

**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 5**

**Held at :**

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

Tuesday, February 14, 2006

**Tenue à:**

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

Mardi, le 14 février 2006

**Appearances/Comparutions**

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Louise Mongeon	Registrar
Ms. Raija Pulkkinen	Commission Counsel
Mr. John E. Callaghan Mr. Mark Crane	Cornwall Police Service Board
Mr. Neil Kozloff Det. Insp. Colleen McQuade Ms. Gina Saccoccio Brannan, Q.C.	Ontario Provincial Police
Mr. Joe Neuberger Mr. Mike Lawless	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Judie Im	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Peter Wardle	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Bennett	The Men's Project
Mr. David Sherriff-Scott Me André Ducasse	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Giuseppe Cipriano	The Estate of Ken Seguin and Scott Seguin and Father Charles Macdonald

**Appearances/Comparutions**

Mr. Christopher Avery

Mr. Jacques Leduc

Mr. William Carroll

Ontario Provincial Police  
Association

Mr. Peter Engelmann

Dr. David A. Wolfe, Ph.D

Mr. Peter Engelmann

Professor Nicholas Bala, LL.M.

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1 --- Upon commencing at 10:03 a.m./

2 L'audience débute à 10h03

3 **THE REGISTRAR:** Order. All rise.

4 This hearing of the Cornwall Public Inquiry  
5 is now in session. The Honourable Mr. Justice Normand  
6 Glaude, Commissioner, presiding.

7 Please be seated. Veuillez vous asseoir.

8 **THE COMMISSIONER:** Mr. Engelmann.

9 **MR. ENGELMANN:** Good morning.

10 **THE COMMISSIONER:** Oh, I'm sorry. You are  
11 right. You are Mr. Dallas Lee.

12 **MR. LEE:** Good morning.

13 **THE COMMISSIONER:** Mr. Lee, how are you  
14 doing today?

15 **MR. LEE:** Not too bad. How are you?

16 **THE COMMISSIONER:** Great. You were about to  
17 complete your cross-examination.

18 **MR. LEE:** Yes.

19 **DAVID ALLEN WOLFE, Resumed/Sous affirmation solennelle:**

20 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE  
21 (continued/suite):

22 **MR. LEE:** Good morning, Dr. Wolfe.

23 **DR. WOLFE:** Good morning.

24 **MR. LEE:** When we left off yesterday, you  
25 were discussing some of the challenges that you face when

1 interviewing victims or alleged victims of sexual abuse.  
2 You mentioned right at the end of the day that oftentimes  
3 they will be embarrassed to provide you with details or  
4 that they will be hesitant to tell you the full story.

5 Is that correct?

6 **DR. WOLFE:** Yes.

7 **MR. LEE:** Now, you also explained that your  
8 job is to find out what happened to these people and then  
9 to process what to do about it.

10 Is that correct?

11 **DR. WOLFE:** Say that again; sorry.

12 **MR. LEE:** Right at the end of the day you  
13 explained that your job when interviewing a victim or an  
14 alleged victim is to try to find out what happened to these  
15 people and then to process what to do about it from there.

16 **DR. WOLFE:** Typically not to find out what  
17 happened but to accept -- what I've been doing is in terms  
18 of the impact of what happened, not the actual events  
19 themselves. As I said, I don't investigate.

20 **MR. LEE:** Do you -- in the course of doing  
21 what you do in terms of trying to treat these people, do  
22 you have to draw some kind of conclusion on whether or not  
23 it's likely that something happened to these people?

24 **DR. WOLFE:** Yes, that's certainly true, yes.

25 **MR. LEE:** And is it fair to say that you

1 have extensive experience interviewing and counselling  
2 victims of sexual abuse?

3 DR. WOLFE: I think so, yes.

4 MR. LEE: For example, you pointed the work  
5 you did at Mount Cashel and you've actually published out  
6 of that where you have extensive experience interviewing  
7 those victims.

8 Is that correct?

9 DR. WOLFE: Yes.

10 MR. LEE: Now, yesterday you went through in  
11 some detail several of the symptoms that you typically see  
12 in victims of sexual abuse. You talk about trust in  
13 relationships. You talk about self-control. You talk  
14 about inappropriate coping, trouble with authority, things  
15 like that.

16 Generally, does looking at these symptoms  
17 help you determine whether an alleged victim's story is  
18 credible in some way?

19 DR. WOLFE: Well, the symptoms may be very  
20 consistent with someone who has been abused. So it does  
21 help me draw that conclusion, but the symptoms alone  
22 wouldn't of course prove that they were or that it does --  
23 someone who has been actually abused would show a typical  
24 pattern like that and wouldn't be able to fake that.

25 MR. LEE: So those symptoms are something

1       you consider when you're sitting down with the victim for  
2       the first time?

3                   **DR. WOLFE:**  Yes.

4                   **MR. LEE:**  Do you generally -- are you  
5       generally able to make a conclusion and I'm not talking  
6       necessarily in a legal sense here, for your own -- to  
7       satisfy yourself, are you generally able to conclude  
8       whether or not in your opinion a victim that you're meeting  
9       with was likely to have been the victim of sexual abuse or  
10      whether the story is likely fabricated?

11                  **DR. WOLFE:**  Yes.  If asked to do so, I'm  
12      usually able to do so.

13                  **MR. LEE:**  And can I assume -- well, I'll  
14      just put it to you, I guess.  As part of the story that  
15      you're hearing that you need to consider, would you look at  
16      things that you discussed yesterday such as whether or not  
17      the victims were vulnerable in some way to a perpetrator?

18                  **DR. WOLFE:**  Yes.

19                  **MR. LEE:**  And I take it you would look at  
20      the nature of the relationship between the alleged victim  
21      and the alleged perpetrator in terms of the trust or  
22      authority balance?

23                  **DR. WOLFE:**  Yes.

24                  **MR. LEE:**  And would you also look at whether  
25      or not -- as you discussed yesterday, you specifically

1 mentioned Boy Scout leaders or hockey coaches where there  
2 is a relationship wherein the victim and the perpetrator  
3 are allowed by society to be together and it's seen as  
4 normal.

5 Is that something you might consider?

6 **DR. WOLFE:** It doesn't matter what the  
7 nature of the group was, but I would consider whether  
8 they'd have opportunity, yes. In other words, it doesn't  
9 matter that it's Boy Scouts or ---

10 **MR. LEE:** Right.

11 **DR. WOLFE:** --- anything like that.

12 **MR. LEE:** And also you discussed yesterday  
13 that generally victims of sexual abuse are not subject to a  
14 lot of violence because it just works better if you don't  
15 have to use violence. The perpetrators find it easier to  
16 use kindness and to use gifts and to use privilege.

17 Is that correct?

18 **DR. WOLFE:** Yes.

19 **MR. LEE:** Is that part of the story that you  
20 might consider when assessing credibility?

21 **DR. WOLFE:** Yes, that would be the dynamics  
22 of the abuse; how the child was seduced into complying with  
23 the abuse.

24 **MR. LEE:** Generally, when interviewing or  
25 when counselling a victim, an alleged victim of sexual

1 abuse, are you able to come away with a relatively strong  
2 degree of confidence as to the credibility after that  
3 interview?

4 **DR. WOLFE:** Yes, I am.

5 **MR. LEE:** So would you agree that a  
6 reasonably competent person with experience in sexual abuse  
7 would be able to tell with at least a moral certainty  
8 whether or not a story has been fabricated?

9 **DR. WOLFE:** Yes, they'd have to have  
10 experience and expertise, you know, to know the difference  
11 between someone who actually experienced something versus  
12 someone who is relating it from what they heard from  
13 someone else, but I feel confident being able to draw that  
14 conclusion not from the point of view of criminal court  
15 like, you know, it would determine that the act occurred,  
16 but from the point of view of in all likelihood it would  
17 have occurred.

18 **MR. LEE:** Can you discuss what kind of  
19 training or experience you would expect somebody to need in  
20 order to make that determination?

21 **DR. WOLFE:** Well, they would have to have  
22 familiarity with child development, I would think, so as to  
23 know the nature of what children are going through at the  
24 time and how that affects them over time. They would have  
25 to have training in mental disorders, interviewing

1 techniques and of course background and knowledge of  
2 physical and sexual abuse.

3 **MR. LEE:** I'd like to turn for a moment to  
4 issues of counselling and the necessity of counselling in  
5 somebody's recovery or in somebody's progress where a child  
6 victim -- and I'm talking while a child, not in cases of  
7 historical abuse but when the child himself discloses the  
8 abuse, how does access to counselling right away impact his  
9 recovery?

10 **DR. WOLFE:** Well, it gives a clear message  
11 that the child is not to blame for what's happened. Even,  
12 let's say, if it's not proven that it happened, it clearly  
13 removes the child from any consideration of causing it or  
14 being to blame for it. It also gives them a chance to  
15 clarify that with an adult figure that they didn't do  
16 anything wrong and I think it's important that they get  
17 that message right away. Otherwise, it does start to build  
18 over the years. So I think it's -- we now know that  
19 getting some help to correct their view of trust in adults  
20 and that is very critical.

21 **MR. LEE:** So, on the flipside, what is the  
22 effect of counselling being denied at that time?

23 **DR. WOLFE:** Well, the effect tends to be  
24 that it doesn't go away over the years. The person tries  
25 different methods to forget about it, sometimes very

1       inappropriate, as I said, drinking and inappropriate  
2       behaviour and that kind of thing, and we don't know how  
3       many of them actually succeed at that because they don't  
4       come forward perhaps.

5               We know less about the ones that actually do  
6       recover on their own, but the ones -- and I think the  
7       majority end up having more and more problems. History of  
8       failed relationships is very common. History of failed  
9       jobs, poor adjustment at school with other people, and it  
10      starts to snowball in many cases.

11             **MR. LEE:** Now, presumably there are cases  
12      where counselling is sought out and denied for whatever  
13      reason. Perhaps it's a lack of availability, whatever the  
14      reason, and presumably there are cases where counselling  
15      simply is not offered once disclosure ---

16             **DR. WOLFE:** Yes.

17             **MR. LEE:** Do you see much of a difference in  
18      the effect of those two situations or is the fact that  
19      counselling is not provided for whatever the reason bad no  
20      matter what?

21             **DR. WOLFE:** I don't know that there would be  
22      much difference there from the child's point of view. The  
23      important message, it's not just counselling but it's  
24      someone -- it could be the mother, as I say, or an adult --  
25      supports the child, gives the clear message that they're

1 not to blame. That's step number one. Counselling then  
2 can take that further, but without the fundamental support  
3 of the child's family or caregivers, it's very difficult  
4 for a therapist to reverse the confusion on the point of  
5 the child.

6 **MR. LEE:** And turning then to those  
7 situations where an adult comes out and identifies  
8 themselves as having been a victim of childhood sexual  
9 abuse, how critical is it for that person to get immediate  
10 access to counselling?

11 **DR. WOLFE:** I think it's very critical as  
12 well because once they have come to the resolution that  
13 they need to tell someone, that they need to make this more  
14 public or at least among a circle of friends or family,  
15 it's a crisis point for many of them. And without support,  
16 without proper therapy and awareness of what really  
17 happened and how it's affected them, they could have  
18 significant adjustment problems.

19 **MR. LEE:** What kind of significant problems?

20 **DR. WOLFE:** Well, what I've seen is they  
21 might get back into heavy drinking or some kind of abusive  
22 behaviour to themselves or others. They have problems with  
23 their job, everything starts to deteriorate on them faster  
24 and self-destructive, suicidal attempts. It's a crisis  
25 point once someone has decided to talk about it because now

1           keeping it quiet was working to a certain extent. They  
2           were suffering but at least they were pushing it aside as  
3           best they could and when they decide not to do that, they  
4           need help right away.

5                       **MR. LEE:** Now, you mentioned that there  
6           could be serious substance abuse; you mentioned suicide and  
7           things like that. Those, in my mind at least, primarily  
8           affect the individual. How would you think that a lack of  
9           counselling at the time would affect those around him, his  
10          family, perhaps his community?

11                      **DR. WOLFE:** Well, what I see is that as well  
12          meaning as the family supports usually are, if they don't  
13          get help over a course of usually two or three years, even  
14          in civil litigation, the family is under a lot of pressure.  
15          The person may become moody, angry, abusive, difficult to  
16          get along with and so forth. So it affects everyone in  
17          their vicinity really.

18                      **MR. LEE:** Just to be clear, do they need  
19          help to begin with in two to three years or they need help  
20          for two to three years after the disclosure?

21                      **DR. WOLFE:** Both. They need the help right  
22          away, and it usually takes two to three years of supportive  
23          counselling to get them through this. They have to really  
24          shift their way of interacting with people and build trust  
25          again and it takes a while.

1                   **MR. LEE:** What do you expect to be the  
2 result after two to three years of counselling? Are they  
3 then at the point where they are healed; are they're then  
4 at the point where they are fine or are there further steps  
5 to be taken?

6                   **DR. WOLFE:** Of course, that does vary by  
7 individual. In the best circumstances where they have a  
8 supportive spouse, supportive family, supportive job,  
9 everything is lined up well; they can live a normal life.  
10 I doubt that they will ever forget it, and it will always  
11 be a painful memory. That's the best circumstance.

12                   The more typical circumstance, I guess I  
13 could liken it to a serious injury that will always lead  
14 them -- make them feel some degree of pain, some  
15 disability. So in all likelihood even with help, they will  
16 suffer to a certain extent in their relationships and self-  
17 esteem and such.

18                   **MR. LEE:** It really depends on the person,  
19 doesn't it?

20                   **DR. WOLFE:** It depends on the person. It  
21 depends on how significant the abuse was and the  
22 relationship they had originally with a person, typically.

23                   **MR. LEE:** Thank you, Dr. Wolfe. Those are  
24 my questions.

25                   **DR. WOLFE:** You are welcome.

1                   **THE COMMISSIONER:** So now we will hear from  
2 the Men's Project.

3                   Good morning, sir.

4                   **MR. BENNETT:** Good morning, Mr.  
5 Commissioner.

6                   I would just like to mention -- I know our  
7 standing is a special type of standing, but we would like  
8 for the contextual hearings to have the ability to ask some  
9 questions of the witnesses ---

10                  **THE COMMISSIONER:** All right.

11                  **MR. BENNETT:** --- with your permission.

12                  **THE COMMISSIONER:** Yes.

13                  **MR. BENNETT:** Thank you very much.

14 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**  
15 **BENNETT:**

16                  **MR. BENNETT:** Good morning, Dr. Wolfe.

17                  **DR. WOLFE:** Good morning.

18                  **MR. BENNETT:** I would also like to thank you  
19 yesterday for your testimony. It was very educational and  
20 enlightening, and it was a good start for this inquiry.

21                  **DR. WOLFE:** Thank you.

22                  **MR. BENNETT:** I would like to refer you to  
23 one of the articles that you had, and that was Article 14,  
24 the one "Child Abuse and Religiously-Affiliated  
25 Institutions: The Long Term Impact on Men's Mental Health"

1 and, in particular, page 6, the last page where it says  
2 "Practice Implications".

3 **DR. WOLFE:** M'hm, I'm here.

4 **MR. BENNETT:** And I just want to read from  
5 what you've said there:

6 "Victims of historical abuse are coming  
7 forward at alarming rates and the field  
8 of mental health needs to become more  
9 familiar with their particular  
10 assessment and treatment needs. The  
11 study revealed numerous mental health  
12 and adjustment problems in these men,  
13 which have been previously overlooked."

14 I was curious, how have men's needs been  
15 overlooked?

16 **DR. WOLFE:** Well, I begin by saying that men  
17 in our society are stereotypically assumed to be able to  
18 handle things. We discovered after World War I and World  
19 War II that they couldn't always handle the trauma they  
20 saw, and it showed up as we called battle fatigue and later  
21 became post-traumatic stress. They were considered,  
22 unfortunately, weak if they had that kind of symptom, and  
23 they would take it out on their family, become very abusive  
24 because they didn't know how to talk about the stress and  
25 the trauma.

