17 **MR. PAUL:** I would assume that in '93,
18 anywhere between '93 to '96, might pick up people who were
19 actively still on probation with -- who had had Mr. Seguin
20 because probation orders have a maximum of three years;
21 correct?

22 **MS. NEWMAN:** Yes, they are.

23 **MR. PAUL:** So after '96 were you operating
24 on the assumption that anybody who had been on probation
25 with Mr. Seguin would no longer be on probation by '96

1 because three years was up and therefore, it wasn't
2 necessary to get into the files?

3 **MS. NEWMAN:** No.

4 **MR. PAUL:** Did you give thought to - I know
5 in your recommendations you talked about mechanisms for
6 looking at files to determine what files might be
7 suspicious, if a similar type of case came up, patterns you
8 called them, I think.

9 **MS. NEWMAN:** If we were to have done a
10 retroactive file review it -- the last time Mr. Seguin
11 supervised anyone would have been in 1993 and going back
12 20, 25 years, we didn't turn our minds, as I indicated, in
13 2000, to doing a retroactive historical file review.

14 I've, I think, already indicated yesterday
15 that perhaps we could have attempted to do that. I think I
16 noted the very practical difficulties in trying to do that
17 nevertheless, and perhaps it was another avenue we might
18 have attempted.

19 My current recommendations address the
20 prospect of doing file reviews at the time an incident
21 happens, which I think the chances, the likelihood of being
22 more effective is much enhanced if you do it right then and
23 there at the time.

24 **MR. PAUL:** But I think as you indicated, the
25 files wouldn't -- obviously wouldn't necessarily likely

1 contain the confessions of somebody like Mr. Seguin, that
2 would not probably be that likely?

3 **MS. NEWMAN:** I wouldn't think so.

4 **MR. PAUL:** But what it might reveal is some
5 kind of a pattern that looks suspicious, such as someone
6 who is reporting to a probation officer too often in the
7 circumstances?

8 **MS. NEWMAN:** Very difficult to detect but,
9 you know, I think we'd be looking for anything that seemed
10 to be suspicious in trying to conduct a file review.

11 **MR. PAUL:** Or for example, if the allegation
12 is that people who are in relationships with a probation
13 officer are not doing community services, there's no
14 enforcement, those type of things might be revealed in a
15 file review.

16 **MS. NEWMAN:** It might cause you to look
17 further.

18 **MR. PAUL:** For example, if there's contact
19 with police about complaints or concerns and the probation
20 officer doesn't follow it up, that might be something that
21 might be on a file?

22 **MS. NEWMAN:** We conduct -- our area managers
23 conduct case audits on an ongoing basis to ensure that
24 probation officers are supervising clients in accordance
25 with Ministry policies; around frequency of contact,

1 collateral contact, follow-up, referrals, enforcement of
2 conditions and so on. So that already happens in the sense
3 that case audits are conducted.

4 But if there was a reason to be concerned,
5 such as we've talked about, then the area manager would be
6 going into that with a lens that there's something not
7 right here and be looking to try to discern any kind of
8 reasons for concern.

9 **MR. PAUL:** But if there was some -- possibly
10 a pattern showing up in a file audit, couldn't that show up
11 in 2000 just as easy as it could show up in '93 or '94?

12 **MS. NEWMAN:** I'm not sure I'm following you.
13 It could show up at any time you do a file review. If you
14 do a full file review or you do case audits and you find
15 out that there is some reason to probe further or ask
16 further questions that could happen at any time.

17 **MR. PAUL:** I'm just suggesting that at the
18 time of the Downing investigation a file review could have
19 been just as beneficial as it could have been back in '93
20 or '94?

21 **MS. NEWMAN:** I think it would have been --
22 created a lot of practical difficulties to go back to even
23 find the records to determine who was on probation to Mr.
24 Seguin in 1993. How far back would one go? Would you try
25 to source out caseloads back to 25 years later when he

1 started his employment? We wouldn't be able to. We
2 wouldn't be able to retrieve those files. Then we wouldn't
3 know where to locate the people eight years later that were
4 on probation back then and we'd have to be trying to locate
5 those individuals and we'd have to determine if they even
6 want to talk to us, and they may have gone on with their
7 lives and closed that chapter and have no interest in
8 talking to the Ministry.

9 So I guess what I'm saying is if we're going
10 to do a file review the time to do it is at the time.

11 **MR. PAUL:** But you're only talking about in
12 terms of degree of difficulty. It might be more difficult
13 in the year 2000 but seven years later it's still possible
14 to do a file review and it's still possible potentially to
15 find people.

16 **MS. NEWMAN:** The further passage of time I
17 think the more difficulty one might expect in doing a file
18 review of that nature.

19 **MR. PAUL:** But you're talking about
20 difficulty as opposed to impossibility; correct?

21 **MS. NEWMAN:** Potentially.

22 **MR. PAUL:** It could still -- a file review
23 still could have been done in the year 2000; correct?

24 **MS. NEWMAN:** We could have tried.

25 **MR. PAUL:** And it is still ---

1 **MS. NEWMAN:** Had we thought of it we could
2 have tried.

3 **MR. PAUL:** Right. So in terms of that it
4 didn't even cross your mind at the time?

5 **MS. NEWMAN:** No, I think the sense was that,
6 you know, there was an ongoing police investigation. If
7 there were others to be interviewed or others that came --
8 surfaced as part of the police investigation, then the
9 police would do whatever was required as part of their
10 investigation.

11 **THE COMMISSIONER:** Did you not think that
12 there's a duty on the Ministry -- and I've used the example
13 of the blood thing where a transfusion goes through to a
14 bunch of people, the hospitals go through and track
15 everybody down because they may have injured or
16 contaminated these patients.

17 So in the same vein, if your employee has
18 potentially contaminated the people don't you think that,
19 quite aside from a police investigation, that the onus is
20 on you, your Ministry, to go out and ensure that your
21 clients were safe and are safe?

22 **MS. NEWMAN:** I think our focus, Mr.
23 Commissioner, at the time was really on supporting people
24 that were coming forward. We were consumed with creating
25 the protocol, creating a safe supportive environment,

1 taking disclosures from victims coming forward at the time.

2 So I think our focus then was simply on
3 supporting people coming forward and not looking back eight
4 years at, you know, something that was eight years dated.

5 If we had thought of it we could have, I
6 think, made an effort to do so. I think it was simply our
7 head space, our focus was on now and going forward and how
8 do we support people and how do we support our staff and
9 make sure that we do whatever we can going forward. So I
10 think that was our focus at the time.

11 **MR. PAUL:** Do you think it would have been
12 valuable, either in '93 or 2000, to have obtained some
13 information from complainants that might have assisted the
14 Ministry in trying to figure out how probation officers
15 were able to commit abuse and go undetected?

16 **MS. NEWMAN:** Well, I think we know how that
17 happens. We know that sexual abuse happens and goes
18 undetected and, you know, that we need to -- we've become
19 much, much more aware, much more vigilant as a society,
20 including us as an institution.

21 **MR. PAUL:** As a result of the Downing
22 investigation in 2000 were you able to gain any insight or
23 gain any conclusions with respect to how abuse occurred and
24 went undetected?

25 **MS. NEWMAN:** I don't think it's rocket

1 science. It's not difficult if one is bent on perpetrating
2 abuse to do that, behind closed doors, in homes, in various
3 places and in using a power relationship and abusing
4 people, you know.

5 I think we've tried to address conditions
6 such that we have new probation and parole office
7 accommodation standards that I referred to earlier. We
8 have safety and security standards meant to support staff
9 and clients. We have supervision and we have training.
10 We've got a whole host of things today that we didn't have
11 back then because we have a heightened awareness.

12 **MR. PAUL:** All right.

13 Would you agree that in terms of how the
14 abuse went undetected, the Downing report only really gave
15 the side of Mr. Robert and Mr. van Diepen as to what was
16 going on in the office; you never obtained anything from
17 the complainants about what they were saying about how the
18 abuse occurred?

19 **MS. NEWMAN:** Well, I'm assuming as victims
20 come forward we are obtaining that information.

21 **MR. PAUL:** And that ---

22 **MS. NEWMAN:** And so are the police as they
23 come forward. And we have got a number of cases now that
24 certainly informs us as to how this was going undetected.

25 **MR. PAUL:** Well, as of the year 2000 Mr.

1 Barque would have been found guilty in a court; correct?

2 THE COMMISSIONER: When?

3 MR. PAUL: The year 2000.

4 MS. NEWMAN: Yes.

5 MR. PAUL: Are you aware of that?

6 MS. NEWMAN: Yes.

7 MR. PAUL: Do you not think it would have
8 been of assistance to you, for example, to have a
9 transcript of the hearing for Mr. Barque to get an idea of
10 what exactly happened from the complainant's perspective?