1                   Soon thereafter, we now know that there was  
2 a lot of sexual abuse going on in the fifties and sixties  
3 with boys and, again, there was no message given that says  
4 it's okay to talk about this and it's not okay for it to  
5 happen, so they have to try to live with it and toughen up  
6 against those types of events.

7                   No man or woman should have to toughen up  
8 against sexual assault and abuse and so forth, so trying to  
9 suppress that, trying to be manly-like at the same time  
10 having been abused and tricked and betrayed will often lead  
11 to a conflict in their view of masculinity and the reality  
12 of their life. So over time they start to, what we call,  
13 decompensate, become less able to fulfil their view of what  
14 they should be like and that's why I say they may become  
15 very abusive because they are frustrated, angry, don't know  
16 how to tell people how they feel.

17                   So it has a lot to do with our view of  
18 masculinity, but it also has a lot to do with the fact that  
19 they simply don't have anyone to talk to about it.

20                   **MR. BENNETT:** And at the time of the  
21 investigations into Cornwall in the early 1990s what type  
22 of services were available for men?

23                   **DR. WOLFE:** For this type of?

24                   **MR. BENNETT:** Yes, for these types of issues  
25 of historic abuse.

1                   **DR. WOLFE:** Well, I can't speak for Cornwall  
2                   in particular, but I could say that within Ontario there is  
3                   very little services specifically. You wouldn't be able to  
4                   go to any of the Yellow Pages and see counselling for abuse  
5                   or historical trauma or men's issues even typically. If  
6                   you went to your doctor or hospital, and this probably  
7                   still stands to this day, and described historical abuse  
8                   and you were trying to deal with the trauma, there wouldn't  
9                   be a unit or a specialist to this day typically.

10                   **MR. BENNETT:** And would this have  
11                   contributed to the problem?

12                   **DR. WOLFE:** It contributes to the lack of  
13                   healing. The problem, of course, was what happened  
14                   originally. What it contributes to is the difficulty of  
15                   ever healing and restoring what they need. So yes, in that  
16                   sense, it made things worse over time, not having any help.

17                   **MR. BENNETT:** And as you indicated, it  
18                   hasn't changed a real lot today?

19                   **DR. WOLFE:** I think I'm comfortable saying  
20                   that we still don't have resources specifically with the  
21                   right calling card, as I call it, for men to be able to say  
22                   -- to knock on a door and make a phone call and for the  
23                   person at the other end to know what they are asking for.  
24                   Hopefully, what would come out of something like this is  
25                   the message that it's okay to talk to someone and here is

1           how you go about doing it. It's not easy.

2                           **MR. BENNETT:** Do men and women experience  
3           abuse differently?

4                           **DR. WOLFE:** That's a big question. There  
5           are very many core-shared issues around trust and betrayal  
6           that I think are very common. The difference has to do  
7           with, as I say, the masculinity/femininity issues in our  
8           society, what they should be like versus what they are.

9                           So I think, stated simply, men tend to cope  
10          differently than women do and other than the issue of the  
11          embarrassment of homosexuality that we talked about because  
12          of their confusion over sex and their orientation, which  
13          women don't typically have when they are abused, but they  
14          may have anger towards sexual relations. Other than that,  
15          I think there is more similarities than there are  
16          differences.

17                          **MR. BENNETT:** And what about in terms of the  
18          needs of treatment. Would there be differences between men  
19          and women in sort of the counselling?

20                          **DR. WOLFE:** The differences there is that  
21          the counsellor, him or herself, has to be more familiar  
22          with how men express their hurt and anger. They have to be  
23          prepared for a man to be extremely abusive and angry  
24          because part of the process of healing is being able to  
25          express how you feel without being able to say how

1 frustrated they felt or how angry they felt, how betrayed  
2 they felt, and you can't just say it like I am. You have  
3 to really -- you're going to really feel it. Most of the  
4 men that I saw were in tears within 15 or 20 minutes just  
5 talking about this.

6 So it's a very, very devastating,  
7 humiliating, soul-destroying, I think is a way to express  
8 it for men and women, and they have to be able to feel safe  
9 expressing it with someone they are comfortable with.

10 **MR. BENNETT:** And are you aware that there  
11 are approximately 34 sexual assault centres for women in  
12 the Province of Ontario?

13 **DR. WOLFE:** No, I'm not.

14 **MR. BENNETT:** Are you aware that there are  
15 numerous sexual assault centres in this province for women?

16 **DR. WOLFE:** Yes, I am.

17 **MR. BENNETT:** Are you aware that -- would  
18 you be aware that generally that women's sexual assault  
19 centres are not funded by the Attorney General to deal with  
20 men who have been sexually assaulted?

21 **DR. WOLFE:** I am aware that they don't have  
22 treatment services for men, yes.

23 **MR. BENNETT:** And would you be aware that  
24 there's only one organization in the province of Ontario  
25 providing services for men?

1                   **DR. WOLFE:** I know that they were very few  
2                   so ---

3                   **MR. BENNETT:** So it wouldn't surprise you  
4                   that there is only one?

5                   **DR. WOLFE:** It wouldn't surprise me, no.

6                   **MR. BENNETT:** And one of the things that you  
7                   said in your testimony yesterday which really struck me was  
8                   emotional scars don't heal unless you get assistance.

9                                 Would it be fair to say, as a result of  
10                   that, that one thing is needed and one thing this inquiry  
11                   could do is make a recommendation for more funding for  
12                   programs for men?

13                   **DR. WOLFE:** I think so. I think that more  
14                   public awareness for men; so in other words, how to access  
15                   proper services, and of course to provide those proper  
16                   services is very needed because even if you did decide to  
17                   seek help or under the pressure of your family you finally  
18                   decide you did, it's not easy to find the right service;  
19                   very true.

20                   **MR. BENNETT:** So it would be very important  
21                   to have some more government-funded programs for men for  
22                   counselling and other types of programs to help with their  
23                   healing?

24                   **DR. WOLFE:** I think it is. Most of the  
25                   services for men are offered through prisons unfortunately,

1 so I think if we want to really cut the cost to society we  
2 should be providing it well in advance of the men showing  
3 their anger in other ways. For boys and men, most services  
4 are offered through the criminal justice system.

5 **MR. BENNETT:** Thank you very much.

6 Those are my questions for this morning.

7 Thank you.

8 **DR. WOLFE:** You're welcome.

9 **THE COMMISSIONER:** Thank you, Mr. Bennett.

10 Now, we will hear from Mr. Cipriano.

11 Good morning, sir.

12 **MR. CIPRIANO:** Good morning.

13 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**

14 **CIPRIANO:**

15 **MR. CIPRIANO:** Good morning, Dr. Wolfe.

16 **DR. WOLFE:** Good morning.

17 **MR. CIPRIANO:** I just have a few questions.

18 You indicated yesterday, and there was a lot  
19 of talk yesterday in your examination-in-chief and as well  
20 in cross-examination that 1980 seemed to be a significant  
21 date in terms of there was a change in perception in how we  
22 approached child sexual abuse.

23 **DR. WOLFE:** Roughly so, yes. I mean I can't  
24 pinpoint that year, but approximately then, yes.

25 **MR. CIPRIANO:** And I guess that change of

1 perception was a focus away from abuse within the family to  
2 abuse within the larger public institutions.

3 DR. WOLFE: Yes.

4 MR. CIPRIANO: And that, I guess, fostered a  
5 trend towards more disclosure, as you said, and more  
6 accepting the stories of victims and not blaming them. I  
7 guess more openness and having more credibility within the  
8 victim?

9 DR. WOLFE: Yes.

10 MR. CIPRIANO: That took quite some time to  
11 do but it -- the shift began in the early eighties to  
12 recognize it was beyond the family and we needed to hear  
13 more about that.

14 A significant case that was talked about was  
15 this -- sorry -- Mount Cashel case ---

16 DR. WOLFE: Yes.

17 MR. CIPRIANO: --- that you had extensive  
18 work with?

19 DR. WOLFE: Yes.

20 MR. CIPRIANO: Who were the parties involved  
21 in that case?

22 DR. WOLFE: In the litigation aspect?

23 MR. CIPRIANO: Yes.

24 DR. WOLFE: When I was involved it was the  
25 liquidator for the Christian Brothers of Ireland in Canada;

1 in other words, they had all of their assets to liquidate,  
2 and the other parties were the Christian brothers  
3 themselves, I believe, and then all the victims that came  
4 forward.

5 **MR. CIPRIANO:** Okay. When you say you were  
6 involved as a -- in assisting as a liquidator in their  
7 assets, was that in respect to payment of damages?

8 **DR. WOLFE:** Yes.

9 **MR. CIPRIANO:** I take it the original  
10 offenders were not the institutions themselves with  
11 individuals within the institutions?

12 **DR. WOLFE:** Yes, but of course they were  
13 represented because of accusations of negligence and such.

14 **MR. CIPRIANO:** Okay. That case and others  
15 that came after that in the eighties and nineties attracted  
16 a lot of media attention in this area.

17 **DR. WOLFE:** Yes.

18 **MR. CIPRIANO:** That, I guess, led to more  
19 and more larger claims against public institutions such as  
20 government, school boards or religious groups with respect  
21 to settlement for damages for sexual abuse?

22 **DR. WOLFE:** I'm not sure I could speak to  
23 that precisely, but certainly they have increased in Canada  
24 and the U.S., you know, since the mid to late eighties  
25 because of the public awareness that these things do exist

1 and they can be sued.

2 **MR. CIPRIANO:** When you say that you  
3 assisted in evaluating damages, what specifically did you  
4 assist with; like what did you do specifically?

5 **DR. WOLFE:** My specific role was to  
6 determine the harm done to the individual and that  
7 psychological harm. So I did testing, interviewing and so  
8 forth, to look at their life and determine to the best of  
9 my ability what this has done to their life and that  
10 typically meant across a wide range of areas; employment,  
11 education, relationships and family, and then quality of  
12 life issues and happiness, and then mental disorders.

13 **MR. CIPRIANO:** Were you asked to ever place  
14 a dollar value on these assessments?

15 **DR. WOLFE:** No.

16 **MR. CIPRIANO:** The growth, I guess, in these  
17 claims -- what I'm getting at is -- has moved away from  
18 looking at specific individuals to the larger institutions;  
19 as you said, the negligence of the institutions.

20 **DR. WOLFE:** Yes.

21 **MR. CIPRIANO:** These institutions you're  
22 talking about are government institutions, schools,  
23 religious groups; larger institutions that have a large  
24 public presence in communities.

25 **DR. WOLFE:** Yes. Typically, yes.

1                   **MR. CIPRIANO:** These institutions also have,  
2 for a lack of a better term, deep pockets.

3                   **THE COMMISSIONER:** This is an expert on  
4 sexual abuse in the medical field. I don't know, where are  
5 we going with all of this at this point?

6                   **MR. CIPRIANO:** Okay. Well, if ---

7                   **THE COMMISSIONER:** No, no. Please, help me  
8 out. If you want ---

9                   **MR. CIPRIANO:** Okay.

10                  **THE COMMISSIONER:** --- to pursue it, tell me  
11 why, and if you don't, then you can go to something else if  
12 you wish.

13                  **MR. CIPRIANO:** Well, I was going to come to  
14 something that was mentioned in the outline of the evidence  
15 yesterday.

16                  **THE COMMISSIONER:** Okay. All right.

17                  **MR. CIPRIANO:** If I can, in the outline -- I  
18 don't know what tab it's at, but there is under the "False  
19 Allegations" heading.

20                  **THE COMMISSIONER:** So I believe we're  
21 looking ---

22                  **MR. CIPRIANO:** Tab 3; I'm sorry.

23                  **THE COMMISSIONER:** Tab 3 is the summary of -  
24 - or the outline of evidence.

25                  **MR. CIPRIANO:** The last bullet point, I

1 guess, on page 6.

2 **THE COMMISSIONER:** All right.

3 **MR. CIPRIANO:** The last sentence in that  
4 last bullet point reads:

5 "Although believed to be rare,  
6 allegations (true and false) -  
7 incentives, may be influenced by  
8 monetary or other incentives or poor  
9 recall of historical events."

10 **THE COMMISSIONER:** Where are you looking?

11 All right.

12 Do you have it, Dr. Wolfe?

13 **DR. WOLFE:** Yes.

14 **THE COMMISSIONER:** Thank you.

15 **MR. CIPRIANO:** What I'd like to ask you is  
16 when you say "influenced by monetary or other incentives,"  
17 what you mean is someone can come forward, not because of  
18 sincerely being abused, but because there is a monetary  
19 incentive?

20 **DR. WOLFE:** Well, it's always something we  
21 have to consider. I'm not aware that it happens, but it's  
22 human nature to be careful if there's money involved. A  
23 sceptic could say I'm making a mountain out of a moll hill,  
24 but my experience is that no matter how small, so to speak,  
25 the amount of abuse, it can still have a significant

1 impact. So we just have to be cautious. We don't know  
2 enough about how memory works and we don't know enough  
3 about how to control for other motivation. That's why we  
4 have to be careful in terms of knowing what happened to the  
5 person.

6 **MR. CIPRIANO:** Well, what I'm getting at is  
7 since, I guess, this shift in perception -- and I'm using  
8 the Mount Cashel incident as kind of the benchmark incident  
9 in which we started to look at it differently -- there have  
10 been larger claims begun?

11 **DR. WOLFE:** Yes, I think so.

12 **MR. CIPRIANO:** There is larger claims  
13 against large institutions.

14 **DR. WOLFE:** Yes.

15 **MR. CIPRIANO:** In an era where disclosure is  
16 more accepted by people doing the investigation?

17 **DR. WOLFE:** It's better understood, yes.

18 **MR. CIPRIANO:** And so that could also have  
19 led to -- whatever number it is -- some of the false  
20 allegations, whether they'd be ---

21 **DR. WOLFE:** They simply don't know, yes.

22 I think I mentioned yesterday that it's just  
23 as difficult to make a false allegation, as it is to make a  
24 true allegation. It's a very difficult process. So I  
25 think it would be pretty tough for someone to be able to

1 get away with that.

2 (SHORT PAUSE)

3 MR. CIPRIANO: You talked a little bit about  
4 the trust relationship when allegations are brought forward  
5 and that kind of being one of the big indicators that you  
6 look at?

7 DR. WOLFE: Yes.

8 MR. CIPRIANO: And the reason why that  
9 created such a problem was that this person may have  
10 carried such a respected role in the community that the  
11 first reaction would be why would this person have done  
12 that?

13 DR. WOLFE: Yes.

14 MR. CIPRIANO: In recommending better ways  
15 to deal with issues like that, would seeking out bodies  
16 that are not part of the community to do the investigation  
17 assist in removing that barrier that was there?

18 DR. WOLFE: I don't think I can speak to  
19 that really because there are advantages and disadvantages  
20 both ways. I'm not sure that that would help.

21 MR. CIPRIANO: But if someone doesn't know  
22 that relationship exists, would they be in a better  
23 position to deal with the disclosed claim?

24 DR. WOLFE: Can you explain what you mean by  
25 that? Because if it's a priest, a teacher and so forth,

1           they would know fundamentally that they have an important  
2           relationship. So I'm not sure that they would need to be  
3           in the community to know any special unique features of  
4           that.

5                       **MR. CIPRIANO:** Okay. Finally, with respect  
6           to -- I think yesterday you spoke a little bit about  
7           repressed memory and suppressed memory and there was a  
8           difference between the two?

9                       **DR. WOLFE:** Yes.

10                      **MR. CIPRIANO:** Can you just explain what the  
11           difference is between the two?

12                      **DR. WOLFE:** Suppressed memory is something  
13           that someone just tries to put out of their mind.  
14           Consciously, they're aware of it. They don't want to think  
15           about it anymore and you try to force it away and a  
16           repressed is something that they unconsciously without  
17           purpose, without knowledge forget about. And it's the  
18           repressed ones that there's been concern sometimes pop back  
19           into memory years later, something that you weren't even  
20           aware of, you've forgotten about unconsciously and we do  
21           believe, or at least many of us do believe, that they can  
22           come back with some degree of clarity years later.

23                      **MR. CIPRIANO:** If it does come back in a  
24           repressed situation, are you able to indicate how it would  
25           come back in the sense would the events be remembered or

1 would things trigger the memory, and they would just have  
2 simple idea that something occurred?

3 **DR. WOLFE:** Well, to explain that as simply  
4 as possible in the time we have is that memory is stored  
5 with mood and emotions. The way the brain works is that  
6 most memories are tagged with an emotion, and there are  
7 some emotions that are so powerful that they override the  
8 memory. In other words, to think about that would freak  
9 you out literally.

10 So what happens is years later, you might  
11 have a certain smell, a certain sound or be located in a  
12 certain place, and you'll feel the mood, the mood -- well,  
13 typically what people express is if they are already  
14 feeling sad, they start to think of sad things. That's the  
15 best example of how mood is tagged with memory.

16 So years later, someone could start to be in  
17 a certain mood and start to recall things when they were  
18 last in that mood years ago. And similarly, if I were to  
19 sit and think about something sad, I will become sad. So  
20 they work together. They're tagged.

21 **MR. CIPRIANO:** Okay. When this memory pops  
22 back up through some trigger, a smell or some sound or  
23 event or an emotion, is the memory ever distorted?

24 **DR. WOLFE:** Well I think to some degree, it  
25 has to be distorted. It can't be precise. It's always

1 going to be somewhat distorted. We just don't know how  
2 much.

3 **MR. CIPRIANO:** That's what I was going to  
4 get to. Would it be distorted to an extent that the event  
5 itself could not be remembered, it's simply a feeling that  
6 could be remembered?

7 **DR. WOLFE:** Some people are only able to  
8 express the feeling and don't know why they have the  
9 feeling, and it may take a while them discussing it before  
10 the actual memory starts to return. That certainly can  
11 happen. It's not typical that the whole memory will return  
12 but some details may be very, very sharp.

13 **MR. CIPRIANO:** I take it the reason some  
14 details might be sharp is obviously that it's had a  
15 tremendous impact on the person.

16 **DR. WOLFE:** Probably and so they may  
17 remember exactly what color tie a person was wearing, but  
18 they have no idea how old they were. So that's what I mean  
19 by that.

20 **MR. CIPRIANO:** And when there is a  
21 triggering incident that triggers this memory, I guess what  
22 I'm getting at is if they remember certain -- if the reason  
23 they remember the incident is because it overlaps with an  
24 important or emotional time in their life, would that cause  
25 the detail of that time period to come forward?

1                   **DR. WOLFE:** It could, yes.

2                   To give you an example, if I was a therapist  
3                   and someone said, "I think I was around 13 or 14, something  
4                   happened to me. Whenever I'm depressed, I start thinking  
5                   about my Grade 7 class", my method would be to ask him to  
6                   tell me everything he can remember about that era. What  
7                   did his living-room look like; what did his bedroom look  
8                   like, and the more he starts to bring that forward, those  
9                   innocent things, the more likelihood that he'll start to  
10                  fill in the other ones.

11                  **MR. CIPRIANO:** That's what I was getting at.  
12                  It's those innocent things. So if someone remembers a  
13                  field trip from a school event, that's how it triggers the  
14                  memory of the actual incident?

15                  **DR. WOLFE:** Yes.

16                  **MR. CIPRIANO:** It's those innocent things  
17                  that you would look at to help develop the memory of what  
18                  occurred?

19                  **DR. WOLFE:** Yes, because I wouldn't want to  
20                  suggest anything, and I'd want it to come from him or her.

21                  **MR. CIPRIANO:** And finally before I leave  
22                  off, you mentioned yesterday that there is a high  
23                  recidivism rate amongst pedophiles?

24                  **DR. WOLFE:** Especially certain types, yes.

25                  **MR. CIPRIANO:** Do you know or are you able

1 to comment on any recidivism rate for homosexuals.

2 **THE COMMISSIONER:** Sorry?

3 **MR. CIPRIANO:** Homosexuals. Recidivism.

4 **THE COMMISSIONER:** Recidivism rate for  
5 homosexuals.

6 **DR. WOLFE:** You mean homosexual pedophiles?

7 **MR. CIPRIANO:** Just homosexuals or both?

8 **DR. WOLFE:** I think you mean homosexual  
9 pedophiles because the term wouldn't apply to someone who  
10 is a homosexual who is not a pedophile. They don't  
11 recidivate. That's just their orientation.

12 **MR. CIPRIANO:** Okay.

13 **DR. WOLFE:** But someone who has an interest  
14 towards children, who is heterosexual or homosexual, the  
15 recidivism rates don't vary according to homosexual or  
16 heterosexual except for, as I mentioned yesterday, men who  
17 have an interest in young adolescent boys tend to have the  
18 highest recidivism rate. I don't know if that's related to  
19 homosexuality. I don't believe it is. That's just --  
20 that's their sexual orientation as adolescent boys.

21 **MR. CIPRIANO:** Thank you.

22 **THE COMMISSIONER:** Thank you. Now we will  
23 hear from Mr. Chisholm, representing the Children's Aid  
24 Society.

25 Do you have any questions of this witness,

1 sir?

2 **MR. CHISHOLM:** I do, yes, Mr. Commissioner.

3 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

4 **CHISHOLM :**

5 **MR. CHISHOLM:** Good morning, doctor. My  
6 name is Peter Chisholm. I'm counsel for the local  
7 Children's Aid Society.

8 If I could take you to Tab 3 of Exhibit 16-  
9 P, which is your outline of evidence ---

10 **DR. WOLFE:** M'hm.

11 **MR. CHISHOLM:** --- and specifically to the  
12 second page of that outline, please, and to the second  
13 heading, "Types and Prevalence of Child Sexual Abuse".  
14 Yesterday, you -- I'm interested in the two definitions of  
15 the third and the fourth bullets:

16 "Exclusive pedophiles are men who can  
17 have sex only with children."

18 And secondly;

19 "The non-exclusive pedophiles comprise  
20 those men who are capable of having  
21 age-appropriate sexual relations, but  
22 fantasize about sexual contact with  
23 children."

24 Just to clear up the definition of a  
25 pedophile, am I correct that a pedophile can be a female?

1 DR. WOLFE: Yes, it can be.

2 MR. CHISHOLM: And you're putting it in this  
3 context because of the rarity of the event, in terms of  
4 what you said yesterday about females not generally being -  
5 - it's rare for a female to be engaged in child sexual  
6 abuse?

7 DR. WOLFE: To my knowledge, and I could  
8 check, that actually comes right out of the DSM-IV. So  
9 that's not my terminology. They said "men". I could check  
10 that, but ---

11 MR. CHISHOLM: And the DSM-IV -- I don't  
12 have that with me, but Tab 5, I believe, of Exhibit 16(p),  
13 does it say "individuals" or does it say "men"?

14 (SHORT PAUSE/COURTE PAUSE)

15 DR. WOLFE: Okay, it says "individuals".  
16 Yes, that's my mistake.

17 MR. CHISHOLM: Thank you.

18 If I could take you again to your outline of  
19 evidence, to page 4, under the fourth heading,  
20 "Institutions, Protocols and Standards and Community  
21 Responses", the first two bullets state:

22 "The police are the usual investigators  
23 when the alleged perpetrator is outside  
24 the family."

25 And the second one states:

1                    "There are also a number of situations  
2                    where child welfare authorities might  
3                    become involved."

4                    Can you give us examples of the number of  
5                    situations where child welfare authorities might become  
6                    involved, with respect to the investigations of CSA?

7                    **DR. WOLFE:** If it's one of their wards,  
8                    temporary wards, they would become involved, even if it  
9                    wasn't abuse by a family member or a foster parent. And  
10                   they, of course, would become involved if it was a parent,  
11                   step-parent, sibling, grandparent; someone living in the  
12                   home, or visiting constantly. They would probably, and  
13                   from my experience, would become involved in conjunction  
14                   with the police, if it was someone who, you know, visits  
15                   the family, is close to the family, has a family-like  
16                   relationship, to assist the police in investigation and so  
17                   forth.

18                   Oh, sorry, and they also often become  
19                   involved in interviewing the children with the police, to  
20                   assist in the investigation.

21                   **MR. CHISHOLM:** Okay. And just to take you  
22                   back to that last point, would assisting the police with  
23                   respect to the interviewing of the children, would that be  
24                   in relation to any allegation of child sexual abuse, even  
25                   if it was outside the care-giving role that the child

1 welfare agency would normally find itself involved in?

2 **DR. WOLFE:** I think so, but I can't speak  
3 100 per cent, but they -- certainly if the police feel that  
4 someone at child welfare has more expertise in seeing what  
5 the child is telling you then they would ask for that help.

6 **MR. CHISHOLM:** Okay.

7 And if I could take you to page 6 of your  
8 outline of evidence and specifically under the heading  
9 number seven, "Difficulty for Persons Working with  
10 Children." I'm interested to start with, the first two  
11 points:

12 "Social workers, healthcare providers,  
13 childcare agencies and other service  
14 providers have difficulty in responding  
15 to these cases."

16 What do you base that comment on, doctor,  
17 with respect to the difficulty in responding? Would that  
18 be your general observation or do you have empirical or  
19 scientific studies that would support that statement?

20 **DR. WOLFE:** This is more from clinical  
21 experience. There aren't any studies specific to that. I  
22 was referring really to the complexity of what is involved.  
23 It is not the same as looking at an x-ray and seeing a  
24 broken bone. You have to really interpret what is being  
25 told to you, make sure that the interpreting is objectively

1 and accurately as possible. So it's not a straightforward  
2 thing to do.

3 **MR. CHISHOLM:** Okay. And with respect to  
4 the difficulty in responding to these cases; would it be  
5 fair to say that that difficulty would apply to any  
6 individual or entity that was charged with conducting that  
7 investigation and not just child welfare agencies?

8 **DR. WOLFE:** Yes. It would.

9 **MR. CHISHOLM:** It's just the nature of the  
10 investigations, is that right?

11 **DR. WOLFE:** Yes.

12 **MR. CHISHOLM:** Okay.

13 And the second bullet states:

14 "There may be issues of under-staffing,  
15 insufficient training or lack of  
16 resources".

17 Do I take it, that it is your view that that  
18 difficulty could be resolved to some degree if the  
19 staffing, training, the resources were increased, to a  
20 child welfare agency?

21 **DR. WOLFE:** Yes, I think, making the analogy  
22 to a medical problem, you have to have a lot more money put  
23 into it, to really be able to have the specialists  
24 involved, to know what they are looking at. Same thing  
25 here; this is -- we think that we understand children and

1           behaviour -- pretty straightforward, but there is a lot to  
2           it that requires more training, more research, than we have  
3           been putting into it.

4                   **MR. CHISHOLM:** With respect to the issue of  
5           training, can you give us your guidance with respect to  
6           where you see the training for child welfare workers being  
7           deficient, if at all?

8                   **DR. WOLFE:** I would like to defer that to  
9           John Listen, because I don't know much about their  
10          training. I think I would be -- I am too far removed from  
11          that.

12                   **MR. CHISHOLM:** That is fair. Just in terms  
13          of -- I am just trying to understand your second bullet.  
14          You stated that, "There may be issues of insufficient  
15          training". You can't give us any particulars, at this  
16          point; is that fair to say?

17                   **DR. WOLFE:** Yes.

18                   **MR. CHISHOLM:** Okay. Thank you.

19                   Given your comments yesterday, would I be  
20          correct in understanding that you are satisfied with the  
21          training in the area of child investigations on the part of  
22          child welfare agencies?

23                   **DR. WOLFE:** Satisfied today?

24                   **MR. CHISHOLM:** Yes.

25                   **DR. WOLFE:** I think there is always more we

1 can do. I think they have come a long way, but it remains  
2 a difficult area. Mistakes can be made, as they are in any  
3 investigation, so it has to be taken with utmost of care.

4 **MR. CHISHOLM:** Maybe to put your evidence  
5 into context, from yesterday, would it be fair that of the  
6 areas of concern to a child welfare agency, they do the  
7 best job at investigation and, perhaps, your focus  
8 yesterday in your evidence, was with respect to prevention  
9 and treatment; is that fair to say?

10 **DR. WOLFE:** I'm sorry. What did you mean by  
11 that?

12 **MR. CHISHOLM:** Yesterday, during your viva  
13 voce evidence, you spoke of -- I believe you spoke of  
14 investigations, prevention and treatment and I understood  
15 your evidence to be that of those three areas, the areas  
16 that needed to be improved upon would be in the treatment  
17 areas and the prevention areas. Am I understanding your  
18 evidence correctly?

19 **DR. WOLFE:** I probably did emphasize that.  
20 The investigation also needs to be improved upon, always  
21 will. We can always do a better job.

22 **MR. CHISHOLM:** And that's true of any field.  
23 Would you agree with me?

24 **DR. WOLFE:** Absolutely.

25 **MR. CHISHOLM:** Given your evidence from

1           today and yesterday, would I be correct to conclude that  
2           you are of the view that more funding should be applied to  
3           child welfare agencies to allow those agencies to address  
4           the issues brought about by child sexual abuse?

5                       **DR. WOLFE:** That is correct. As I said to  
6           the other gentleman that it's pay me now, or pay me later.  
7           So if we do a better job up front we have less cost at the  
8           deeper end, when they have suffered more significant  
9           problems over the course. So I think it is very critical  
10          that this be handled quickly and well, for everyone's right  
11          reasons.

12                      **MR. CHISHOLM:** And you see that being -- the  
13          best way to address that is to increase the resources? Is  
14          that fair?

15                      **DR. WOLFE:** Well, certainly resources are a  
16          critical part of that and the resources are used for  
17          education and training experience and such. So I can't see  
18          how it could be done without focussing more attention on  
19          resources.

20                      **MR. CHISHOLM:** And one final question,  
21          doctor. I will take you back to page 6 of your outline.  
22          The third point under the seventh heading, you speak of  
23          smaller agencies and communities. Just to put your words  
24          into context when you speak of smaller agencies, you're  
25          referring to staff size; would that be correct?

1 DR. WOLFE: Yes.

2 MR. CHISHOLM: And what would you consider  
3 to be -- again speaking of Children's Aid Society, what  
4 would you consider to be a smaller size agency in terms of  
5 the number of staff?

6 DR. WOLFE: Well, I don't think I can tell  
7 you what a smaller one would be other than the London one,  
8 last I knew, was well over 100 social workers.

9 MR. CHISHOLM: And well over a hundred, how  
10 would you classify the London Children's Aid Society?

11 DR. WOLFE: They would be a larger one.

12 MR. CHISHOLM: A large one. And would it be  
13 fair to say any number over 100 employees would be  
14 categorized by your definition as a larger society?

15 DR. WOLFE: Yes.

16 MR. CHISHOLM: Thank you, sir. Those are my  
17 questions.

18 DR. WOLFE: Okay.

19 THE COMMISSIONER: Now we will hear from Mr.  
20 Neuberger. Is that right?

21 MR. NEUBERGER: Yes.

22 THE COMMISSIONER: From Corrections. Thank  
23 you.

24 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.  
25 NEUBERGER:

1                   **MR. NEUBERGER:** Good morning, Commissioner.

2                   Good morning, Dr. Wolfe. I am Joseph  
3                   Neuberger. I'm here on behalf of Corrections and thank you  
4                   for your evidence today. I just have a brief area.

5                   I want to focus a little bit on clinical  
6                   tools or assessments which are available. I think you've  
7                   touched on it on your evidence a little bit. If I can just  
8                   indicate that for a person who has suffered abuse but may  
9                   not come out with a complaint explicitly by making a  
10                  disclosure but may be exhibiting symptoms that we've  
11                  discussed that are commonly seen where somebody might act  
12                  aggressive and might have addiction problems, might be  
13                  breaching the law in some way, what clinical tools or  
14                  assessments are available that can be made available to  
15                  persons in public institutions to try and identify people  
16                  who are in crisis?