11 MS. NEWMAN: You're asking me questions at a
12 level of detail that a Deputy Minister can't respond to.

13 MR. PAUL: So you can't say whether that
14 would be of assistance or not?

15 MS. NEWMAN: I don't know whether a
16 transcript was obtained or not.

17 MR. PAUL: I'm asking you do you think that
18 would be of assistance to have a transcript setting out how
19 the incident occurred?

20 MS. NEWMAN: Sure.

21 MR. PAUL: Similarly, Mr. Silmser made some
22 effort to contact the Ministry; correct?

23 MS. NEWMAN: Yes, he did.

24 MR. PAUL: And if you were to have a
25 detailed version of events from him, there would be at

1 least some potential that that might give some insight as
2 to how abuse went undetected or how it occurred?

3 **MS. NEWMAN:** I'm not sure what you're
4 driving at. I'm having difficulty responding to your
5 questions.

6 **MR. PAUL:** Well, what I'm driving at is that
7 it's just that it was an error or a mistake by the Ministry
8 not to follow-up and push to get a statement or to get
9 information from Mr. Silmsler.

10 **MR. NEUBERGER:** I think I've counted that
11 question about nine times and I don't think she can answer
12 it any other way then saying in hindsight somebody should
13 have gone and spoke to Mr. Silmsler and took a statement
14 from him and find out what it's about.

15 So I guess from that it means there could
16 have been potentially important information.

17 **MS. NEWMAN:** I've certainly acknowledged
18 that.

19 **MR. PAUL:** Now, in terms of a liaison with
20 the OPP, you were directly involved in attempting to have a
21 liaison between the OPP and Mr. Downing?

22 **MS. NEWMAN:** No, I wasn't directly involved.
23 I asked Mr. Downing to liaise with the OPP.

24 **MR. PAUL:** All right.

25 Now, would you have had a concern that if

1 Mr. Downing went directly to complainants that that might
2 impede on the police investigation?

3 MS. NEWMAN: No, Mr. Downing was a skilled
4 investigator and I knew that he would respect the OPP
5 investigation.

6 MR. PAUL: Was there any thought to
7 attempting to use that liaison to try to obtain from the
8 OPP information on what complainants were saying in terms
9 of how the abuse occurred?

10 MS. NEWMAN: My concern at that time was
11 whether or not any current employees were under
12 investigation and whether there was any current risk to
13 clients or the public.

14 MR. PAUL: And the focus really at that
15 point wasn't on trying to improve office procedures or
16 training for matters such as that; that wasn't the focus?

17 MS. NEWMAN: We'd already made improvements
18 to office procedures and accommodation standards and
19 supervision and training.

20 MR. PAUL: But those improvements were not
21 necessarily made with the benefit of obtaining information
22 from the complainants on how the abuse occurred as of 2000?

23 MS. NEWMAN: We did not engage in a
24 consultation with the complainants to ask them if they
25 thought there was something else that we could do for --

1 with respect to office procedures, no.

2 MR. PAUL: A question for you, the documents
3 entitled "The MSGCS House Notes," I believe they're called
4 ---

5 MS. NEWMAN: Yes.

6 MR. PAUL: Those documents -- I just wasn't
7 sure how widely they're circulated; can you just indicate
8 how widely they're circulated within your department?

9 MS. NEWMAN: As I indicated previously,
10 they're circulated from the Information Management Unit to
11 the Assistant Deputy Minister's office to the Deputy
12 Minister's office to the Minister's office; selected issue
13 notes, not all of them.

14 MR. PAUL: And do people sign them off
15 indicating that they've reviewed them?

16 MS. NEWMAN: Sometimes they were signed off
17 or they were tracked on computer, who had reviewed them.
18 There's an electronic record that indicates who's reviewed
19 notes.

20 MR. PAUL: Well who's opened the file.

21 MS. NEWMAN: Yes, it's a tracked record.

22 MR. PAUL: All right.

23 MS. NEWMAN: Yes.

24 MR. PAUL: Well -- and, at some point, would
25 they be -- as far back as '93 or '94, would they be

1 electronic or would they be by hand back then?

2 **MS. NEWMAN:** I don't recall.

3 **MR. PAUL:** I just have one question,
4 perhaps, on the consultation with the public -- I know you
5 were asked a number of questions about that already. I
6 just have one additional question surrounding the area of
7 the Downing report and just wondering if it was concluded
8 that there wasn't a present risk, I realize that you
9 wouldn't necessarily be able to reveal details of the
10 investigation, but could you have not at least released to
11 the public that there was an investigation and there was a
12 conclusion and that there wasn't a present risk?

13 **MS. NEWMAN:** Again, that's not -- that's the
14 same question Ms. Daley asked me and it's not, you know,
15 something that we typically do; we'd have to, you know,
16 again, be cautious in relation to an ongoing police
17 investigation. We would, you know -- it was our -- I think
18 the reality of this situation is that our employees in the
19 Cornwall probation and parole office today are doing a
20 phenomenal job. They're a group of very caring and very
21 supportive people who have the best interests of their
22 clients and victims at heart and they will re-establish
23 their reputation in the community because they're
24 professional and because they're doing such a great job.

25 **MR. PAUL:** All right, it's just the aspect

1 of, there was an investigation and the results were "no
2 present risk," I'd suggest that that kind of component to a
3 public release, there's nothing in terms of privacy concern
4 about that; would you agree?

5 **MS. NEWMAN:** Something to consider going
6 forward, certainly do that.

7 **MR. PAUL:** Those are my questions.

8 **THE COMMISSIONER:** Thank you. Mr. Lee? How
9 long do you think you'll be, Mr. Lee?

10 **MR. LEE:** I would hope no more than half an
11 hour.

12 **THE COMMISSIONER:** Okay. Well we will take
13 the break then at three so whenever ---

14 **MR. LEE:** At three?

15 **THE COMMISSIONER:** --- take your time, yes.

16 **---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE:**

17 **MR. LEE:** Ms. Newman, my name is Dallas Lee;
18 I'm on for the victims' group.

19 One of the recommendations that you
20 discussed at the end of your examination in-chief dealt
21 with a protocol to address completions of file reviews to
22 identify victims in the future; do you recall that?

23 **MS. NEWMAN:** Yes, I do.

24 **MR. LEE:** When you say file review in that
25 context, are you still talking about a paper-based

1 exercise?

2 **MS. NEWMAN:** I'm talking about a caseload
3 review. The caseload notes are now maintained on the
4 offender tracking system which is an electronic system so
5 the area manager would be reviewing the case notes of the -
6 - the probation officer electronically; all of the entries
7 in relation to a client.

8 **MR. LEE:** The reason I ask is I think the
9 problem was first identified here by Peter Sirrs when he
10 testified and it's a point that was put to you today; a
11 wrongdoer isn't likely to make notes of his wrongdoing.
12 And so there's some limitations in that process so what I'm
13 wondering is, when you say "file review" do you envision
14 something more than simply a review of the case notes?

15 **MS. NEWMAN:** It -- I think what we're
16 envisioning is that the area manager would review all of
17 the case notes of the probation officer in relation to
18 other clients on the caseload, conduct some interviews if -
19 - with clients, as well. If in reviewing the case notes
20 there was any indication that something was amiss, they
21 could follow that up then and conduct client interviews.

22 **MR. LEE:** And this isn't necessarily
23 protocol you have in place now.

24 **MS. NEWMAN:** No, it's not.

25 **MR. LEE:** Hence the -- it being part of your

1 recommendation, it's something you're looking at going
2 forward.

3 **MS. NEWMAN:** That's right, and we will
4 develop this protocol and implement it.

5 **MR. LEE:** And part of the consideration that
6 leads to that protocol may be the fact that a paper-based
7 or a computer-based review, on its own, may not be enough.

8 **MS. NEWMAN:** I think that's fair. If you
9 have suggestions, Mr. Lee, I'm happy to take those too. We
10 haven't developed this protocol yet; we will be in very
11 short order.

12 **MR. LEE:** Okay, thank you. You're aware
13 that Mr. van Diepen testified here.

14 **MS. NEWMAN:** Yes, I am.