17                  And the reason I'm talking about this a  
18                  little is it seems that if we're looking at dealing with  
19                  these individuals holistically, it transects many  
20                  institutions from the criminal justice system to the mental  
21                  health system to education, et cetera.

22                  So are there some tools and some techniques  
23                  and assessments that you can identify that are helpful to  
24                  incorporate in training and dealing with individuals that  
25                  may be exhibiting symptoms to identify them?

1                   **DR. WOLFE:** To be clear, are you saying to  
2 identify those who have been abused but don't know it or  
3 haven't disclosed it?

4                   **MR. NEUBERGER:** We could be dealing with  
5 persons who maybe are not aware or haven't acknowledged it  
6 or they have acknowledged it to themselves but chose not to  
7 disclose it. And the concern I think from our perspective  
8 is you can deal with an individual who might be viewed as  
9 simply a person who has a conduct disorder so to speak,  
10 whereas really there may be a more serious issue that is  
11 causing their behaviour and how do you identify or try to  
12 identify to treat and help these individuals.

13                   **DR. WOLFE:** There are certainly tools  
14 available and I know most of the mental health  
15 professionals always consider underlying causes in addition  
16 to circumstantial causes for their behaviour without  
17 excusing it. So if someone injured someone, you're not  
18 looking for an excuse to say "Well, they were abused as a  
19 child". There is a lot of backlash about that because a  
20 lot of people that injure people were abused as a child.  
21 It doesn't excuse it but without recognizing the underlying  
22 causes, they will repeat it.

23                   So the tools typically address issues of  
24 trauma, trauma symptoms, and trauma in psychological sense  
25 as opposed to physical sense shows up in terms of emotional

1 -- a lot of emotional turmoil, difficulty sleeping, doing  
2 obsessive types of things to try to calm yourself. Over-  
3 sexualized is one of those. Having sex with many partners  
4 is a way to try to control your life and calm yourself.

5 So there are tools for that. Most of the  
6 screening tries to pinpoint the nature of their problems  
7 and then look to see what the possible risk factor is  
8 underlying that.

9 So to give you an example, if someone has an  
10 abusive drinking problem and a lot of difficulty to self-  
11 control emotional problems, I would think maybe they were  
12 physically abused as a child because that's a common  
13 outcome. They could have been sexually abused as a child,  
14 could have witnessed violence as a child; could have been a  
15 victim of violence throughout their life. Those are common  
16 background factors in addition to some others.

17 **MR. NEUBERGER:** Okay. So when meeting with  
18 a person who may have suffered abuse, you're really to some  
19 extent breaking down their life, taking a look at various  
20 aspects of their life.

21 **DR. WOLFE:** If your job is for treatment,  
22 yes.

23 **MR. NEUBERGER:** For example, if you're  
24 dealing with a person who is a probation officer dealing  
25 with an individual who has just been sent to Probation

1 Services because of a recent conviction and you're meeting  
2 with that person and you're doing an assessment to look at  
3 how can the Probation Services service this individual and  
4 help them, so you're breaking down their life in some very  
5 minute respects to see how they're coping in their everyday  
6 life and looking for various symptoms, I guess?

7 **DR. WOLFE:** I don't know if the probation  
8 officer would do that job, but may have it done by a  
9 psychologist or psychiatrist.

10 **MR. NEUBERGER:** Okay. Are you saying then  
11 that that type of assessment can only be done by a person  
12 who is a registered psychologist or a psychiatrist?

13 **DR. WOLFE:** Yes, I think that if there -- I  
14 think that the circumstance is such that you need to make  
15 sure you understand what you're dealing with, not just the  
16 current problem they're showing but why they're showing it  
17 and whether they're going to show it again.

18 **MR. NEUBERGER:** All right.

19 Well, let's say for identifying somebody to  
20 send on for referral to the Mental Health Services Program  
21 at the local hospital, for example, where they can see a  
22 psychiatrist; are there particular tools in place,  
23 guidelines that are available to persons who are more sort  
24 of in the trenches dealing with individuals that they can  
25 go by? I know there is -- for example, the list of service

1 inventory and other types of tools like that.

2 Are there other ones that you can identify  
3 to us that are of particular assistance?

4 **DR. WOLFE:** For mental health professionals?

5 **MR. NEUBERGER:** Mental health professionals  
6 or persons who are in education maybe as counsellors or in  
7 probation services; some other techniques or tools that you  
8 can identify for us that are helpful.

9 **DR. WOLFE:** The only tools that I can  
10 identify dealing with the issues of abuse and trauma from  
11 the background are limited to the use of mental health  
12 professionals only. They're not allowed to be used by  
13 others. So the MMPI; the personality inventory;  
14 personality assessment inventory; trauma symptom inventory;  
15 all these are classified instruments. They won't sell them  
16 to you unless you have your registration.

17 So it's not intended -- it would be misused  
18 and misinterpreted otherwise. So beyond that, the tools  
19 are more screening tools. They're symptomatic. It says,  
20 you know, "I hear voices", "I see" -- "I have trouble  
21 sleeping" and that tells you that you need to refer them  
22 and find out more.

23 **MR. NEUBERGER:** Okay. So what we're looking  
24 at then is where there are -- you know, it seems to be very  
25 basic then if you're looking at an individual, that if you

1       have just a general understanding of what symptoms may be  
2       exhibited by somebody who suffered a sexual abuse in the  
3       past, really what you're indicating is that these  
4       individuals probably should go on for referral to mental  
5       health professionals for further assessment to see if  
6       there's anything there that needs to be identified.

7                   **DR. WOLFE:** Yes, because I mean it's the  
8       same as if the nurse in the school saw certain symptoms  
9       nurses can't diagnose. So they have to send it on for a  
10      physician to do that. Probation, child welfare  
11      counsellors, teachers can't diagnose. So they have to -- I  
12      think it's their responsibility if they have concerns to  
13      have it looked into.

14                   **MR. NEUBERGER:** Okay. And I wasn't speaking  
15      more from the diagnosis standpoint. I was just trying to  
16      identify persons in crisis who need assistance and to send  
17      them on because, as you know, resources are limited when  
18      you try and send somebody on to a psychiatrist in a local  
19      hospital or to other facilities.

20                   **DR. WOLFE:** M'hm.

21                   **MR. NEUBERGER:** Resources are definitely  
22      limited. So I think I understand your answers in that  
23      regard.

24                   And I understand -- if I can just move along  
25      that stream of thought just a little bit, what is available

1 currently or most prevalent within institutions for men as  
2 far as dealing with historical sexual abuse and other types  
3 of issues like that is primarily in the criminal justice  
4 system in our prisons currently; is that correct?

5 **DR. WOLFE:** Yes, it is.

6 **MR. NEUBERGER:** And unfortunately we're  
7 dealing with things long after the fact as opposed to  
8 applying more resources into trying to identify issues for  
9 prevention.

10 Is that fair?

11 **DR. WOLFE:** Yes. We put the money in where  
12 we have to as opposed to where we need to.

13 **MR. NEUBERGER:** All right. And I think, as  
14 you indicate in your outline, the approach to try and  
15 assist identifies many areas such as improving education  
16 and involvement with families and sex education to  
17 children, et cetera? I mean it's a very broad and holistic  
18 approach that has to be taken.

19 **DR. WOLFE:** I believe so, yes.

20 **MR. NEUBERGER:** Thank you very much, doctor.  
21 I appreciate your answers.

22 **DR. WOLFE:** You're welcome.

23 **MR. NEUBERGER:** Thank you, Commissioner.

24 **THE COMMISSIONER:** Thank you.

25 And now from the Ministry of the Attorney

1 General is it Judie Im.

2 **MS. IM:** Judie Im.

3 **THE COMMISSIONER:** Im?

4 **MS. IM:** Yes, I have been directed to advise  
5 you that the Ministry of the Attorney General has no  
6 questions for Dr. Wolfe.

7 **THE COMMISSIONER:** Thank you.

8 **MS. IM:** I want to thank Dr. Wolfe. He has  
9 been very helpful.

10 **THE COMMISSIONER:** Thank you.

11 Mr. Avery is here representing Mr. Leduc.

12 **(SHORT PAUSE/COURTE PAUSE)**

13 **--- CROSS-EXAMINATION BY/COURTE-INTERROGATOIRE PAR MR.**

14 **AVERY:**

15 **MR. AVERY:** Dr. Wolfe, my name is  
16 Christopher Avery. I'm here on behalf of Jacques Leduc.

17 Yesterday, you discussed in a general sense  
18 that false reporting and fabrication is relatively rare but  
19 that it exists. If I could get you to turn to Tab 8, the  
20 Finkelhor article, it's at page 43?

21 **DR. WOLFE:** Yes.

22 **MR. AVERY:** You indicated yesterday that Dr.  
23 Finkelhor is a very well-known expert in this particular  
24 field?

25 **DR. WOLFE:** Yes.

1                   **MR. AVERY:** He is one of the original people  
2 to write about it from the late seventies?

3                   **DR. WOLFE:** Yes.

4                   **MR. AVERY:** He indicates that a review of  
5 the five studies that were done as of 1994 concluded that  
6 fabricated reports occur in 4 to 8 per cent of the reports  
7 that came in.

8                   **DR. WOLFE:** Yes.

9                   **MR. AVERY:** Is that number accurate as far  
10 as you are concerned?

11                   **MR. WOLFE:** It's the best we have to go by.

12                   **MR. AVERY:** There is nothing since 1994, new  
13 studies that you're aware of that would contradict that  
14 number?

15                   **DR. WOLFE:** No, there is not.

16                   **MR. AVERY:** If you turn the page over, in  
17 the first paragraph on page 44, Dr. Finkelhor indicates  
18 that:

19                                    "It's possible that additional  
20                                    fabricated reports lie hidden among  
21                                    cases that are unsubstantiated for lack  
22                                    of information."

23                   **DR. WOLFE:** Yes.

24                   **THE COMMISSIONER:** "It's possible that  
25 additional fabricated reports lie hidden..."

1                   Okay.

2                   **MR. AVERY:** Thank you, Mr. Commissioner.

3                   And there is a difference between fabricated  
4 and unsubstantiated reports, right?

5                   **DR. WOLFE:** Absolutely, yes.

6                   **MR. AVERY:** Fabricated are ones which are  
7 felt to be not true or fabricated, made up in some form?

8                   **DR. WOLFE:** Yes.

9                   **MR. AVERY:** And unsubstantiated is then the  
10 "can't prove it" category?

11                   **DR. WOLFE:** Yes.

12                   **MR. AVERY:** So the number of 4 to 8 per cent  
13 of fabrication may actually be higher as far as the unknown  
14 quantity that may be lying in the unsubstantiated reports?

15                   **DR. WOLFE:** It may be higher or it may be  
16 lower. We simply don't know.

17                   **MR. AVERY:** Well, it's not going to be lower  
18 as a result of what you don't know, right?

19                   **DR. WOLFE:** It could be because it could be  
20 that they are unsubstantiated. We just simply don't have  
21 enough information.

22                   **MR. AVERY:** The 4 to 8 per cent fabrication  
23 rate, Dr. Finkelhor indicates that it appears to suggest  
24 that the fabricated reports are more likely to originate  
25 from adolescence.

1 DR. WOLFE: M'hm, yes.

2 MR. AVERY: Because of their age they are  
3 better able to manufacture a credible report?

4 DR. WOLFE: Yes.

5 MR. AVERY: If they chose to?

6 DR. WOLFE: If they chose to.

7 MR. AVERY: These studies only refer to  
8 allegations that were made while the child was still a  
9 minor?

10 DR. WOLFE: Yes.

11 MR. AVERY: These do not include historical-  
12 type of allegations where somebody is in their thirties and  
13 reports it later?

14 DR. WOLFE: Yes, we don't know that, how  
15 many are fabricated at that level.

16 MR. AVERY: Again, this article is written  
17 in 1994?

18 DR. WOLFE: Yes.

19 MR. AVERY: And you're not aware of anything  
20 that would contradict that particular statement by Dr.  
21 Finkelhor since 1994?

22 DR. WOLFE: I'm not aware of any. No.

23 MR. AVERY: The 4 to 8 per cent fabrication  
24 rate refers to the entirety, the entire age band of people  
25 making these reports, both young children, adolescents;

1 correct?

2 DR. WOLFE: And adults, but adults that are  
3 reporting it in lieu of the children.

4 MR. AVERY: Okay. And the majority or the  
5 51 per cent or higher of those fabricated reports come from  
6 -- of the fabricated reports -- come from adolescents?

7 DR. WOLFE: To the best of our knowledge,  
8 yes.

9 MR. AVERY: So if we were to restrict the  
10 total number, the total pool of reports to just those made  
11 by adolescents, the fabrication rate within that pool would  
12 actually be higher than 4 to 8 per cent based on this  
13 evidence?

14 DR. WOLFE: Well, yes, I guess you are right  
15 if it's just among adolescents. I don't know what that  
16 would actually be.

17 MR. AVERY: If I could invite you to turn to  
18 Tab 6, the Bow et al article entitled "Assessment of Sexual  
19 Abuse Allegations and Child Custody Cases"?

20 DR. WOLFE: Okay.

21 MR. AVERY: In that particular article I  
22 understand that the context generally refers to assessments  
23 being made by Ph.D. level psychologists dealing with  
24 referrals from a court during a child custody dispute.

25 DR. WOLFE: Yes.

1                   **MR. AVERY:** But the general comments made  
2 about the importance of proper interviewing are widely  
3 applicable?

4                   **DR. WOLFE:** Yes.

5                   **MR. AVERY:** And I understand that the APA  
6 has not actually endorsed a list or a guideline for  
7 interviewing alleged victims of child sexual abuse?

8                   **DR. WOLFE:** I don't believe they have, no.

9                   **MR. AVERY:** If you could turn to page 567 of  
10 that report? Up at the top left-hand side of the page it  
11 indicates that:

12                                   "Although the APA has not endorsed or  
13                                   published guidelines, it indicates a  
14                                   number of other institutions".

15                   **THE COMMISSIONER:** Sorry, where are you  
16 referring, please?

17                   **MR. AVERY:** Oh, sorry, the top of page 567  
18 at the top left.

19                   **THE COMMISSIONER:** And it says, "The  
20 interview of the alleged victim"?

21                   **MR. AVERY:** And if Your Honour would --  
22 sorry, if Mr. Commissioner would move to the third sentence  
23 beginning, "Although APA has not endorsed or published  
24 guidelines..."

25                   **THE COMMISSIONER:** Okay, third sentence.

1 All right, okay.

2 **MR. AVERY:** You found those -- thank you.

3 It indicates that although the APA itself  
4 has not published these guidelines there are institutions  
5 which have?

6 **DR. WOLFE:** Yes.

7 **MR. AVERY:** Has the APA, to your knowledge,  
8 published guidelines since 2002 when this article was  
9 written?

10 **DR. WOLFE:** Not to my knowledge.

11 **MR. AVERY:** It indicates that the guidelines  
12 that are published are not often followed by professionals  
13 in the sexual abuse field?

14 **DR. WOLFE:** That's what that says. The  
15 citations given are well-known individuals who are  
16 proponents of the "false memory foundation".

17 **MR. AVERY:** Yes.

18 **DR. WOLFE:** And I don't trust their opinion,  
19 Underwager and Wakefield. I don't regard them as  
20 scientists and I wouldn't rely at all on their expertise.

21 **MR. AVERY:** And this was Underwager and  
22 Wakefield?

23 **DR. WOLFE:** Yes.

24 **MR. AVERY:** What about Poole and Lamb?

25 **DR. WOLFE:** You'll find that they published

1 that in their own journals so that's how they get into the  
2 literature. Poole and Lamb, I don't know who they are.

3 What I think is a general statement,  
4 guidelines are not always followed. That's typical. I  
5 mean, they are guidelines.

6 (SHORT PAUSE/COURTE PAUSE)

7 MR. AVERY: The lack of protocols, does that  
8 raise serious concerns in your mind relating to the  
9 interview of child sexual abuse complaints?

10 DR. WOLFE: From the American Psychological  
11 Association?

12 MR. AVERY: Yes.

13 DR. WOLFE: No. No, most -- the American  
14 Psychological Association doesn't usually have protocols  
15 for all the different specific disorders. They rely on  
16 their sections or on specialty groups such as American  
17 Academy and APSAC we talked about, Professional Society on  
18 the Abuse of Children to do that.

19 MR. AVERY: And there are general  
20 interviewing guidelines that a professional would be aware  
21 of, such as avoiding leading questions and suggestions;  
22 correct?

23 DR. WOLFE: Yes.

24 MR. AVERY: And making sure that you look at  
25 the picture outside of the interview itself?

1 DR. WOLFE: How do you mean by that?

2 MR. AVERY: That one would have to look at  
3 the circumstances surrounding the complainant?

4 DR. WOLFE: Yes.

5 MR. AVERY: The person being complained  
6 about?

7 DR. WOLFE: Yes.

8 MR. AVERY: That you would attempt to review  
9 as many external documents as you possibly could before  
10 coming to any conclusion?

11 DR. WOLFE: Well, let me clarify here that  
12 psychologists don't conclude about whether sexual abuse has  
13 happened or not, and if we are going down that road, that  
14 would be a mistake on their part.

15 I wrote an opinion on that which isn't in  
16 the evidence but there's a lot of misunderstanding that we  
17 are to conclude that indeed this happened. We can conclude  
18 that, on the preponderance of evidence, it has happened for  
19 the purpose of determining harm ---

20 MR. AVERY: Yes.

21 DR. WOLFE: --- if it's already -- if that's  
22 our role, but not investigation. So that's why there's no  
23 guidelines.

24 Guidelines for interviewing to make sure  
25 that we're not destroying evidence or making it more

1           difficult to investigate, those are what those guidelines  
2           are about, but we do not investigate allegations.

3                   **MR. AVERY:** Is interviewing a child or an  
4           adolescent, a person under 18 making a complaint about  
5           childhood sexual abuse, something which you would consider  
6           a bit of a specialization for a mental health professional?

7                   **DR. WOLFE:** Yes.

8                   **MR. AVERY:** It would take some sort of  
9           special training above and beyond what everybody would  
10          receive during the course of your education?

11                  **DR. WOLFE:** Did you say interviewing them  
12          about abuse?

13                  **MR. AVERY:** Yes.

14                  **DR. WOLFE:** Well, our training is very clear  
15          that if there's -- if you are concerned that there's abuse,  
16          you refer them to Protected Services. You do not interview  
17          them about the abuse unless asked to later.

18                                   **(SHORT PAUSE)**

19                  **MR. AVERY:** What would you consider to be  
20          the hallmarks of appropriate interviewing for a complaint  
21          into child sexual abuse under the age of 18?

22                  **DR. WOLFE:** In the child welfare field  
23          investigation or in ---

24                  **MR. AVERY:** Generally. When speaking about  
25          this particular thing such as avoiding leading questions,

1       avoiding making suggestions, are there any other landmarks  
2       or major items that you would consider to be important, or  
3       guidelines that you would consider to be important when  
4       conducting one of these sorts of interviews?

5                   **DR. WOLFE:** Well, the interviewer also has  
6       to be sensitive to the age and ability of the child or  
7       adolescent and developmental delay that they may have and  
8       language level. As I say, that you don't lead them, that  
9       you listen and that you try to have them clarify their  
10      language and emotions as much as possible, to make them  
11      feel comfortable in discussing this, make sure that they  
12      are safe wherever they're going to go next, to determine  
13      the degree of safety and risk that the child may be under  
14      now if they're making any statements about hurting  
15      themselves or others. I think that's the major points.

16                   **MR. AVERY:** If you can turn to the Kendall-  
17      Tackett article at Tab 10 of your materials, "Impact of  
18      Sexual Abuse on Children: A Review and Synthesis of Recent  
19      Empirical Studies".

20                   I was looking at page 172 entitled "Court  
21      Involvement" which you testified about at some length  
22      yesterday.

23                   **THE COMMISSIONER:** Page 172?

24                   **MR. AVERY:** Page 172, on the right-hand side  
25      column under the heading "Court Involvement."

1                   **THE COMMISSIONER:** Yes.

2                   **MR. AVERY:** Dr. Wolfe, you discussed the  
3 negative impact that the court process, whether criminal or  
4 civil, can have on a complainant of child sexual abuse.

5                   **DR. WOLFE:** Yes.

6                   **MR. AVERY:** And if I were to suggest that  
7 speed in getting to trial is an all-important factor or  
8 speed in resolving the matter is as an all-important factor  
9 ---

10                   **DR. WOLFE:** Yes, it is.

11                   **MR. AVERY:** --- from the perspective of harm  
12 to the child ---

13                   **DR. WOLFE:** Yes.

14                   **MR. AVERY:** That the quicker this matter is  
15 resolved, as far as the courts are concerned, the less harm  
16 occurs.

17                   **DR. WOLFE:** As long as it's resolved  
18 properly, yes.

19                   **MR. AVERY:** Well, if I were to suggest that  
20 the outcome of the trial doesn't relate to symptomology,  
21 would that be accurate?

22                   **DR. WOLFE:** It can affect symptompathology.  
23 If the offender is acquitted, the person may have more  
24 symptoms over time.

25                   **MR. AVERY:** If you could turn to the last

1 sentence of the first paragraph under "Court Involvement,"  
2 beginning "The outcome of the trial".

3 DR. WOLFE: Yes.

4 MR. AVERY: Is that up on your screen?

5 DR. WOLFE: Yes.

6 MR. AVERY: You would agree with me that  
7 this article that you've cited indicates that it does not  
8 in fact affect symptomology whether or not the offender is  
9 convicted or acquitted?

10 DR. WOLFE: In that study, it did not;  
11 that's right.

12 MR. AVERY: You did not provide any other  
13 studies that indicated that it does?

14 DR. WOLFE: There have been other studies.  
15 I don't recall if it's reviewed in there or not, but the  
16 reason that they investigated that in the Goodman Paper was  
17 that there's always been concern that conviction or  
18 acquittal did make a difference in adjustment. But that's  
19 not a major issue. It's -- the concern here is not whether  
20 or not the trial leads to a conviction. It may have  
21 temporary shorter term symptoms on the part of the child or  
22 adolescent, or even adult, but that's -- the recovery is  
23 going to depend on other factors, not the court.

24 MR. AVERY: And the main factor is how  
25 quickly the matter is resolved?

1 DR. WOLFE: Well, the quicker the better,  
2 yes, so that they can get on to therapy and things.

3 MR. AVERY: The study you've cited indicates  
4 that matters where they were resolved quicker than five  
5 months, the child recovered just as quickly as children who  
6 had no court involvement at all.

7 DR. WOLFE: Yes.

8 MR. AVERY: Do you agree with that  
9 statement?

10 DR. WOLFE: That's what the findings are  
11 there, yes.

12 MR. AVERY: You're not aware of any contrary  
13 studies?

14 DR. WOLFE: No.

15 MR. AVERY: Are you aware that in Ontario  
16 matters frequently take up to 18 months or more to reach a  
17 conclusion in criminal court?

18 DR. WOLFE: I wouldn't know the number of  
19 months but I know it does take long.

20 MR. AVERY: Over a year has been your  
21 experience?

22 DR. WOLFE: Yes.

23 MR. AVERY: And this is not what you would  
24 consider to be an ideal circumstance?

25 DR. WOLFE: No. It never is.

1 (SHORT PAUSE)

2 MR. AVERY: Thank you, Dr. Wolfe.

3 Thank you, Mr. Commissioner.

4 THE COMMISSIONER: Thank you.

5 It might be time for a break. So why don't  
6 we come back at 20 to 12:00.

7 Thank you.

8 THE REGISTRAR: All rise. Veuillez vous  
9 lever.

10 This hearing will reconvene at 20 to 12:00.

11 --- Upon recessing at 11:20 a.m./

12 L'audience est suspendue à 11h20

13 --- Upon resuming at 11:45 a.m./

14 L'audience est reprise à 11h45

15 DAVID ALLEN WOLFE, Resumed/Sous affirmation solennelle:

16 THE REGISTRAR: This hearing of the Cornwall  
17 Public Inquiry is now in session.

18 Please be seated. Veuillez vous asseoir.

19 THE COMMISSIONER: All right. So David  
20 Sherriff-Scott representing the diocese.

21 MR. SHERRIFF-SCOTT: Thank you, Mr.  
22 Commissioner.

23 CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

24 SHERRIFF-SCOTT:

25 MR. SHERRIFF-SCOTT: Good morning, Dr.

1 Wolfe.

2 DR. WOLFE: Good morning.

3 MR. SHERRIFF-SCOTT: I just have a very few  
4 brief questions for you, starting with some of the  
5 questions that arose yesterday afternoon in relation to the  
6 comparison of various institutions.

7 Cornwall is a city of approximately 50,000  
8 people and as I understood your evidence yesterday in terms  
9 of assessing these issues for community organizations  
10 relative to risk, it's accessibility to victims that is the  
11 sort of prime mover or characteristic for the pedophile  
12 that's the attractive issue.

13 Correct?

14 DR. WOLFE: Accessibility in an undetected  
15 fashion, yes.

16 MR. SHERRIFF-SCOTT: Yes. Okay. And so  
17 those organizations in any community such as this size  
18 which provide accessibility are more of a risk than others  
19 that don't?

20 DR. WOLFE: Of this size?

21 MR. SHERRIFF-SCOTT: Of any size, frankly,  
22 but this size in particular.

23 DR. WOLFE: I'm not sure I can establish  
24 risk on the basis of the size of community, but I think  
25 what we were discussing is that smaller communities may,

1 because they're closer-knit, may put more value into the  
2 few people they have there in authority.

3 **MR. SHERRIFF-SCOTT:** Fair enough.

4 What I understood yesterday was your focus  
5 on accessibility in terms of the pedophile; a pedophile is  
6 attracted to access.

7 **DR. WOLFE:** Yes.

8 **MR. SHERRIFF-SCOTT:** And so organizations  
9 which provide the greatest amount of access are going to be  
10 those with the greatest amount of risk, surely.

11 **DR. WOLFE:** I think so, yes.

12 **MR. SHERRIFF-SCOTT:** Okay. So if we're  
13 looking at organizations in terms of relative institutions  
14 in any society, those that are devoted almost exclusively  
15 to children's issues are going to have a higher risk, at  
16 least historically?

17 **DR. WOLFE:** Yes.

18 **MR. SHERRIFF-SCOTT:** Is that fair?

19 **DR. WOLFE:** Yes.

20 **MR. SHERRIFF-SCOTT:** For example, schools  
21 which are exclusively devoted to children.

22 **DR. WOLFE:** Yes.

23 **MR. SHERRIFF-SCOTT:** And sporting or  
24 athletic organizations. Correct?

25 **DR. WOLFE:** Schools that don't have access

1 actually to children as much as you do in some of the  
2 sporting organizations because, you know, it's during the  
3 day and they don't have time alone with them.

4 **MR. SHERRIFF-SCOTT:** So I guess from a  
5 general proposition, any organization which has significant  
6 access to children or is focused on children is an area of  
7 risk?

8 **DR. WOLFE:** Yes.

9 **MR. SHERRIFF-SCOTT:** And so in relative  
10 terms, it doesn't matter what organization you are talking  
11 about, the importance is the accessibility?

12 **DR. WOLFE:** Yes.

13 **MR. SHERRIFF-SCOTT:** Okay. Now, just on the  
14 subject of a question that was raised yesterday regarding  
15 the incidence of offenders within religious organizations  
16 as compared to other institutions, I take it from your  
17 evidence that you haven't been involved in any study or  
18 analysis of that question discreetly?

19 **DR. WOLFE:** Difference in incidence, no, we  
20 don't know that.

21 **MR. SHERRIFF-SCOTT:** Fair enough. And just  
22 the same with respect to the question of celibacy and its  
23 impact or whether it is productive of deviant behaviour;  
24 that's not something you have been involved in studying?

25 **DR. WOLFE:** No.

1                   **MR. SHERRIFF-SCOTT:** Now, just one point of  
2 clarification. Yesterday, in your evidence, in the  
3 transcript -- I just want to make sure I understood this  
4 correctly -- at page 38, you were defining for Mr.  
5 Engelmann pedophilia. And if you have page 38 ---

6                   **THE COMMISSIONER:** Just a second.  
7 He doesn't. He is just getting it.

8                   **MR. SHERRIFF-SCOTT:** I want to refer him to  
9 the specific section on page 38. It's in the middle of the  
10 page, Doctor, starting around line 12.

11                   **THE COMMISSIONER:** Okay.

12                   **MR. ENGELMANN:** Can we have the transcript?

13                   **THE COMMISSIONER:** Do we have the  
14 transcript, Madam Clerk?

15                   **MR. SHERRIFF-SCOTT:** It's really the age  
16 issue that I'm focused on, Doctor.

17                   Commissioner, may I proceed?

18                   **THE COMMISSIONER:** Yes.

19                   **MR. SHERRIFF-SCOTT:** Thank you.

20                   You defined pedophilia as

21                   "...attraction to children, a sexual orientation to  
22 children. That's the only one that's an official  
23 mental disorder in the Diagnostic Manual...So it  
24 really means anyone from ages zero to 18"?

25                   **DR. WOLFE:** I think that should be zero to

1 16. It does vary according to locale.

2 MR. SHERRIFF-SCOTT: The Diagnostic Manual  
3 you were referring to is the one you have provided?

4 DR. WOLFE: Yes.

5 MR. SHERRIFF-SCOTT: And that's at Tab 5 of  
6 the materials?

7 DR. WOLFE: Yes.

8 MR. SHERRIFF-SCOTT: And just if we can turn  
9 to the Diagnostic Manual at the third page in, under the  
10 heading "Pedophilia", you will see that on your screen  
11 shortly.

12 DR. WOLFE: Yes.

13 MR. SHERRIFF-SCOTT: It refers to "age 13 or  
14 younger"?

15 DR. WOLFE: Yes.

16 MR. SHERRIFF-SCOTT: At page 527 and over  
17 the next page, "Diagnostic Criteria" makes the same  
18 reference "general age 13".

19 I am just wondering where your evidence lands versus  
20 the transcript.

21 DR. WOLFE: Well, pedophilia is considered  
22 attraction to children and youth, and they don't have the  
23 hebophilia in here; I'm not sure why they haven't. They  
24 probably will add it to the next one, but it's generally  
25 considered under age 16 because they can't give consent.

1                   **MR. SHERRIFF-SCOTT:** Okay. The manual says  
2                   13. Your view is 16?

3                   **DR. WOLFE:** Yes.

4                   **MR. SHERRIFF-SCOTT:** And hebophilia is  
5                   something different? That's children that are older than  
6                   13?

7                   **DR. WOLFE:** That's the only difference, yes.

8                   **MR. SHERRIFF-SCOTT:** Okay. And is the  
9                   diagnostic -- not diagnostic, but the outcome for treatment  
10                  for people who have one or the other, that is to say  
11                  pedophilia or hebophilia, different?

12                  **DR. WOLFE:** The outcome?

13                  **MR. SHERRIFF-SCOTT:** If there is treatment  
14                  put into place for people who are suffering from this  
15                  condition; the offender?

16                  **DR. WOLFE:** The outcome varies in terms of  
17                  whether they are an exclusive type. Then it's a tougher  
18                  outcome to treat. Whether they have other supports and  
19                  also of course, as I mentioned, whether they are attracted  
20                  to young adolescent boys. That tends to be the most  
21                  recalcitrant form.

22                  **MR. SHERRIFF-SCOTT:** The hebophilia is  
23                  really what I was focusing on. Does that have a better  
24                  treatment outcome than pedophilia?

25                  **DR. WOLFE:** No.

1                   **MR. SHERRIFF-SCOTT:** No. Okay. Thank you.  
2                   Now, if we can just turn to your article at  
3                   Tab 15 of your materials.

4                   **THE COMMISSIONER:** Sorry, Tab 15?

5                   **MR. SHERRIFF-SCOTT:** Commissioner, Tab 14;  
6                   my mistake.