15 **MR. LEE:** One part of his evidence that he
16 testified -- I'm just going to tell you generally, I'm
17 going to, sort of, condense what he said on one point and I
18 want to get your reaction to it. He told us that he had
19 heard of another probation officer in Cornwall being
20 involved in some sort of sexual impropriety with clients
21 around 1962 so this predates the Nelson Barque disclosure
22 by 20 years; okay? And he told us that he heard that from
23 Marcelle Leger who is the long-time administrative clerk in
24 Cornwall. And what Mr. van Diepen told us was that he was
25 given the name of the probation officer at some point, but

1 he could no longer recall it. And he also told us that his
2 recollection was that he had been told that this officer
3 had resigned as a result of the allegations and finally,
4 that this was common knowledge in the office; okay? So
5 that was the evidence we got from Mr. van Diepen; can you
6 tell us anything about this?

7 **MS. NEWMAN:** I think that was an absolute
8 shock to everyone. No one had ever heard of this before
9 and I did follow up with the Cornwall probation and parole
10 office when I became aware that -- that Mr. van Diepen had
11 indicated this. The probation office has followed up with
12 Ms. Leger who has no idea what Mr. van Diepen is talking
13 about. That's all I know.

14 **MR. LEE:** When you say that this came as a
15 shock to everyone, can you help me understand who everyone
16 is?

17 **MS. NEWMAN:** I'm talking about Ministry
18 personnel that certainly none of us had ever heard this.
19 I've had conversations with the area manager, with some of
20 the staff in the Cornwall probation and parole office and
21 with the regional director; none of them have ever heard of
22 this.

23 **MR. LEE:** You had discussions with Mr.
24 Legault about this?

25 **MS. NEWMAN:** Yes, I did.

1 **MR. LEE:** And was he asked to look into it
2 and report back to you?

3 **MS. NEWMAN:** They had already looked into it
4 and he was able to tell me what the outcome of that was.

5 **MR. LEE:** Okay. The reason I asked the last
6 question is Mr. Legault's going to be here next week so
7 that may be something I ask him as well.

8 **MS. NEWMAN:** Okay.

9 **MR. LEE:** You've told us about your own
10 personal concerns about Emile Robert.

11 **MS. NEWMAN:** Yes.

12 **MR. LEE:** You talked to us a little bit of
13 the evolution and what you knew and when you knew it. As I
14 understand it, you eventually came to the conclusion that
15 the relationships in the Cornwall office with Emile Robert
16 were irreparable.

17 **MS. NEWMAN:** Correct.

18 **MR. LEE:** And, as I understand it, part of
19 the impetus for transferring to Ottawa was the fact that
20 Cornwall was a lost cause for him; it wasn't going to
21 improve, it wasn't going to get better.

22 **MS. NEWMAN:** There was so much history and
23 acrimonious history that it became clear that, in that
24 particular office, there was really no prospect of
25 improvement.

1 **MR. LEE:** And can I take it that you had
2 concerns that those problems in the Cornwall office were
3 largely attributable to Mr. Robert's deficiencies as a
4 manager?

5 **MS. NEWMAN:** I wouldn't lay it entirely at
6 Mr. Robert's feet. I think it takes two people to make a
7 relationship work and, you know, I think there were some
8 indications that people -- some staff had made it difficult
9 for Mr. Robert as well and that he endured some
10 inappropriate behaviour during the strike, for example, and
11 so, you know, relationships generally are not black and
12 white, I would say. So while I had concerns about Mr.
13 Robert, clearly, you know, the relationship was damaged in
14 terms of the parties.

15 **MR. LEE:** Is it fair to say that you had
16 significant concerns about Mr. Robert's management of that
17 office?

18 **MS. NEWMAN:** Yes, in relation to his
19 interpersonal relationships.

20 As I mentioned, we talked about his -- the
21 appraisal I conducted on him. He had strengths in other
22 areas, but he was deficient in terms of interpersonal
23 skills.

24 **MR. LEE:** What did you tell -- what did you
25 personally tell Mr. Robert about your concerns?

1 **MS. NEWMAN:** Well, maybe we can refer you to
2 the appraisal that I conducted on him; I think I laid that
3 out very clearly. If I could reference that document?

4 **MR. LEE:** You can.

5 And my next question was going to be, was
6 there anything other than that appraisal? Were there
7 meetings, were there other notes somewhere? Did you have
8 telephone conversations with the man?

9 **MS. NEWMAN:** Yes. All of the above.

10 **MR. LEE:** About your concerns with his
11 management?

12 **MS. NEWMAN:** Yes.

13 **MR. LEE:** So is it your evidence that Mr.
14 Robert knew fully well that you had concerns with the job
15 he was doing in Cornwall?

16 **MS. NEWMAN:** Yes, he did.

17 **MR. LEE:** You were explicit with him?

18 **MS. NEWMAN:** Yes, I was.

19 **MR. LEE:** Let's go to that exhibit for a
20 moment, if we could; it's Exhibit 1187.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **THE COMMISSIONER:** Are we there?

23 **MS. NEWMAN:** We are there, thank you.

24 **MR. LEE:** Can I take you to the last page of
25 that document, please? Or sorry, I suppose it's the third

1 last page; up on the top left-hand corner, the number will
2 end with "641."

3 Do you have yet, Ms. Newman?

4 **MS. NEWMAN:** Six four one (641)?

5 **MR. LEE:** Yes.

6 **MS. NEWMAN:** Yes.

7 **MR. LEE:** And so section (f) appears to be
8 comments and I take it this is kind of a general conclusion
9 section of this document; is that fair?

10 **MS. NEWMAN:** That's right.

11 **MR. LEE:** And you write:

12 "Mr. Robert is a hardworking and
13 conscientious area manager, who ensures
14 that a high standard of client
15 supervision and programming is
16 maintained. He's very knowledgeable
17 with respect to community corrections
18 issues. Attending to those areas
19 identified for improvement will enhance
20 his overall positive performance."

21 **MS. NEWMAN:** That's correct.

22 **MR. LEE:** I've read that accurately?

23 **MS. NEWMAN:** That's right.

24 **MR. LEE:** And I take it the last sentence
25 there would refer back to the one area where he received a

1 two out of five rating; is that right?

2 **MS. NEWMAN:** That, and comments for
3 improvement noted in the one other area, as well.

4 **MR. LEE:** Now right below what I've just
5 read, we have the heading "Employee," and I take it what's
6 written under the "Employee" section is penned by Mr.
7 Robert?

8 **MS. NEWMAN:** That's correct.

9 **MR. LEE:** And when I read that -- and I'll
10 give you a moment to look through it, when I read that, it
11 doesn't sound as if it's being written by somebody who
12 feels he's under great scrutiny; it reads as if, in my --
13 what I want your impression on, would you agree with me
14 that it reads as if he thinks he's doing a pretty good job?

15 **MS. NEWMAN:** Yes, I think that's true,
16 although he does note his commitment to continuing his
17 efforts to improve the staff morale issue in the Cornwall
18 office.

19 **MR. LEE:** And it does.

20 And the last sentence reads:

21 "I remain committed in keeping the high
22 standards I've set for myself and I
23 continue to enjoy the challenges of the
24 position."

25 **MS. NEWMAN:** That's right.

1 **MR. LEE:** And are you aware that Mr.
2 Robert's going to testify here later this week?

3 **MS. NEWMAN:** Yes, I understand that.

4 **MR. LEE:** I'm wondering, based on the
5 documents I've reviewed, whether he might come here and say
6 that he had no idea that he was being scrutinized, no idea
7 that people weren't satisfied with the performance -- with
8 his performance, no idea that he wasn't doing a great job.

9 **MS. NEWMAN:** He'd better not.

10 **MR. LEE:** You would disagree with that if
11 that's his evidence, I take it?

12 **MS. NEWMAN:** I certainly would.

13 And I think -- you know, I think while he
14 was doing a good job in some areas, which I've noted in
15 here, I was very explicit in the difficulties that he was
16 having in terms of the relationship issues, the
17 interpersonal skills and -- and I indicated, if you look
18 under the -- this rating 2, that there was a lengthy
19 history of a difficult working relationship between him and
20 his staff and so on. I went on at -- at some length to
21 talk about that and I did certainly have other
22 conversations with him in relation to those difficulties.

23 So -- now, bearing in mind one of Mr.
24 Robert's difficulties is that he has difficulty accepting
25 responsibility and tends to blame others, I'll just leave

1 it at that.

2 MR. LEE: There's been a lot of discussion
3 about the protocol now in place in the Cornwall office to
4 support victims of abuse to come forward, and you've
5 explained a little bit how that evolved, and as I
6 understand it and you'll agree, that protocol is in place
7 to react to disclosures that are received and as has been
8 discussed at length, not to go out and track down victims?

9 MS. NEWMAN: That's right.

10 MR. LEE: I expect when Mr. Robert is here
11 that he may tell us that at some point he wanted to meet
12 with clients as part of the quality assurance process and
13 that he brought the attention to your matter but -- or the
14 matter to your attention but it was not followed through;
15 do you have any recollection of that?