7                   **THE COMMISSIONER:** Yes.

8                   **MR. SHERRIFF-SCOTT:** No, it is Tab 15.

9                   **THE COMMISSIONER:** Tab 15?

10                  **MR. SHERRIFF-SCOTT:** Tab 15, yes, thank you.

11                  Just some general propositions, Doctor, that we  
12                  discussed and have been kicked around with you. The  
13                  scientific and institutional awareness and knowledge of sex  
14                  abuse, in particular what you described as the acquaintance  
15                  model, has been growing over the last decade certainly?

16                  **DR. WOLFE:** Yes.

17                  **MR. SHERRIFF-SCOTT:** That knowledge has  
18                  grown, but I think I took your evidence to mean that there  
19                  is still significant need for increased knowledge in both  
20                  the science domain as well as in the community?

21                  **DR. WOLFE:** Yes.

22                  **MR. SHERRIFF-SCOTT:** And I take it from your  
23                  article here at Tab 15, at page 180, in the lower right-  
24                  hand margin, the last paragraph, your concern about the  
25                  need for increased knowledge and awareness is what you

1 described as, the article being intended as:

2 "...a spur to the community of professionals and others to  
3 investigate and inquire into the subject..."

4 DR. WOLFE: Yes, it is.

5 MR. SHERRIFF-SCOTT: And that's a reflection  
6 of the need for more information and knowledge?

7 DR. WOLFE: Yes.

8 MR. SHERRIFF-SCOTT: And similarly, at page  
9 188, at the top right margin, about four lines from the top  
10 of that paragraph, you say:

11 "...a national study is needed to examine the process and  
12 mechanisms through which such abuse may occur and to raise  
13 awareness..."

14 Et cetera. So that's a reflection again of the need for  
15 increase both medical and societal awareness of these  
16 issues?

17 DR. WOLFE: Yes.

18 MR. SHERRIFF-SCOTT: And can I say that that  
19 need is more keenly felt in the area of the acquaintance  
20 abuse model as opposed to, say, familial abuse, which has  
21 been on the radar screen for a lot longer?

22 DR. WOLFE: Yes, it is.

23 MR. SHERRIFF-SCOTT: Okay. I think also  
24 some of the cross-examiners yesterday described a shift in  
25 understanding which began to take place, at least insofar

1 as the medical community was concerned, in the 1980s and  
2 throughout the time that has passed since then?

3 DR. WOLFE: Yes.

4 MR. SHERRIFF-SCOTT: Correct? Is it fair to  
5 say that the sort of medical psychological frontline people  
6 would be the first to start having the awareness of these  
7 issues, in terms of their sophistication and different  
8 characteristics and that social community knowledge would  
9 lag behind that?

10 DR. WOLFE: Yes, I think that's fair to say.

11 MR. SHERRIFF-SCOTT: Okay. So that lack of  
12 knowledge in terms of an ignorance, I guess, if I can use  
13 that expression, in terms of the 1950s, 1960s, '70s and  
14 even the '80s would have been fairly acute at least from  
15 the community sector point of view?

16 DR. WOLFE: I think that's fair to say.

17 MR. SHERRIFF-SCOTT: Can I just maybe  
18 summarize what kind of elements that lack of knowledge  
19 would include. Certainly, there would have been a very  
20 serious lack of knowledge of the characteristic and profile  
21 of offenders?

22 DR. WOLFE: Yes.

23 MR. SHERRIFF-SCOTT: Which is why you  
24 mentioned the stranger-danger issue?

25 DR. WOLFE: Yes.

1                   **MR. SHERRIFF-SCOTT:** A lack of understanding  
2 perhaps in the community about the fact that these  
3 offenders may have been suffering from serious medical  
4 conditions?

5                   **DR. WOLFE:** The offenders?

6                   **MR. SHERRIFF-SCOTT:** Yes.

7                   **DR. WOLFE:** Like what?

8                   **MR. SHERRIFF-SCOTT:** Well, like the  
9 conditions that you've identified for us.

10                  **DR. WOLFE:** Oh, that's a psychiatric  
11 condition. You might call it medical, but it's different,  
12 yes.

13                  **MR. SHERRIFF-SCOTT:** Okay. Well, really  
14 what I'm focusing on, for example, in 1950, '60 or '70,  
15 would the community have perceived these offenders more as  
16 people in control of their actions who could stop if they  
17 are disciplined or approached versus serious medically  
18 defective, having defective conditions or disorders?

19                  **DR. WOLFE:** Well, let me clarify that even  
20 though it is in the DSM, so is homosexuality until 1980;  
21 they don't know where else to put it. Homosexuality was  
22 taken out entirely. It's not a medical or a psychiatric  
23 disorder, but once, we thought it was.

24                  This, we don't know where this is going to go. It's  
25 not a medical or a psychiatric condition that debilitates

1 in any other fashion other than their sexual interest.

2 **MR. SHERRIFF-SCOTT:** What I'm sort of  
3 driving at, though, from the point of view of my questions  
4 is the community perceptions and understanding in this era  
5 would have been profoundly deficient based on  
6 misconceptions in terms of these offenders?

7 **DR. WOLFE:** Yes, it's true.

8 **MR. SHERRIFF-SCOTT:** Okay. And I mean their  
9 own sense of whether these people were suffering from  
10 medical conditions or whether maybe they could control  
11 their actions if they were appropriately approached.

12 **DR. WOLFE:** No one would have thought that  
13 they were capable of doing these other acts. There would  
14 have been no outward signs, unless children mentioned it.

15 **MR. SHERRIFF-SCOTT:** Sure. And so the lack  
16 of knowledge and ignorance in the community also would have  
17 related to whether these people could have overcome their  
18 problems, that is to say the offenders, without treatment  
19 or perhaps not at all.

20 **DR. WOLFE:** Very difficult because if they  
21 say they have that problem or inclination, then they are  
22 going to set off alarm bells. So it's very difficult to  
23 get treatment.

24 **MR. SHERRIFF-SCOTT:** Okay. So historically  
25 in the '50s, '60s, '70s, early '80s, et cetera, would it be

1 fair to say that that level of misconception societally in  
2 community organizations, in the community versus the  
3 medical community, would have significantly contributed to  
4 the strategies, say, community organizations used to  
5 address these people when they were discovered?

6 DR. WOLFE: Yes, it would have contributed  
7 to that.

8 MR. SHERRIFF-SCOTT: And including their  
9 decisions with respect to internal management such as  
10 moving them?

11 DR. WOLFE: Yes.

12 MR. SHERRIFF-SCOTT: They may have been well  
13 founded or a belief that that was an effective strategy  
14 although that was very conceptually flawed in terms of  
15 being correct?

16 DR. WOLFE: I think so, yes.

17 MR. SHERRIFF-SCOTT: Okay. So in terms of  
18 how we approach that issue, you know, what community  
19 organizations did, we can't look at it only through the  
20 lens of malfeasances or a deliberate decision to cover up.  
21 It's a much more sophisticated issue that we should  
22 appreciate contextually and historically.

23 Is that fair?

24 DR. WOLFE: That's fair.

25 MR. SHERRIFF-SCOTT: Okay. Now, if I can

1           turn you to Tab 14, which is the first article on the  
2           subject of community institutions. Now, as I take it --  
3           and you correct me if I'm wrong because this is my  
4           impression from your evidence -- is this study the one you  
5           did as a result of your involvement in the Mount Cashel  
6           case?

7                         **DR. WOLFE:** Yes, it is.

8                         **MR. SHERRIFF-SCOTT:** Okay. And that  
9           situation was a -- although it was a religious institution,  
10          essentially it was operating in a fashion akin to an  
11          orphanage?

12                        **DR. WOLFE:** Orphanage and school, yes.

13                        **MR. SHERRIFF-SCOTT:** Orphanage and school.  
14           So this is a residential situation?

15                        **DR. WOLFE:** Yes.

16                        **MR. SHERRIFF-SCOTT:** These people are placed  
17          there. They can't leave.

18                        **DR. WOLFE:** Yes.

19                        **MR. SHERRIFF-SCOTT:** They're sort of  
20          powerless in terms of their environment.

21                        **DR. WOLFE:** Yes.

22                        **MR. SHERRIFF-SCOTT:** And would it be more  
23          akin to the familial abuse situation, this kind of  
24          situation, because of those factors?

25                        **DR. WOLFE:** Well, yes, in many ways it is

1 because they were their surrogate family.

2 **MR. SHERRIFF-SCOTT:** Okay. And when you say  
3 at the second page in of that article under the heading  
4 "Methods and Participants" -- in the second line, you use  
5 the expression "surrogate caregivers". The people running  
6 this school would have essentially been in the position of  
7 parents for these people that were injured?

8 **DR. WOLFE:** Yes.

9 **MR. SHERRIFF-SCOTT:** They would have been  
10 their only parental figures in life essentially?

11 **DR. WOLFE:** Some had parents. They weren't  
12 orphans, but they didn't see them too often.

13 **MR. SHERRIFF-SCOTT:** All right. They would  
14 have had difficulties in their own lives that prevented  
15 that?

16 **DR. WOLFE:** Yes.

17 **MR. SHERRIFF-SCOTT:** Okay. But they would  
18 have been certainly acting in many cases in a very  
19 significant parental fashion?

20 **DR. WOLFE:** Yes.

21 **MR. SHERRIFF-SCOTT:** And surely that would  
22 have had as much to do with the outcome as the fact that it  
23 may have been a religious institution?

24 **DR. WOLFE:** Yes.

25 **MR. SHERRIFF-SCOTT:** Okay. Fair enough.

1                   And the subject of how we transfer the  
2                   conclusions that arise out of this kind of severe  
3                   circumstance which is physical violence, chronic,  
4                   consistent situation accompanied by sexual assault and a  
5                   situation where there's no escape and no control for the  
6                   victim, you talk about the sort of -- how you can transpose  
7                   those conclusions into the acquaintance model in the next  
8                   article ---

9                   **DR. WOLFE:** Yes.

10                  **MR. SHERRIFF-SCOTT:** --- which is at Tab 15.

11                  **DR. WOLFE:** Yes.

12                  **MR. SHERRIFF-SCOTT:** Correct? And if I can  
13                  just -- before we -- I'm not going to look at your  
14                  conclusions specifically because many of the conclusions  
15                  from the point of view of harm are in fact transposed  
16                  between the two articles. There is -- some conclusions are  
17                  very similar about outcome and harm.

18                  **DR. WOLFE:** Yes.

19                  **MR. SHERRIFF-SCOTT:** Okay. And at page --  
20                  if we can go to Tab 15, to page 188, in the right-hand  
21                  margin in the top paragraph, you -- notwithstanding your  
22                  thesis advanced in this article -- do, however, caution the  
23                  reader about the readiness with which you can transfer  
24                  those conclusions because of the need for more available  
25                  data and study.

1 Is that fair?

2 **DR. WOLFE:** Yes.

3 **MR. SHERRIFF-SCOTT:** And so you say there:

4 "We caution, however, that the themes  
5 concerning the dimensions of harm and  
6 factors affecting harm stemming from  
7 child abuse in institutions and  
8 organizations must undergo empirical  
9 inquiry before conclusions are made  
10 with regard to similarities. We  
11 further caution that it is not the  
12 trusted institutions themselves that  
13 commit these offences but rather  
14 certain individuals associated with  
15 them. It is not our intention to blame  
16 the community institutions..."

17 Et cetera.

18 Then you go on to describe in detail the  
19 need for further study. And I guess the need for further  
20 study stems from some of the empirical differences in  
21 context between your acquaintance model and the model that  
22 you've developed for the article based on the Mount Cashel  
23 situation.

24 **DR. WOLFE:** Yes. The point I'm making there  
25 is that all of these institutions have an important role

1 and we're not trying to say that they're at fault. It's  
2 the individuals that are there and how they get there.

3 **MR. SHERRIFF-SCOTT:** Yes.

4 In terms of the differences between these  
5 two models; let us say an institutional residential setting  
6 which shares more characteristics with familial and the  
7 acquaintance model, I want to just maybe address one little  
8 other point that may stem from that.

9 Is it fair to say that in the institutional  
10 model like Mount Cashel, multiple offenders acting in  
11 concert would be far more common or the opportunity for  
12 that to happen would be much greater than in an open social  
13 environment at large?

14 **DR. WOLFE:** Yes, it's true.

15 **MR. SHERRIFF-SCOTT:** Those are my questions.

16 Thank you, Commissioner.

17 **THE COMMISSIONER:** Thank you, sir.

18 Sir Callaghan for the Cornwall Police, do  
19 you have any questions, sir?

20 **MR. CALLAGHAN:** Yes, I do, Commissioner.

21 **THE COMMISSIONER:** Thank you.

22 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**

23 **CALLAGHAN:**

24 **MR. CALLAGHAN:** Good morning, Dr. Wolfe.

25 **DR. WOLFE:** Good morning -- good afternoon.

1                   **MR. CALLAGHAN:** Good afternoon.

2                   What I want to cover a little bit at the  
3                   outset is the historical context, and the testimony so far  
4                   has sort of bounced around various dates, and this inquiry  
5                   has to look at periods of time and assess what policies and  
6                   practices were in place then.

7                   So I want to sort of frame that introduction  
8                   and start by reiterating what Mr. Sherriff-Scott said. I  
9                   take it psychologists were at the forefront of knowledge in  
10                  respect of the development of recognizing acquaintance  
11                  abuse, for example?

12                  **DR. WOLFE:** Not just psychologists, no.

13                  **MR. CALLAGHAN:** Who else?

14                  **DR. WOLFE:** Social work, criminal justice,  
15                  FBI, RCMP and sociologists like David Finkelhor.

16                  **MR. CALLAGHAN:** Right, but when we do a  
17                  historical analysis, I take it you indicated I thought  
18                  three eras: the stranger danger era of the '50s and '60s,  
19                  the familial abuse era of the '70s and '80s, and  
20                  thereafter, acquaintance abuse.

21                  **DR. WOLFE:** Yes.

22                  **MR. CALLAGHAN:** Do I have that right?

23                  **DR. WOLFE:** In general terms, yes. We've  
24                  known the acquaintance abuse for a long time, but we  
25                  haven't really focused on it or understood it until more

1 recently.

2 **MR. CALLAGHAN:** And more recently is what  
3 I'm trying to get at, because this inquiry is dealing with  
4 events in the '70s and '80s. My understanding was even as  
5 late as 1980 the leading text used in your profession  
6 identified sex abuse as one in a million.

7 **DR. WOLFE:** Yes.

8 **MR. CALLAGHAN:** All right. Now, that was in  
9 1980 and they relying on a 1955 study. Correct?

10 **DR. WOLFE:** Yes.

11 **MR. CALLAGHAN:** And you had indicated that  
12 you wrote a book, and I believe that book was in 1999, on  
13 abnormal child psychology?

14 **DR. WOLFE:** The first edition I think was  
15 '99 or -- yes.

16 **MR. CALLAGHAN:** Ninety-nine ('99). And that  
17 was the first book in Canada to identify this issue in a  
18 text form or to discuss it in a text form?

19 **DR. WOLFE:** It's the first undergraduate  
20 text internationally, not just in Canada, that had a  
21 chapter devoted to this topic, yes.

22 **MR. CALLAGHAN:** Why do you suppose it took  
23 until 1999?

24 **DR. WOLFE:** It was mentioned in books  
25 before. It's not that it was never in there. It was just

1 that it wasn't considered a mainstream topic of abnormal  
2 child psychology. It was just an event; child abuse. We  
3 regarded it as a mainstream issue just like anxiety  
4 disorders and depression.

5 **MR. CALLAGHAN:** Right. But I take it even  
6 in your profession it wasn't as recognized as it is, say,  
7 in 1990 as it is in 2005?

8 **DR. WOLFE:** That's very true, yes.

9 **MR. CALLAGHAN:** Let me -- if I could take  
10 you to a -- one of the articles you provided, at Tab 7, the  
11 child sexual exploitation text, just to make that point  
12 again.

13 And I take it that text was written in 2005?

14 **DR. WOLFE:** Published, yes, in 2005.

15 **MR. CALLAGHAN:** If I could take you to page  
16 532. It says "By the 1980s ---

17 **THE COMMISSIONER:** Where are you at?

18 **MR. CALLAGHAN:** I'm at the third paragraph,  
19 page 532, the third paragraph, Mr. Commissioner.

20 **THE COMMISSIONER:** Yes.

21 **MR. CALLAGHAN:** "By the 1980s, child  
22 sexual abuse had become almost synonymous  
23 with incest for many professionals and  
24 incest meant father/daughter sexual  
25 relations. Therefore, much of the focus

1 of child sexual abuse intervention and  
2 investigation turned to one on one  
3 father/daughter incest. Even today, a  
4 large portion of training materials,  
5 articles and books on this topic refer to  
6 child sexual abuse only in terms of  
7 intrafamilial father/daughter incest."

8 Is that situation prevalent in Canada as  
9 it's discussed in this U.S. text?

10 **DR. WOLFE:** Yes. I think so.

11 **MR. CALLAGHAN:** And I take it from the  
12 evidence today that psychologists weren't able to identify  
13 it earlier because there just wasn't the reporting?

14 **DR. WOLFE:** Yes.

15 **MR. CALLAGHAN:** All right.

16 And you had indicated that there are a  
17 couple of elements to reporting, there are the recognition  
18 of the child himself about the issue, correct?

19 **DR. WOLFE:** Yes.

20 **MR. CALLAGHAN:** And the recognition of  
21 family members of abnormal behaviour of children to sort of  
22 prompt the issue?

23 **DR. WOLFE:** Yes.

24 **MR. CALLAGHAN:** And I take it that we can  
25 agree that child sexual abuse is not just a criminal issue,

1 it's a health issue?

2 DR. WOLFE: In so many ways, yes.

3 MR. CALLAGHAN: All right. And I take it in  
4 the Province of Ontario you have the Ministry of Health  
5 and, say, the Chief Medical Officer of Health?

6 DR. WOLFE: Yes.

7 MR. CALLAGHAN: And they're responsible for  
8 the health of the citizenry of Ontario?

9 DR. WOLFE: Yes.

10 MR. CALLAGHAN: And so are you able to tell  
11 us when either of those two institutions publicize this  
12 issue to parents, for example, who might be in a position  
13 to assist their children?

14 DR. WOLFE: I'm not able to tell you that.  
15 No.

16 MR. CALLAGHAN: Are you able to sit here  
17 today and say whether they ever have done so?

18 DR. WOLFE: I couldn't say either way. I'm  
19 not aware that they have.

20 MR. CALLAGHAN: And you are obviously  
21 involved in this issue. Would you expect to know a little  
22 bit about that if it had happened?

23 DR. WOLFE: Specifically about the nature of  
24 child sexual abuse?

25 MR. CALLAGHAN: Yes.

1 DR. WOLFE: I'm not sure it's the Ministry  
2 of Health.

3 MR. CALLAGHAN: What about the Chief Medical  
4 Officer of Health?

5 DR. WOLFE: Probably not. I think it's  
6 Child and Family Services.

7 MR. CALLAGHAN: But in terms of saying  
8 points of contact, because I gather the difficulty that you  
9 experienced or your profession experiences it wasn't coming  
10 to the forefront?

11 DR. WOLFE: True.

12 MR. CALLAGHAN: And that it takes  
13 cataclysmic events such as Mount Cashel, such as Project  
14 Truth, to bring it to the forefront; correct?

15 DR. WOLFE: Much like other issues, yes.

16 MR. CALLAGHAN: Right. So is there -- what  
17 are the points of contact to bring it home for the  
18 reporting of the event? Is it the family? Is it the  
19 schools?

20 DR. WOLFE: It's everybody; right,  
21 everybody.

22 MR. CALLAGHAN: And where does the lead  
23 start?

24 DR. WOLFE: In terms of education?

25 MR. CALLAGHAN: Take education, for example.

1           **DR. WOLFE:** That every teacher in teacher  
2 college is aware of some of the leading signs that children  
3 may give and signs of someone else that might be acting  
4 inappropriately with children.

5           **MR. CALLAGHAN:** And when, for example, was  
6 the curriculum at teacher's college changed to include  
7 this?

8           **DR. WOLFE:** Well, they haven't done that.

9           **MR. CALLAGHAN:** They haven't. And in fact,  
10 your book "The Leading Undergrad" text only did that to  
11 that group in about 1999. Correct?

12           **DR. WOLFE:** Yes.

13           **MR. CALLAGHAN:** And I take it that  
14 psychologists such as yourselves in schools, as an example,  
15 are a key component to identifying these issues. Correct?

16           **DR. WOLFE:** Our college is very clear on it,  
17 yes, as are some of the others.

18           **MR. CALLAGHAN:** Right. And the diagnosis  
19 has to come now from a Ph.D. and a psychologist, right?

20           **DR. WOLFE:** A diagnosis of pedophilia?

21           **MR. CALLAGHAN:** Well, a diagnosis of a child  
22 being sexually abused.

23           **DR. WOLFE:** Well, there is no diagnosis for  
24 that.

25           **MR. CALLAGHAN:** There isn't?

1 DR. WOLFE: No.

2 MR. CALLAGHAN: What is the process within  
3 your field with respect to a child for diagnosis as to  
4 whether ---

5 DR. WOLFE: Well, being abused is not a  
6 disorder.

7 MR. CALLAGHAN: I appreciate that.

8 DR. WOLFE: So we don't diagnose it. We  
9 could identify the symptoms and then it's an issue of  
10 investigation.

11 MR. CALLAGHAN: And what about historic  
12 sexual abuse? Your article that's been referred to that  
13 came out of Mount Cashel -- you've indicated that your  
14 profession needs more education and understanding in  
15 treating those issues. Correct?

16 DR. WOLFE: Yes.

17 MR. CALLAGHAN: Is that an issue -- is that  
18 because they haven't had to address it in previous years?  
19 I mean, in previous eras, I should say?

20 DR. WOLFE: Yes. It was not taught in most  
21 courses until the nineties in psychology.

22 MR. CALLAGHAN: And I take it that your  
23 experience in Mount Cashel which, I take it, didn't come  
24 from a sort of a grant or any type of assistance that way  
25 but came because you got involved in the Mount Cashel

1       litigation, has led you to believe that more education of  
2       your profession is needed in dealing with historical sexual  
3       abuse?

4                   **DR. WOLFE:** I believed that well before  
5       Mount Cashel because I have been working on this since the  
6       1980s so I knew that it was not a mainstream topic but it  
7       needed to be in our profession.

8                   **MR. CALLAGHAN:** So your article that has yet  
9       to be published -- and you've been someone in the  
10      wilderness asking for this for 20 years?

11                  **DR. WOLFE:** No, there is a few others out  
12      there.

13                  **MR. CALLAGHAN:** Right. And what lead has  
14      your association taken in that regard?

15                  **DR. WOLFE:** Which association?

16                  **MR. CALLAGHAN:** Well, I assume you are a  
17      member of the Canadian Psychologists Association? I'm not  
18      even sure what the actual ---

19                  **DR. WOLFE:** Well, it's psychologists that  
20      would be in charge of our training and our ethics and our  
21      practice of psychology in Ontario.

22                  **MR. CALLAGHAN:** Right.

23                  **DR. WOLFE:** And they have guidelines, they  
24      have regulations along child sexual abuse, child abuse  
25      reporting; education and training.

1                   **MR. CALLAGHAN:** And we earlier talked about  
2 the American association but do your associations have  
3 protocols now?

4                   **DR. WOLFE:** The college wouldn't have  
5 protocols. They don't do that.

6                   Well, let me back up. They do have a  
7 guideline and protocols in custody and access assessments.  
8 If you're going to do them you have to follow these  
9 guidelines. I'm not aware that they have them in child  
10 sexual abuse because we don't do the investigation in that.

11                   **MR. CALLAGHAN:** Right, but in terms of  
12 dealing with those that are victims, there are protocols  
13 for that? You talked about how you'd properly interview  
14 somebody ---

15                   **DR. WOLFE:** Yes.

16                   **MR. CALLAGHAN:** --- for example.

17                   **DR. WOLFE:** No, there wouldn't be a protocol  
18 on that.

19                   **MR. CALLAGHAN:** Should there be?

20                   **DR. WOLFE:** There should be training for  
21 everybody who is going to work with children in any  
22 capacity, yes.

23                   **MR. CALLAGHAN:** And is that a different  
24 training than addressing those who report historical sexual  
25 abuse or are they the same?

1                   **DR. WOLFE:** Well, they're very similar but  
2 interviewing an adult around an historical is a different  
3 issue than interviewing children.

4                   **MR. CALLAGHAN:** And is it further behind in  
5 the progression of understanding than even child sexual  
6 abuse?

7                   **DR. WOLFE:** I would say so, yes.

8                   **MR. CALLAGHAN:** Those are all my questions.

9                   **THE COMMISSIONER:** Thank you, sir.

10                   So who will be asking questions for the OPP?

11                   **MS. SACCOCCIO BRANNAN:** I will, Mr.

12 Commissioner.

13                   **THE COMMISSIONER:** Thank you. Come forward,  
14 please.

15                   **(SHORT PAUSE/COURTE PAUSE)**

16                   **THE COMMISSIONER:** You are Ms. Brannan?

17                   **MS. BRANNAN:** My name is Gina Brannan, Mr.

18 Commissioner.

19                   **THE COMMISSIONER:** Thank you.

20 --- **CROSS-EXAMINATION/CONTRE-INTERROGATOIRE BY MS.**

21 **SACCOCCIO BRANNAN:**

22                   **MS. SACCOCCIO BRANNAN:** Good afternoon, Dr.

23 Wolfe.

24                   **DR. WOLFE:** Good afternoon.

25                   **MS. SACCOCCIO BRANNAN:** I would like to

1 start with number 4 of your outline of evidence,  
2 "Institutions, Protocols, Standards and Community  
3 Responses" and, in particular, bullet number one where the  
4 statement is made:

5 "The police are the usual investigators  
6 when the alleged perpetrator is outside  
7 the family."

8 And that will be the basis for the questions that I will be  
9 asking.

10 **THE COMMISSIONER:** What's the tab?

11 **MS. SACCOCCIO BRANNAN:** Sorry?

12 **THE COMMISSIONER:** What's the tab, page 4,  
13 Tab 3?

14 **MS. SACCOCCIO BRANNAN:** It's the outline of  
15 evidence, Tab 3.

16 **THE COMMISSIONER:** Tab 3.

17 **MS. SACCOCCIO BRANNAN:** Sorry.

18 And I would like to reiterate something you  
19 have said a number of times today. I don't recall it being  
20 said yesterday, but the psychologist in cases of child  
21 sexual abuse, whether it be present or historical, don't  
22 carry out the investigation; am I correct in that?

23 **DR. WOLFE:** I believe you are.

24 **MS. SACCOCCIO BRANNAN:** So yesterday,  
25 though, when you were giving your evidence you talked about

1 and commented on the fact that child sexual abuse cases  
2 were difficult to investigate. What I would like to do is  
3 to divide between the historical cases and those which are  
4 cases that come forward soon after the event. I would like  
5 to focus on historical cases and I'd like to understand  
6 where the difficulty lies in the investigative side from  
7 your perspective of historical -- investigating historical  
8 child sexual cases.

9 **DR. WOLFE:** With adults then -- where the  
10 difficulty lies?

11 **MS. SACCOCCIO BRANNAN:** Where the  
12 difficulties lie for the people who will have to carry out  
13 that investigation, given that you are not doing that.

14 **DR. WOLFE:** Well, the police are trained to  
15 take a statement and the difficulty lies in getting someone  
16 to make a statement that's clear and has the facts straight  
17 because of length of time, distortion and fading of memory  
18 and a lot of symptomatology it's very difficult to make a  
19 statement when you are very upset about it. Well, most  
20 statements people are upset but they have been upset for 20  
21 or 30 years and there is a lot of emotion involved which  
22 the police may or may not know how to handle. They don't  
23 want to get into that. They want the facts.

24 So that's why it's difficult. I think, we  
25 now know special training is needed to know how to elicit

1 that information in a way that is both sensitive and  
2 detailed.

3 **MS. SACCOCCIO BRANNAN:** And from where you  
4 are sitting now and it's always easy to look at things in  
5 hindsight, but from where you are sitting now and the  
6 investigative part of historical sexual abuse, what type of  
7 tools do you believe the investigator should have in order  
8 to properly carry out that investigation. Aside from the  
9 special training that you are talking about, I mean, I am  
10 trying to think about -- we can't turn every police officer  
11 into a psychologist. Would that be fair?

12 **DR. WOLFE:** Yes.

13 **MS. SACCOCCIO BRANNAN:** So what tools could  
14 the police officer have, in carrying out that investigation  
15 of historical abuse cases, in order to properly investigate  
16 and get at the bottom of the issue or get to the bottom of  
17 the issue?

18 **DR. WOLFE:** Well, you don't need every  
19 police officer to be able to do this. You just need one.  
20 So the tool would be one well-trained, maybe one male, one  
21 female well-trained police officer for each community.  
22 There are no other tools. There's no mechanical tools, no  
23 electronic tools. There's nothing other than being able to  
24 talk to the person.

25 **MS. SACCOCCIO BRANNAN:** So a police officer

1 would have to use their investigative skills, learned in a  
2 general sense, and then some special training for police  
3 officers to address the actual abuse issues that they have  
4 to address, particularly in historical cases?

5 **DR. WOLFE:** Yes, they would have to have  
6 some familiarity with the way that historically these men  
7 would have been abused and what they're seeing in terms of  
8 the symptoms to understand and that's where they may  
9 benefit by having a psychologist present, but to see that  
10 some of the difficulty stems from their symptoms, not from  
11 their memory.

12 **MS. SACCOCCIO BRANNAN:** Yesterday, when you  
13 were being cross-examined by Mr. Lee, there was a  
14 suggestion made that -- I think you talked about self-  
15 governing institutions, but institutions in general, I  
16 believe you said had a duty to investigate and you agreed  
17 with him.

18 Can I ask what you understood the word  
19 "investigate" to mean, when that transpired between you and  
20 Mr. Lee?

21 **DR. WOLFE:** To ask for assistance in looking  
22 into the allegations. So that's all I would mean by  
23 "investigate".

24 Typically, all professions today, I think,  
25 are trained to ask advice of others in their profession.

1       So by investigating, the first step if I was a teacher is  
2       to ask my principal. The principal may ask someone else,  
3       the superintendent, who then may ask or have them report it  
4       to child welfare. So it's seeking more advice, seeking  
5       more clarity, as to what step to take and making sure that  
6       you do it properly.

7                   **MS. SACCOCCIO BRANNAN:** And in your  
8       professional opinion then, when it comes down to dealing  
9       with the child, if it's a recent reported case, or with the  
10      adult, in an historical situation, the actual questioning  
11      of the individual who is the victim, the alleged victim,  
12      would you agree with me that the people who should be doing  
13      that are the police and that the first phone call made  
14      after that investigation you are talking about has been  
15      carried out should be to the police?

16                   **DR. WOLFE:** If you believe that you have  
17      reason to believe that this child has been harmed, then it  
18      should be to the police, yes.

19                   **MS. SACCOCCIO BRANNAN:** So what you're  
20      saying is that that teacher, or that principal or that  
21      priest, or that Scout leader has to make that determination  
22      first and that the fact that the child or the adult has  
23      come forward and made the statement, "I have been abused by  
24      so-and-so", should not the first call be to the police, to  
25      then carry out the investigation? The investigation, not

1 the investigation you were talking about.

2 DR. WOLFE: I'm not sure I'm understanding  
3 because if a child or an adult historically says to someone  
4 at the institution that "This happened to me; so-and-so did  
5 something to me", that's no different than if they pointed  
6 a gun at me. You call the police and have them  
7 investigate. It's the same thing.