16 MS. NEWMAN: None whatsoever.

17 MR. LEE: That doesn't even ring a bell?

18 MS. NEWMAN: Not at all.

19 MR. LEE: Looking back on things, had Mr.
20 Robert brought that issue to your attention, do you think
21 you would have been receptive to it, during his tenure as
22 the area manager?

23 MS. NEWMAN: If he felt that in his office,
24 that conducting some client interviews would be of
25 assistance, I would think that I would have been receptive

1 to that.

2 And I think, you know, it's worth noting as
3 well that the Ministry, for the last several years, has had
4 a process called the "Collaborative Evaluation Process"
5 where we have researchers from our Program Evaluation Unit,
6 who have for the last several years -- five, if I recall
7 correctly -- we put into place a practice where they have
8 toured the province and they have sat in on interviews
9 between clients and probation officers, so they've actually
10 audited at the time those interviews take place, to
11 determine that the probation officer is able to conduct the
12 interview in a way that supports the service-delivery model
13 and that that engages their client in a way that's aligned
14 with -- with the service-delivery model and standard.

15 So we are -- we have several years of
16 experience now of probation officers having a third party
17 sit in on their interviews with clients.

18 So if Mr. Robert felt that interviewing
19 clients would have been helpful, I don't know why I
20 wouldn't have supported that.

21 **MR. LEE:** Mr. Engelmann took you, in some
22 detail, through some of the House notes or issue notes that
23 were generated, and listed out some of the things that were
24 known by the Ministry ---

25 **MS. NEWMAN:** That's right.

1 **MR. LEE:** --- at different points in time.
2 I want to talk about what you knew
3 personally.

4 In 1996, within a reasonable amount of time
5 after taking over the Cornwall probation office, is it fair
6 to say that you knew that there may have been many victims
7 of abuse by Barque and Seguin?

8 **MS. NEWMAN:** No, I didn't know that then.

9 **MR. LEE:** You had -- did you have an inkling
10 that perhaps it wasn't confined to two or three people;
11 that it may have been a widespread problem?

12 **MS. NEWMAN:** It wasn't even on the radar in
13 '96 to '98 when I was supervising the Cornwall office.

14 The entire focus, including individual
15 interviews I conducted with staff, was about the workplace
16 relationship between them and the area manager.

17 When I had met with staff individually, none
18 of them talked to me about Ken Seguin or Nelson Barque, so
19 that wasn't the focus of my supervision during that period
20 of time, at all.

21 **MR. LEE:** So between '96 and '98, the dates
22 you give, you never at any point turned your mind to --
23 back to the Seguin -- you didn't know about Barque until
24 later, that's right.

25 **MS. NEWMAN:** I didn't know ---

1 **MR. LEE:** Ninety-nine ('99)/2000.

2 **MS. NEWMAN:** No.

3 **MR. LEE:** You knew about Seguin, at least
4 peripherally from being in the same office as Bill Roy?

5 **MS. NEWMAN:** In 1993, yes.

6 **MR. LEE:** When you took over Cornwall in
7 '96, did that come back to your mind, that there had been
8 an issue with sexual abuse there in the past?

9 **MS. NEWMAN:** No.

10 **MR. LEE:** Not at all? It didn't ---

11 **MS. NEWMAN:** No, it -- it was, to me, an
12 isolated historical event.

13 **MR. LEE:** So when do you say that you first
14 started turning your mind to issues of sexual abuse in the
15 Cornwall office?

16 **MS. NEWMAN:** From November 1999, to August
17 2000.

18 **MR. LEE:** And what's the significance of
19 November '99?

20 **MS. NEWMAN:** That's when I returned from a
21 year -- a year's absence working for the federal
22 government.

23 And when I came back, this was now
24 prevalent, it was - or prominent, I should say. It was
25 because we were starting to receive disclosures and so not

1 many but they were starting to come forward in '99. And so
2 when I came back, this was one of the early issues because
3 it was of significant concern and because of the
4 disclosures it became something that I was very much
5 preoccupied with.

6 MR. LEE: And there were disclosures, in the
7 plural. Isn't that right.

8 MS. NEWMAN: I think there were two or
9 three.

10 MR. LEE: At that point you came to know
11 about Nelson Barque?

12 MS. NEWMAN: Yes.

13 MR. LEE: And you knew, generally, the
14 circumstances that surrounded his departure?

15 MS. NEWMAN: I don't believe -- well, I knew
16 what the history was ---

17 MR. LEE: Sexual abuse.

18 MS. NEWMAN: --- I didn't know he had
19 resigned versus anything else, but yes.

20 MR. LEE: You knew there was some sexual
21 abuse ---

22 MS. NEWMAN: Yes.

23 MR. LEE: --- that was the whole reason
24 Barque was relevant?

25 MS. NEWMAN: That's right.

1 **MR. LEE:** And I take it you would have
2 understood, even in those early days of dealing with this,
3 that sexual abuse can have very serious consequences on the
4 victim?

5 **MS. NEWMAN:** Yes.

6 **MR. LEE:** And we've talked a lot about the
7 protocol and about the Ministry or the Cornwall office at
8 least, as being receptive to those coming forward and there
9 have been some questions put to you, "Well what about the
10 other people".

11 And the answer we seem to get repeatedly is
12 that, "We didn't want to interfere with the police
13 investigation. We couldn't go out and find people because
14 it might interfere with the criminal investigation."

15 **MS. NEWMAN:** That came later. I think
16 during that period of time our focus, totally, our
17 preoccupation was in supporting victims coming forward;
18 understanding male sexual abuse trauma; skilling the staff
19 to take the disclosures; establishing procedures; and
20 figuring out how to manage this situation in a way that
21 supported people coming forward.

22 **MR. LEE:** So when did the concerns about
23 impacting a police investigation first come to light?

24 **MS. NEWMAN:** When Mr. Downing was detailed
25 to do a review on behalf of the Ministry. That's when our

1 concerns -- personally, my concerns in detailing him to do
2 that, myself and Mr. Commeford, that he not in any way
3 impede the police investigation.

4 **MR. LEE:** So that wasn't a concern in the
5 forefront of your mind between November of '99 and August
6 of 2000?

7 **MS. NEWMAN:** I was aware there was an
8 ongoing police investigation and our focus, as I mentioned,
9 was on supporting people who were coming forward.

10 **MR. LEE:** Was there any discussing during
11 that time, November '99 to August 2000, of going out there
12 and finding other victims?

13 **MS. NEWMAN:** No, we were scrambling to be
14 responsive and responsible to people who were coming
15 forward.

16 **MR. LEE:** And, eventually, when Mr. Downing
17 is appointed to do the review and we've heard about the
18 progression of that, it becomes a live concern about him
19 not impacting an active police investigation. Is that
20 right?

21 **MS. NEWMAN:** That's correct.

22 **MR. LEE:** Did you or the Ministry or anybody
23 under your control consult with the police at any time
24 about what might interfere with their investigation and
25 what might not?

1 **MS. NEWMAN:** That was Mr. Downing's
2 responsibility.

3 **MR. LEE:** Did you ever instruct him to do
4 that?

5 **MS. NEWMAN:** Yes.

6 **MR. LEE:** You instructed him to specifically
7 request of the police an explanation of what you might be
8 able to do so as not to interfere with the investigation?

9 **MS. NEWMAN:** No, I instructed him to liaise
10 with the police and to ensure that his review did not
11 impede the police investigation. So that would have been a
12 conversation between him and the police.

13 **MR. LEE:** The concern I have is that we have
14 your notes that make note of not interfering with the
15 police investigation. We have the explanation of stage two
16 of Mr. Downing's report not going forward because you
17 didn't want to interfere with a -- I mean, we've heard the
18 phrase over and over again from a number of witnesses,
19 including you, that "We cannot interfere with the police
20 investigation".

21 It doesn't seem that anybody at any point
22 asked the police for some help or for some clarification or
23 for some ideas on what you might be able to do to assist
24 without impacting an investigation.

25 **MS. NEWMAN:** Can I refer you to

1 recommendation number one that addresses specifically the
2 point you're raising.

3 **MR. LEE:** And that's the protocol with
4 respect to info sharing with the police and Crowns?

5 **MS. NEWMAN:** And that the protocol provide
6 an appropriate mechanism for liaison between the Ministry
7 and the police to ensure that the Ministry response does
8 not interfere with any police investigation. So in other
9 words, turning our mind and our attention to, how can we do
10 what we need to do or what we think is appropriate under
11 the circumstances in a way that does not impede your
12 investigation.

13 So this is a further exploration of what
14 that takes.

15 **MR. LEE:** Having a formal protocol would
16 certainly make things easier going forward, but is there
17 anything that precluded you from asking the question in
18 2000?

19 **MS. NEWMAN:** There was nothing precluding
20 Mr. Downing from asking that question; that would have been
21 his responsibility.

22 **MR. LEE:** But when Mr. Downing didn't do
23 that, wouldn't it have been your responsibility to instruct
24 him?

25 **MS. NEWMAN:** No. It was my responsibility

1 to stand back and not interfere with anyone's
2 investigation, whether it was Mr. Downing's or the police
3 investigation. It's the job of our investigator to liaise
4 with the police investigator to determine what they may or
5 may not do so as not to impede another investigation.

6 **MR. LEE:** Would you agree with me that it
7 would not have impeded with a police investigation in any
8 way to say to Mr. Downing, "We want to do everything we
9 possibly can to help victims of abuse by our employees.
10 Determine what that is. What does that mean? What is the
11 most we can do and what can we not do?"

12 It seems to me that was never done. That
13 certainly would have been a reasonable thing to do at the
14 time, wouldn't it have?

15 **MS. NEWMAN:** Our focus at that time was on
16 reviewing the contents of the website; determining whether
17 there was any current risk to clients or the public; were
18 there any allegations against current employees. So that
19 was the focus of that interaction and the Ministry review
20 at that time.

21 It doesn't mean that going forward or in the
22 future that we can't, as we work through this protocol, we
23 can't be cognisant and in fact we should be cognisant of
24 whatever we can do to support victims.

25 **MR. LEE:** And you understand my position

1 here as counsel representing a number of victims, that
2 while I'm looking to the future and while I'm very
3 interested in recommendations and moving forward, I have a
4 job to do here in looking at what happened in the past?

5 And I understand that things are going to
6 change. I understand things have changed now to some
7 extent, they are recommendations going forward, but I need
8 to ask you about some of what happened in the past and some
9 of what did not happen in the past; okay?

10 One of the things I'm wondering, you had
11 victims who had come -- a smaller number obviously than you
12 would have now, but in 2000 by the time of the Downing
13 review, by the end of the Downing review when he's
14 interviewing new victims who had come forward, you have
15 people at your disposal who you know of, who have come
16 forward to Corrections, as victims of abuse.

17 And what I'm wondering is, did you at any
18 point every consult with those people to ask what might be
19 done for the other people who may well be out there?

20 **MS. NEWMAN:** Again, my involvement at that
21 juncture was much reduced and I was being briefed from
22 time-to-time on progress. I wouldn't -- I wouldn't say
23 that did or did not happen. I don't have that level of in-
24 depth knowledge.

25 **MR. LEE:** The first two victims of abuse

1 that were identified by Corrections in 1982 in relation to
2 Nelson Barque were two of my clients; Robert Sheets and the
3 other man has a moniker, he's known here as C-44. Do you
4 have any knowledge of anybody at the Ministry ever
5 contacting either of those men in '93 or '96 or 2000 or at
6 any point thereafter, to ask them how they had made out in
7 life after Mr. Barque's resignation?

8 **MS. NEWMAN:** I don't know. I'm sorry, Mr.
9 Lee.

10 **MR. LEE:** What we do know is that the
11 Ministry received some what I'll call unsolicited input
12 from a victim of abuse very early on, and what I'm
13 referring to is the initial call from -- or the initial
14 contact with David Silmsen with the Ministry.

15 You looked at a House Note the other day
16 that I'd like to take you back to; that's Exhibit 1104.

17 **(SHORT PAUSE/COURTE PAUSE)**

18 **THE COMMISSIONER:** I guess a three o'clock
19 break is ---

20 **MR. LEE:** Oh, sorry, I completely forgot,
21 sir.

22 **THE COMMISSIONER:** How much longer there?

23 **MR. LEE:** Twenty (20) minutes perhaps.

24 **THE COMMISSIONER:** Twenty (20) minutes?

25 **MR. LEE:** Yeah. A little longer than I

1 expected.

2 **THE COMMISSIONER:** This is -- are we going
3 back to the Mr. Lee ---

4 **MR. LEE:** We appear to be.

5 **THE COMMISSIONER:** --- time -- time zone?

6 **MR. LEE:** We may be. I've earned a couple
7 credits here, haven't I?

8 **THE COMMISSIONER:** Absolutely. Absolutely.
9 We'll take the afternoon break.

10 **MR. LEE:** Thank you.

11 **THE REGISTRAR:** Order, all rise; à l'ordre,
12 veuillez vous lever.

13 This hearing will resume at 3:30 p.m.

14 --- Upon recessing at 3:11 p.m./

15 L'audience est suspendue à 15h11

16 --- Upon resuming at 3:27 p.m./

17 L'audience est reprise à 15h27

18 **THE REGISTRAR:** All rise, veuillez vous
19 lever.

20 This hearing is now resumed. Please be
21 seated; veuillez vous asseoir.

22 **THE COMMISSIONER:** Mr. Lee?

23 **DEBORAH NEWMAN, Resumed/Sous le même serment:**

24 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE

25 (Continued/Suite):

1 **MR. LEE:** Ms. Newman, before the break I'd
2 asked you to turn up Exhibit 1104. That's the MSGCS House
3 Note. Do you have that?

4 **MS. NEWMAN:** Yes, I do. Thank you.

5 **MR. LEE:** And I want to look at the first
6 page up in the top left-hand corner that will end in digits
7 998. Do you have that? It's the note dated February 4th,
8 '94.

9 **MS. NEWMAN:** I have the note. I'm sorry,
10 which page are you referring to?

11 **MR. LEE:** The very first page of it.

12 **MS. NEWMAN:** Thank you.

13 **MR. LEE:** And what I had -- the reason I
14 have brought you to this is I had prefaced it by saying
15 that the Ministry had received some unsolicited feedback
16 from a victim of abuse and here's what I was referring to.

17 The first bullet under "Background" makes
18 reference to the original complaint being received by the
19 Eastern Regional Office by David Silmser. It doesn't name
20 Silmser in here but we know that's what it refers to.

21 If you go down to the fourth bullet --
22 you've been brought to this already -- it reads:

23 "The complainant further indicated
24 there were 'lots of others out there'
25 and stated his view that supportive

1 counselling should be provided in these
2 matters."

3 Do you see that there?

4 **MS. NEWMAN:** I do.

5 **MR. LEE:** So that relates to late 1993. Is
6 that your understanding?

7 **MS. NEWMAN:** Yes, that's correct.

8 **MR. LEE:** And looking back on it now, Mr.
9 Silmsler was right wasn't he, there were in fact lots of
10 others and there was a need for counselling. Would you
11 agree with that?

12 **MS. NEWMAN:** Yes, I'd agree with that.

13 **MR. LEE:** And what we have today is a
14 protocol that responds to clients who are on probation and
15 parole now. And my question for you is what services or
16 counselling or help is available to those who were abused
17 by probation officers but who are not currently clients of
18 Probation and Parole? Is there anything in place?

19 **MS. NEWMAN:** Well, I think in 1999 the
20 Ministry brought the Men's Project to Cornwall and the
21 Men's Project had the expertise to provide support to male
22 victims of sexual abuse. So certainly as of 1999, there
23 was supportive counselling available because the Ministry
24 took that action.

25 There are certainly other supports

1 available, as I understand it, in this community, including
2 through the hospital, through a variety of community
3 agencies and certainly support for victims through
4 organizations such as your own, Victim's Services and
5 victims advocacy groups and so on that I understand exist
6 in this community.

7 So in terms of supports and services to
8 victims, it's my understanding that they do exist in this
9 community. Whether or not they're sufficient I don't know,
10 I'm not in a position to say, but I would certainly support
11 and endorse the provision of supports and services to meet
12 the needs of victims in the community. And as I said
13 earlier, I think that those kinds of supports for people
14 are preferable to having them engage in the criminal
15 justice system.

16 **MR. LEE:** In what sense? I'm sorry, I don't
17 understand that last ---

18 **MS. NEWMAN:** If you can avoid beginning an
19 engagement in the criminal justice system I would certainly
20 encourage that that happen through the provision of
21 supports and services.

22 So, for example, if a victim is unsure about
23 whether or not they want to come forward, I would think
24 that the kind of services and supports that we're talking
25 about -- or I'm talking about, such as the Men's Project

1 and various treatment resources and victims groups, would
2 provide a supportive environment for victims to come
3 forward in a way that doesn't embroil them in the criminal
4 justice system and they could be supported in making a
5 decision about what they want to do and to receive the kind
6 of supportive counselling that they require.

7 **MR. LEE:** If I can rephrase my original
8 question. What is the Ministry of -- what is your Ministry
9 doing to help fix the problem that its employees created?

10 I understand that the Men's Project is out
11 there and I understand that the hospital in Cornwall offers
12 some services. What is your Ministry doing for these
13 people who are not current clients?

14 **MS. NEWMAN:** Who are not current clients?

15 **MR. LEE:** Who are not current clients.

16 Let me give you an example. I have clients
17 who are members of the Victim's Group as having -- alleging
18 abuse that occurred in or around Cornwall who live in
19 Alberta, who live in London, who live in Ottawa, who live
20 in Toronto, who aren't on probation anywhere, and they're
21 damaged.

22 And right now we have this Inquiry that's
23 offering tremendous services across the counselling
24 spectrum. There's all kinds of funding available. They'll
25 move heaven and earth to help people get set-up, whether

1 they're located in London or Ottawa or Toronto or Alberta.

2 This Inquiry is not going to last forever.

3 And so the question I have for you, is there anything in
4 place -- what can I tell my clients and what can I tell the
5 victim who's never disclosed and gives me a call and says,
6 "I need some help". Does the Ministry have anything set
7 up?

8 **MS. NEWMAN:** I think if a victim wants to
9 come forward to any probation office in the Ministry, the
10 probation office would be pleased to refer that person to
11 supportive counselling and services.

12 **MR. LEE:** And would the Ministry be
13 prepared, in circumstances where services and counselling
14 aren't being provided by others, to make arrangements to
15 have that counselling provided?

16 **MS. NEWMAN:** It's something that we could
17 certainly review.

18 **MR. LEE:** You'd be willing to look into that
19 at least?

20 **MS. NEWMAN:** Yes. I mean, Corrections has a
21 mandate with existing clients, current clients. If others
22 come forward, we would work with community partners to try
23 to ensure that any victim coming forward has access to the
24 kind of supports that they need.

25 **MR. LEE:** Continuing with the discussion of

1 helping victims, did the Ministry, to your knowledge, ever
2 at any point consider the value of a sincere apology?

3 **MS. NEWMAN:** I can't speak for my
4 predecessors and you've heard my statement of regret here
5 today.

6 **MR. LEE:** And you've drawn the distinction
7 that I might have drawn between a statement of regret and
8 an apology.

9 I take it you're aware that the Ministry's
10 counsel, Mr. Neuberger, apologized on behalf of the
11 Ministry to a witness here at this Inquiry named Albert
12 Roy?

13 **MS. NEWMAN:** I'm not aware of that.

14 **MR. LEE:** Mr. Roy is a victim of Mr. Barque
15 and Mr. Seguin and he testified here in November of 2006.

16 What Mr. Neuberger said at that time is:

17 "You have suffered considerable harm at
18 the hands of two probation officers who
19 you were quite right were supposed to
20 take care of you, were supposed to help
21 you, and my client deeply regrets the
22 harm that you have suffered and I hope
23 you accept this as sincere apologies on
24 their behalf."

25 That's what Mr. Neuberger said to Mr. Roy

1 when he was in that witness seat.

2 And my question is whether you have anything
3 to say to the other victims out there who have not received
4 such an apology to date?

5 **MR. NEUBERGER:** I'm just going to clarify
6 for second, please.

7 That was in relation to Mr. Roy for which
8 Nelson Barque had entered a plea of guilty specifically on
9 those facts.

10 **THE COMMISSIONER:** Right.

11 **MR. LEE:** If that's the test I'll have to
12 accept it but I'd like to hear it from the Deputy Minister.

13 **MS. NEWMAN:** I would reiterate the statement
14 of regret that I made today that the Ministry sincerely
15 regrets any harm done to any victim perpetrated by our two
16 now deceased probation officers.

17 **MR. LEE:** During Ms. Daley's cross-
18 examination she raised with you the idea of a town hall
19 meeting. Do you recall that?

20 **MS. NEWMAN:** Yes, I do.

21 **MR. LEE:** And my recollection is that you
22 suggested that might be something to consider and that you
23 would take it under advisement. Is that right?

24 **MS. NEWMAN:** That's right.

25 **MR. LEE:** Might a town hall meeting or a

1 similar idea have been something that could have been done
2 in 1993 or early '94 after you learned of the allegations
3 against Mr. Seguin?

4 **MS. NEWMAN:** So, I mean, it's again
5 speculative. It would have had to have been reviewed I
6 guess and contemplated if a proposal had arisen that that
7 might be helpful.

8 **MR. LEE:** Would you agree with me that the
9 earlier an expression of regret or an apology is issued the
10 more meaningful it is likely to be?

11 **MS. NEWMAN:** I don't know that. Is it not
12 meaningful to have someone apologize to you at whatever
13 point-in-time?

14 **MR. LEE:** I would certainly suggest that it
15 is always meaningful to hear an apology. What I'm asking
16 you is whether it might be more meaningful to hear an
17 apology ---

18 **MS. NEWMAN:** It might be.

19 **MR. LEE:** --- 15 years ago?

20 **MS. NEWMAN:** It might be.

21 **MR. NEUBERGER:** I'm sorry. I think this is
22 dramatic and I don't think it's very helpful.

23 In 1993-1994, I don't think the facts in the
24 community to the Ministry of Corrections or to the OPP or
25 to the Cornwall Police or to anybody was clear. So a town

1 hall meeting to say what and to apologize for what at that
2 time for which it hadn't been thoroughly investigated or
3 discovered.

4 **MR. LEE:** I agree.

5 **MR. NEUBERGER:** In 1993 there could have
6 been an opportunity for some investigation to occur with
7 Mr. Silmsen, that was in police hands and also the
8 Ministry's hands, but I think it's a little unhelpful to
9 ask a question about having some sort of town hall meeting
10 in 1994, particularly if we can keep our eye on the ball.

11 If there is something going on in 1994 and
12 there should be a police investigation, I think the last
13 thing you want is a town hall meeting; okay?

14 **THE COMMISSIONER:** Mr. Lee, can we go on to
15 some other topic?

16 **MR. LEE:** Well, I'd like to address that.

17 **THE COMMISSIONER:** Okay.

18 **MR. LEE:** What we have today is an
19 expression of regret that, as I understand it, if anybody
20 has been harmed by a probation officer, the Ministry
21 regrets it.

22 **THE COMMISSIONER:** I don't know that it was
23 "If any".

24 **MS. NEWMAN:** We regret any harm that was
25 caused by Mr. Seguin or Mr. Barque to any victim in this

1 community or elsewhere.

2 **MR. LEE:** And certainly I take it the
3 Ministry would have felt that way in 1993 as well?

4 **MS. NEWMAN:** If they knew about it.

5 **THE COMMISSIONER:** No, no, no.

6 **MR. LEE:** I want to talk to you about the
7 transparency of the Ministry and this is the last area I
8 have for you.

9 I'm going to suggest to you that the
10 Ministry has consistently acted in ways designed to avoid
11 publicity. Is that fair?

12 **MS. NEWMAN:** Not at all. Not at all fair.

13 **MR. LEE:** We looked at one your handwritten
14 notes yesterday about the fact if Emile Robert or Jos van
15 Diepen were disciplined, they might grieve that discipline,
16 in which case this could all be made public.

17 **MS. NEWMAN:** And as I've said previously,
18 the grievance would not have been a consideration in taking
19 action.

20 As I indicated, that notation was a
21 statement of fact in the sense that if there's going to be
22 something in the public domain for which the Minister may
23 be questioned in the legislature, we need to make a note of
24 that. I need to let the Deputy Minister know in the -- to
25 let Mr. Zbar know and to prepare the Minister, to brief

1 him, so he can knowledgeably respond to questions. That's
2 the only reason for that reference.

3 And I would reiterate that grievances going
4 public would never stop the Ministry from doing whatever it
5 needed to do and certainly did not happen in this case.

6 **MR. LEE:** Are you aware that when Peter
7 Sirrs testified here, he told us that one of the
8 considerations in permitting Mr. Barque to resign was that
9 it was easier and it would not result in a grievance?

10 **MS. NEWMAN:** I can't speak for Mr. Sirrs.

11 I can speak for myself and I can speak for
12 the senior leadership of the Ministry.

13 **MR. LEE:** And you can tell us that nobody
14 has ever been disciplined as a result of anything that's
15 happened here in Cornwall, is that right, in relation to
16 these matters?

17 **MS. NEWMAN:** No. We have two deceased
18 probation officers for whom discipline is not possible. We
19 have others who have retired before any information was
20 known and we have legal opinions upon which we have acted
21 otherwise in relation to two current employees.

22 **MR. LEE:** During your examination, we've
23 also looked at some -- some of the House Notes and is it
24 fair for me to suggest that every single one of the House
25 Notes that we've looked at sets out right at the top of the

1 page that the Ministry will not be providing comment?

2 **MS. NEWMAN:** It -- it sets out the
3 Minister's position and a caution to the Minister that he
4 ought not to comment on anything that's under active police
5 investigation which this -- which this matter has been and
6 was.

7 So he's -- no, he is -- it would be entirely
8 inappropriate for the Minister of Community Safety and
9 Correctional Services to comment on something that is
10 either subject of police investigation, prosecution, before
11 the courts. He could not be seen to impede the course of
12 justice or to be drawing conclusions in relation to an
13 active police investigation or prosecution and prejudice
14 the outcome.

15 Citizens expect fairness and they expect a
16 fair trial. It's a principle of our democratic society.

17 **MR. LEE:** Are you aware that the Ministry
18 has been involved in several civil actions in relation to
19 the alleged abuse by Mr. Seguin and Barque?

20 **MS. NEWMAN:** Yes, I am.

21 **MR. LEE:** And you're aware that many of
22 those suits have settled?

23 **MS. NEWMAN:** I'm not aware of the status of
24 settlement versus non-settlement.

25 I'm aware that there are civil suits being

1 managed through the Crown Law Office (Civil), at the
2 Ministry of the Attorney General. I have no direct
3 involvement.

4 **MR. LEE:** Are you aware that those
5 settlements, in most cases, have provisions requiring
6 certain confidentiality?

7 **MS. NEWMAN:** That's been brought to my
8 attention.

9 **MR. LEE:** Some of those prevent the victim
10 from disclosing the terms of the settlement, any
11 discussions underlying the settlement and even discussions
12 relating to it any way?

13 **MS. NEWMAN:** I understand that.

14 **MR. LEE:** And others prevent the victim from
15 disclosing the quantum of settlement?

16 **MS. NEWMAN:** I -- I've never seen the
17 confidentiality provisions so I don't know exactly what
18 they do say. I'm aware there are confidentiality
19 provisions.

20 **MR. LEE:** And would you agree with me that
21 it is in the -- given these confidentiality settlements,
22 the Ministry feels it's in its best interest to keep these
23 details quiet?

24 **MS. NEWMAN:** That's not my decision to make
25 and it -- and it was not my decision.

1 **MR. NEUBERGER:** I don't have particular
2 information on those settlements myself.

3 I query whether, when my friend is asking
4 this question, if he has information which I certainly
5 haven't heard at this Inquiry about the other party to that
6 litigation having signed those confidentiality agreements
7 and do I understand that that's the evidence before us that
8 they wish that these details be disclosed? Because it
9 seems to me that the question is to suggest that the
10 Ministry has in their interest keeping it confidential.

11 Of course, I don't know if somebody forced
12 the plaintiffs to sign that particular confidentiality
13 clause to settle and I haven't heard the evidence before
14 this Inquiry that that complaint is specific coming from
15 the victims, and I understand that Mr. Lee acts for many of
16 those victims.

17 **THE COMMISSIONER:** M'hm. Okay.

18 **MR. NEUBERGER:** It's a rather convenient
19 argument.

20 **THE COMMISSIONER:** Mr. Lee, I think the
21 point is, is it but for the Ministry that your clients
22 would release that information as part of the public
23 record?

24 **MR. LEE:** I'm getting there and I don't
25 think that there is a universal answer to that question.

1 **THE COMMISSIONER:** All right.

2 **MR. LEE:** I would imagine that -- well, I
3 mean some of my clients I'm sure are quite pleased about
4 confidentiality provisions and others aren't.

5 And the point I was trying to make or trying
6 to get from Ms. Newman is that, would you agree with me
7 that it would be preferable to have the decision as to
8 whether or not to disclose the terms of settlement of one
9 of the civil actions left to the victim rather than to the
10 Ministry?

11 **MS. NEWMAN:** It's not the Ministry's
12 decision to make.

13 **THE COMMISSIONER:** Well, Mr. Thompson?

14 **MR. THOMPSON:** I just -- it's Chris
15 Thompson.

16 **THE COMMISSIONER:** Yes.

17 **MR. THOMPSON:** I would just like to
18 elaborate on that.

19 I think the witness has given her answer
20 that it's -- it's not her particular decision to make and
21 there is a greater -- there are more than just the Ministry
22 that is involved in a decision like that.

23 **THE COMMISSIONER:** Absolutely.

24 **MR. THOMPSON:** Thank you.

25 **THE COMMISSIONER:** Like the Attorney

1 General.

2 MR. LEE: That was my very next question, to
3 ask her whose decision it is if it's not your Ministry's?

4 MS. NEWMAN: Mr. Commissioner, just answered
5 your question and ---

6 MR. LEE: I missed it.

7 MS. NEWMAN: --- he's right.

8 THE COMMISSIONER: The Attorney General.

9 MR. LEE: In that situation, wouldn't the
10 Ministry of Corrections be the client and the Attorney
11 General would be the lawyers?

12 MS. NEWMAN: The Attorney General is the
13 lawyer for government. So there are 26 ministries in
14 government.

15 THE COMMISSIONER: There may even be some
16 insurers in there, Mr. Lee.

17 MR. LEE: There may well be some insurers in
18 there and I'm asking who gives the instructions?

19 MS. NEWMAN: Not me.

20 (LAUGHTER/RIRES)

21 MR. LEE: Is it somebody in your Ministry?

22 MS. NEWMAN: No.

23 MR. LEE: So it's entirely out of your
24 hands?

25 MS. NEWMAN: Yes.

1 **MR. LEE:** Are you aware that the bishop of
2 the local Roman Catholic diocese testified here in August
3 of 2006?

4 **MS. NEWMAN:** No, I'm not.

5 **MR. LEE:** He told us that the diocese is now
6 opposed to confidentiality agreements and settlements of
7 sex abuse cases, and he also told us that the diocese would
8 not enforce such confidentiality provisions in past
9 settlements. Can you give me your position as Deputy
10 Minister ---

11 **MS. NEWMAN:** No, I can't ---

12 **MR. LEE:** --- of confidentiality?

13 **MS. NEWMAN:** --- I can't give you my
14 position for the reasons I've already articulated, Mr. Lee.

15 **MR. LEE:** And what are those?

16 **MS. NEWMAN:** This is not my decision to
17 make. There's a broader provincial government interest
18 that's governed by the Ministry of the Attorney General.

19 **MR. LEE:** And so you can't provide me your
20 opinion?

21 **MS. NEWMAN:** No.

22 **MR. LEE:** Can I have one moment, sir?

23 **THE COMMISSIONER:** M'hm.

24 **(SHORT PAUSE/COURTE PAUSE)**

25 **MR. LEE:** Ms. Newman, those are my

1 questions. Thank you very much.

2 **MS. NEWMAN:** Thank you, Mr. Lee.

3 **THE COMMISSIONER:** Mr. Chisholm.

4 **MR. CHISHOLM:** Good afternoon, sir.

5 Good afternoon, Ms. Newman, my name is Peter
6 Chisholm, counsel for the local CAS.

7 I have no questions, thank you.

8 **MS. NEWMAN:** Thank you.

9 **THE COMMISSIONER:** Mr. Crane?

10 Oh, I'm sorry, Mr. Thompson, sorry.

11 **MR. THOMPSON:** Good afternoon.

12 I have no questions, thank you.

13 **MS. NEWMAN:** Thank you.

14 **THE COMMISSIONER:** Mr. Crane?

15 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. MR.
16 CRANE:

17 **MR. CRANE:** Good afternoon, Ms. Newman. My
18 name is Mark Crane; I'm a counsel representing the Cornwall
19 Police Service.

20 **MS. NEWMAN:** Mr. Crane.

21 **MR. CRANE:** I don't anticipate being very
22 long but I do have a few questions for you.

23 Prior to the morning break today, Ms,
24 Newman, my friend Ms. Daley asked you questions relating to
25 rumours that a Cornwall police officer may have overheard

1 in the early 1980s and, secondly, about a criminal
2 complaint initiated by Mr. Silmsler in 1993. Do you recall
3 that ---

4 **MS. NEWMAN:** Yes, I do.

5 **MR. CRANE:** --- at the outset of her
6 examination?

7 And you confirmed for Ms. Daley, as I wrote
8 down, that there existed no rules requiring a police
9 service to notify an employer of this; this being rumours,
10 through the lens of 1982 or a criminal complaint through
11 the lens of 1993. Do you recall that?

12 **MS. NEWMAN:** That's correct.

13 **MR. CRANE:** Looking through the lens of
14 today, are you aware of any standards that have been
15 implemented through policing services or otherwise, where a
16 police service would have an obligation to inform an
17 employer of either rumours or an allegation, in a sexual
18 nature?

19 **MS. NEWMAN:** No I'm not.

20 **MR. CRANE:** Those are my questions. Thank
21 you very much.

22 **MS. NEWMAN:** Thank you.

23 **THE COMMISSIONER:** Ms. Lahaie?

24 **MS. LAHAIE:** Good afternoon, Ms. Newman.

25 **MS. NEWMAN:** Good afternoon.

1 **MS. LAHAIE:** My name is Diane Lahaie and I'm
2 one of the lawyers representing the Ontario Province
3 Police.

4 I have no questions for you today, thank you
5 for coming.

6 **MS. NEWMAN:** Thank you.

7 **THE COMMISSIONER:** Mr. Carroll?

8 **MR. CARROLL:** Good afternoon.

9 **MS. NEWMAN:** Good afternoon.

10 **MR. CARROLL:** My name is Bill Carroll and
11 counsel for the Ontario Provincial Police Association and I
12 have no questions for you.

13 Thank you.

14 **MS. NEWMAN:** Thank you, Mr. Carroll.

15 **THE COMMISSIONER:** Mr. Neuberger, do you
16 have any questions?

17 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. JOE
18 **NEUBERGER:**

19 **MR. NEUBERGER:** Thank you.

20 Good afternoon, Ms. Newman.

21 **MS. NEWMAN:** Mr. Neuberger.

22 **MR. NEUBERGER:** Just a couple of questions.

23 There was some information you provided
24 about the Ministry for Children and Youth and some talk
25 about, I guess, information that may have flowed over to or

1 could have flowed over to that Youth Ministry to provide
2 them with the benefit of the experiences of the Cornwall
3 office.

4 The Assistant Deputy Minister of that
5 Ministry is now Gilbert Tayles; is that correct?

6 **MS. NEWMAN:** That's correct.

7 **MR. NEUBERGER:** And Gilbert Tayles was
8 somebody who was involved, at least peripherally, in the
9 Downing investigation and being in upper management at the
10 time in 2000?

11 **MS. NEWMAN:** Yes, he was.

12 **MR. NEUBERGER:** Okay. And as you said, you
13 don't specifically recall but you would have had some
14 discussions with him about the Downing report and the
15 process?

16 **MS. NEWMAN:** Yes, I expect that I would
17 have.

18 **MR. NEUBERGER:** Okay. There was some
19 questioning -- it's been mentioned a number of times about
20 disclosures to probation officers, about trying to receive
21 disclosures from probation -- to probation officers, and
22 just one thing I want to make clear; when an alleged victim
23 or a victim comes forward and provides information to a
24 probation officer, the duty of that probation officer is to
25 report that to the police.

1 **MS. NEWMAN:** That's correct.

2 **MR. NEUBERGER:** And that includes the name
3 and the particulars of the allegation?

4 **MS. NEWMAN:** You're right.

5 **MR. NEUBERGER:** Lastly -- actually sorry,
6 two more questions. One, there was some discussion about
7 Mr. Robert and when he should testify here and provide some
8 evidence and possibly indicate that he wouldn't be aware of
9 the difficulties that were pinpointed with his
10 interpersonal relationships in dealing with people.

11 Was he part of the mediation process in 1998
12 with Roger Newell?

13 **MS. NEWMAN:** Yes, he was.

14 **MR. NEUBERGER:** And there was a report
15 produced at the end of that as well?

16 **MS. NEWMAN:** Yes, there was.

17 **MR. NEUBERGER:** All right, so he would have
18 been intimately knowledgeable about the process and the
19 results?

20 **MS. NEWMAN:** Very much so.

21 **MR. NEUBERGER:** Okay. Now lastly, there was
22 a question about the conclusion in the Downing report and
23 the suggestion that the remaining members of the Cornwall
24 office might have a culture of turning a blind eye to what
25 was going on.

1 Throughout 1999 and 2000, did you personally
2 have continuing contact with the office itself, including
3 Claude Legault?

4 **MS. NEWMAN:** Yes, I did.

5 **MR. NEUBERGER:** Okay, and that includes
6 probation officers?

7 **MS. NEWMAN:** That's correct.

8 **MR. NEUBERGER:** All right. And, was the
9 information you were receiving from and about the staff of
10 the Cornwall office consistent with the culture of turning
11 a blind eye?

12 **MS. NEWMAN:** Absolutely not. They were
13 absolutely mortified by what was going on. They were
14 extremely concerned. They were a very dedicated group of
15 probation officers who wanted to do the right thing for
16 victims, who wanted to be supportive and compassionate and
17 ensure that they obtained the kind of skills that were
18 required in order to provide that kind of support.

19 They were a highly engaged group of people.
20 As I say, they were very concerned, and continue to be
21 concerned to this day, about what transpired in the past
22 and they're all very dedicated to moving forward in a way
23 that's helpful to victims.

24 **MR. NEUBERGER:** Thank you very much, Ms.
25 Newman.

1 Thank you, Mr. Commissioner.

2 **THE COMMISSIONER:** Mr. Engelmann?

3 --- RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MR. PETER

4 **ENGELMANN:**

5 **MR. ENGELMANN:** Ms. Newman, just one small
6 area.

7 **MS. NEWMAN:** You get the last word.

8 **MR. ENGELMANN:** I do. Well, you do.

9 **THE COMMISSIONER:** For now.

10 Or ---

11 **MR. ENGELMANN:** Sorry, the Commissioner
12 does.

13 It's a question that Mr. Lee asked, and I
14 just want a brief follow-up, about your knowledge or lack
15 thereof, perhaps is a better word for it.

16 He -- when he asked you about your knowledge
17 and this would have been post the Silmsler report to Bill
18 Roy. And effectively said, until 1999, you thought the
19 Silmsler/Seguin issue was an isolated historical event.

20 **MS. NEWMAN:** That's right.

21 **MR. ENGELMANN:** And would you agree with me
22 that you should have known more; that someone should have
23 informed you about many more things?

24 **MS. NEWMAN:** Yes, I would.

25 **MR. ENGELMANN:** Because what we've heard

1 about is -- I'm certainly not going back to -- for House
2 notes, '94, '94, '95, '96, referring to bar, referring to
3 "The Fifth Estate," referring to charges. We know about
4 Mr. Barque's conviction in '95. We know about charges and
5 the suicide in June of '98. We know there's a lawsuit in
6 '96-'97 with Albert Roy, vis-à-vis both Barque and Seguin.
7 We have Project Truth going on in the City of Cornwall from
8 the spring of '97; we've got the Varley incident. There's
9 all sorts of things that some people in your Ministry knew
10 and you were the person supervising, sort of indirectly,
11 the Cornwall office.

12 **MS. NEWMAN:** Yes and unfortunately, I think
13 it's become evident that our information systems are
14 fragmented and we need a more systemic solution to that,
15 which I've spoken to in the recommendations.

16 **MR. ENGELMANN:** Yes, but you would have
17 expected, would you not, because you've met with all of
18 these people at the time who worked there that somebody
19 there, whether it's the area manager or members of staff
20 would have informed you about some of these other issues so
21 that you wouldn't have had the belief that the Ken Seguin
22 incident was an isolated incident with David Silmser?

23 **MS. NEWMAN:** To the extent that an
24 individual existed with the entire corporate memory, it
25 would have been very helpful to have had that information.

1 **MR. ENGELMANN:** But even just some of it
2 would have been helpful to you, so you didn't think it was
3 an isolated event; correct?

4 **MS. NEWMAN:** True.

5 **MR. ENGELMANN:** Thank you very much.

6 **MS. NEWMAN:** Thank you.

7 **THE COMMISSIONER:** Ms. Newman, I'd like to
8 thank you for your two days that you spent with us, maybe
9 three because of Monday.

10 I certainly will look at your
11 recommendations and see where we go with them.

12 Have a safe trip back.

13 **MS. NEWMAN:** Thank you, Mr. Commissioner.
14 Thanks all.

15 **THE REGISTRAR:** Order, all rise; veuillez
16 vous lever.

17 This hearing is adjourned until tomorrow
18 morning at 9:30 a.m.

19 --- Upon adjourning at 3:56 p.m.

20 /L'audience est ajournée à 15h56

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C E R T I F I C A T I O N

I, Marc Demers a certified court reporter inthe Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Marc Demers, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Marc Demers, CVR-CM