8 MS. SACCOCCIO BRANNAN: Yes, but my  
9 understanding was that there should be -- from your  
10 evidence, that there should be some other investigation  
11 before that phone call is made. My point is that once the  
12 allegation is made and in order to assist that individual  
13 with the trust part that you were talking about, isn't the  
14 first call to the police?

15 DR. WOLFE: Yes. It would be the first  
16 call. You still may have questions to ask to make sure  
17 that you are right in calling. You don't want to set off  
18 the wrong bells.

19 MS. SACCOCCIO BRANNAN: But wouldn't you  
20 also agree with me, Doctor, that it would be not a good  
21 idea for the individual to whom this is reported to begin  
22 carrying out the questioning of the child in a recent case  
23 or of the adult in an historical case?

24 DR. WOLFE: Well, there's always going to be  
25 some questioning. If someone, a child came in and said,

1 "Billy pointed a gun at me", I wouldn't immediately pick up  
2 the phone. I would ask a few more questions.

3 **MS. SACCOCCIO BRANNAN:** But in the case of  
4 an historical abuse situation, wouldn't you agree with me  
5 that the protection of that individual's evidence and for  
6 it not to be contaminated, the first call is to the police?

7 **DR. WOLFE:** After you have enough  
8 information to make sure that you know what you're  
9 reporting, that's all I'm saying. There's no one else you  
10 need to call. You may call the family, in some cases, to  
11 say, "Have you heard of this". I mean that's okay.

12 **MS. SACCOCCIO BRANNAN:** That's for a young  
13 child ---

14 **DR. WOLFE:** Yes.

15 **MS. SACCOCCIO BRANNAN:** --- but for an adult  
16 coming forward ---

17 **DR. WOLFE:** Yes.

18 **MS. SACCOCCIO BRANNAN:** --- I'm talking  
19 about an adult, an historical case.

20 **DR. WOLFE:** Yes.

21 **MS. SACCOCCIO BRANNAN:** Because you want to  
22 get at it right away, as soon as you can. This person has  
23 had -- has now built up the courage to come forward and to  
24 report. So don't you want to get right at it and find out  
25 what the facts are and in that case, don't you need

1 somebody who is trained as an investigator to do that?

2 DR. WOLFE: Yes, but if it's an adult, it's  
3 up to them to report it.

4 MS. SACCOCCIO BRANNAN: But I'm saying it's  
5 already been reported.

6 DR. WOLFE: But only to me, not to the  
7 police.

8 MS. SACCOCCIO BRANNAN: Correct.

9 DR. WOLFE: So I don't have to call the  
10 police. The adult does. That's the difference.

11 MS. SACCOCCIO BRANNAN: Okay.

12 DR. WOLFE: With a child, I do have to call.  
13 With an adult, I don't.

14 MS. SACCOCCIO BRANNAN: What's your  
15 responsibility then with an adult if you are a Scout leader  
16 or a member of the clergy and an adult comes in and makes  
17 the allegation that they were abused as a young child?

18 DR. WOLFE: By someone that's present at  
19 that Scout ---

20 MS. SACCOCCIO BRANNAN: Correct, or somebody  
21 who was a member of that particular Diocese?

22 DR. WOLFE: The only obligation would be if  
23 there were still a risk to children. So if he's still a  
24 Scout leader, he's still a priest with children, then I  
25 have an obligation to report that to the police.

1                   If this is historical, the person is  
2                   retired, they're gone, or whatever, then it's the  
3                   individual's decision if he wants to tell the police.

4                   **MS. SACCOCCIO BRANNAN:** Okay.

5                   Now, once the individual has come forward  
6                   and I'm referring to paragraph or number 7 of your outline  
7                   and this is entitled "The Difficulty for Persons Working  
8                   with Children", and I'd like to understand the difficulty  
9                   for persons working with victims of historical abuse. And  
10                  in this particular -- your outline in this particular  
11                  section, you don't refer to the police but would you agree  
12                  with me that the police would have the same difficulties in  
13                  dealing with children and with adults in respect of child  
14                  sexual abuse?

15                  **DR. WOLFE:** The same difficulties as these  
16                  other groups, yes, I would.

17                  **MS. SACCOCCIO BRANNAN:** So we could include  
18                  them in your outline at paragraph 7; the police?

19                  **DR. WOLFE:** Yes, we could.

20                  **MS. SACCOCCIO BRANNAN:** And could you assist  
21                  us in explaining the difference -- the different  
22                  difficulties you would have with a child who is reporting  
23                  soon after the incident and the difficulties you have with  
24                  an adult coming forward who is an historical case? And how  
25                  do they differ? And what should we be aware of in those

1 differences?

2 **DR. WOLFE:** Well, with a child, the  
3 difficulty is their language level and any other  
4 circumstances that might, you know, interfere with what  
5 they are telling you; like they are angry at their teacher  
6 or something. We have to be aware of that. But typically,  
7 it's their language level and their ability to describe  
8 clearly what's going on, especially because they are not  
9 sure of what's going on. They don't even know if something  
10 was wrong or not. They may think they are in trouble.

11 With an historical, the difficulty is not so  
12 much the language anymore but the symptoms that I say that  
13 have shrouded them for years. So, as a police officer, I  
14 may be thinking, "I think this guy is stoned. I don't know  
15 that I can understand." And he may be because he can't  
16 talk about this without taking drugs or getting drunk.

17 So it's very tough to determine how to get  
18 accurate information when I could be fooled by someone who  
19 is not in their normal faculties.

20 **MS. SACCOCCIO BRANNAN:** Those are all my  
21 questions, Mr. Commissioner.

22 **THE COMMISSIONER:** Thank you very much.  
23 Mr. Carroll?

24 **MR. CARROLL:** Just a couple of things ---

25 **THE COMMISSIONER:** No, that's fine. That's

1 fine. Thank you.

2 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

3 CARROLL:

4 MR. CARROLL: Good afternoon, Doctor.

5 I'm interested in eliciting some information  
6 about training for the frontline police officers that  
7 conduct these investigations and specifically you've  
8 addressed the issue of the evolution from stranger danger  
9 to familial acquaintance abusers and then the subset of  
10 current versus historical. I'm concerned about the  
11 acquaintance and the historical, that sort of subset of  
12 these groups of abusers.

13 You said that we now know that specialized  
14 training is needed to carry out effective investigations  
15 for each of these areas of abuse. Is that correct?

16 DR. WOLFE: Yes.

17 MR. CARROLL: Sir, are you aware of any  
18 training model that is currently available for frontline  
19 police officers when it comes to historical sexual assault  
20 investigations?

21 DR. WOLFE: I wouldn't be because I don't  
22 follow that but I believe there are some but I really  
23 couldn't tell you. I'm the wrong person to ask.

24 MR. CARROLL: None are within your sphere or  
25 your knowledge?

1 DR. WOLFE: None to my knowledge.

2 MR. CARROLL: All right. In your opinion,  
3 what professional or groups of professionals should assist  
4 in the training of frontline officers in order to properly  
5 conduct these investigations?

6 DR. WOLFE: Well, the people that wrote the  
7 chapters that I gave you. One is a retired FBI agent. It  
8 would be people like that who have a lot of experience  
9 investigating these crimes. I know the Metro Toronto  
10 Police has a Sex Crimes Unit that's world renown for their  
11 ability. So people with lots of experience could do the  
12 training.

13 MR. CARROLL: Well, I'm aware that there are  
14 various policing agencies with experience in dealing with  
15 all forms of criminal activity, but I'm talking about this  
16 specialized area of questioning people involved, both  
17 potential perpetrators or alleged perpetrators and possible  
18 complainants in a criminal case.

19 What about from the mental health side of  
20 things, psychologists, psychiatrists? Who would you  
21 suggest would be of assistance in developing training  
22 programs for the frontline officers?

23 DR. WOLFE: The people, the groups and  
24 professions with the most experience I think would be  
25 psychologists, social work.

1                   **MR. CARROLL:** And is that a group from --  
2                   within the mental health community, is that a group of  
3                   professionals that could be put together relatively easily  
4                   to assist in developing programs for the police?

5                   **DR. WOLFE:** Yes, because we're not talking  
6                   about two-week programs. We're probably talking about  
7                   three hours of introducing some of these concepts. If  
8                   they're familiar with other investigations, they're  
9                   familiar with how to interview someone with a mental health  
10                  problem and so forth, it's not difficult to grasp the other  
11                  issues here with historical abuse.

12                  **MR. CARROLL:** And in your studies, sir, have  
13                  you also made a study of offenders; that is to say  
14                  perpetrators of this kind of offence?

15                  **DR. WOLFE:** If I studied this?

16                  **MR. CARROLL:** Yes.

17                  **DR. WOLFE:** No.

18                  **MR. CARROLL:** All right. So did you ask  
19                  questions with respect to offenders to somebody else, not  
20                  you?

21                  **DR. WOLFE:** Some questions I'm familiar with  
22                  from my writing and research but not directly working with  
23                  offenders, no.

24                  **MR. CARROLL:** I see. I take it that you  
25                  would have no direct knowledge of any assistance you could

1 offer in terms of investigative techniques for frontline  
2 officers to involve when interviewing perpetrators or  
3 alleged perpetrators?

4 DR. WOLFE: I don't think I'd be the right  
5 person for that, no.

6 MR. CARROLL: Are you aware, sir, of people  
7 within the community that you know of that would -- could  
8 assist in any way?

9 DR. WOLFE: Yes. My employer, Centre for  
10 Addiction and Mental Health, has a whole forensic unit that  
11 deals with pedophiles and it's psychiatry and psychology  
12 mostly.

13 MR. CARROLL: Okay. Thank you, Doctor.  
14 Thank you, sir.

15 THE COMMISSIONER: Thank you.  
16 Mr. Engelmann, do you have any re-  
17 examination at this point?

18 MR. ENGELMANN: If I can have just a few  
19 minutes?

20 THE COMMISSIONER: Sure.

21 MR. ENGELMANN: It won't be long.

22 (SHORT PAUSE/COURTE PAUSE)

23 --- RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MR. ENGELMANN:

24 MR. ENGELMANN: Dr. Wolfe, this morning you  
25 were asked some questions about historical knowledge, when

1 we started to learn about acquaintance molestation and that  
2 aspect of child sexual abuse.

3 DR. WOLFE: Yes.

4 MR. ENGELMANN: Would it be fair to say that  
5 our knowledge of child sexual abuse has been growing over  
6 time?

7 DR. WOLFE: Yes.

8 MR. ENGELMANN: Whether we look at the '50s,  
9 '60s, '70s, right up to the present?

10 DR. WOLFE: Yes.

11 MR. ENGELMANN: All right. I just want to  
12 take you back to an article for a minute that my friends  
13 took you to this morning and this is the article by -- it's  
14 the chapter by Professor Lanning.

15 DR. WOLFE: Yes.

16 MR. ENGELMANN: And it's at Tab 7.

17 DR. WOLFE: It's not a professor.

18 MR. ENGELMANN: I'm sorry. He is the FBI  
19 agent.

20 DR. WOLFE: Yes.

21 MR. ENGELMANN: Yes. And it's in the text  
22 book, the Child Sexual Exploitation.

23 DR. WOLFE: Yes.

24 MR. ENGELMANN: If you could turn to page  
25 532. You were taken to a couple of paragraphs near the top

1 of the page and I'd like you just to look at the fifth  
2 paragraph down for a moment which reads:

3 "The progress of the 1970s and 1980s in  
4 recognizing that child sexual  
5 victimization was not simply a result  
6 of stranger danger was an important  
7 breakthrough in dealing with society's  
8 denial. The battle however is not over  
9 and the persistent voice of society  
10 luring us back to the simpler concept  
11 of stranger danger never seems to go  
12 away."

13 So my question to you is this, sir. In the  
14 '70s and '80s, did we know about acquaintance molestation  
15 forms of child sexual abuse? Were we ignorant of it, were  
16 we denying it or is it a combination of both?

17 **DR. WOLFE:** It's a combination of both. We  
18 certainly or some of us certainly knew about it. We didn't  
19 know as much about it as we do today but we certainly knew  
20 that it went on outside the family.

21 **MR. ENGELMANN:** And the whole concept of  
22 pedophilia, we have the DSM-IV at Tab 5 of Exhibit 16 and  
23 that's a definition from 1994 of DSM-IV.

24 **DR. WOLFE:** Yes.

25 **MR. ENGELMANN:** Are you aware if there was a

1 DSM-III before this?

2 DR. WOLFE: Yes, there was.

3 MR. ENGELMANN: And a DSM-II before that?

4 DR. WOLFE: Yes.

5 MR. ENGELMANN: You talked about  
6 homosexuality, how it was in DSMs before this one.

7 DR. WOLFE: Yes.

8 MR. ENGELMANN: What about pedophilia? Was  
9 there -- to your knowledge, was pedophilia set out in the  
10 DSM-III or earlier?

11 DR. WOLFE: I believe it has been always,  
12 yes.

13 MR. ENGELMANN: All right. And I'm just  
14 looking at the second page of the definition of pedophilia.  
15 It's up on the screen; there we go.

16 And there is talk in the last paragraph  
17 about frequently victimized children developing complicated  
18 techniques, et cetera, and then at the end:

19 "The course is usually chronic  
20 especially in those attracted to males.  
21 Recidivism rate for individuals with  
22 pedophilia involving preference for  
23 males is roughly twice that..."

24 To your knowledge, and I just want you to  
25 think back again, did we know things about pedophilia and

1           recidivism back in the '70s and '80s?

2                       **DR. WOLFE:** Yes, we did. The studies of  
3           which those -- that diagnostic information is based were  
4           done in the '70s by Dr. Abell and he continued to do them  
5           into the '80s, but that work has been around for some time.

6                       **MR. ENGELMANN:** Okay. Now, earlier this  
7           morning, just before the morning break, you were asked  
8           about outcomes and whether they had any impact on the  
9           alleged victim, outcomes of criminal trials, and you were  
10          pointed to an article and I don't have it in front of me,  
11          the fact that at least one researcher found that it didn't  
12          really seem to matter what the outcome was. They wanted  
13          closure, wanted things to be done quickly.

14                      **DR. WOLFE:** Right.

15                      **MR. ENGELMANN:** I'm wondering if you have  
16          any knowledge of studies and/or knowledge from your  
17          clinical experience about the impact, if any, on the  
18          alleged victim if there isn't an outcome. And by that I  
19          mean if there is a criminal process that may be going on  
20          for some time and then it ends without a trying of the  
21          issue, without an adjudication of the issue, it just ends  
22          abruptly.

23                      Do you know if there is any studies on that  
24          or do you have any knowledge from your clinical experience  
25          about whether or not that outcome has any impact on alleged

1 victims?

2 **DR. WOLFE:** Well, let me answer that by  
3 reporting what really is important. What is most important  
4 in terms of having better outcomes for the children is that  
5 their reports are taken seriously, that they are supported  
6 along the way and believed by the people that care for  
7 them. As I mentioned, mom stands out -- mother or  
8 surrogate mother is the most critical support. That's more  
9 important than the outcome for the child's adjustment.

10 So basically, children want to see that by  
11 reporting this that adults follow through, did what adults  
12 can do and that they are safe and that this person won't  
13 hurt other people. Whether or not he is convicted, whether  
14 or not it doesn't go further in the criminal justice  
15 system, kids don't care about that. They just want to know  
16 mostly that he can't do this to other people, he can't do  
17 this to me and that my family knows I did the right thing.

18 **MR. ENGELMANN:** Thank you very much, Dr.  
19 Wolfe.

20 Those are my questions.

21 **THE COMMISSIONER:** Thank you.

22 Thank you very much for coming, Dr. Wolfe.

23 We'll break now for lunch until two o'clock.

24 We will see you at 2:00.

25 **THE REGISTRAR:** We will reconvene at 2:00.

1 --- Upon recessing at 12:39/

2 L'audience est suspendue à 12h39

3 --- Upon resuming at 2:07 p.m./

4 L'audience est reprise à 14h07

5 **THE REGISTRAR:** This hearing of the Cornwall  
6 Public Inquiry is now in session. Please be seated.  
7 Veuillez vous asseoir.

8 **THE COMMISSIONER:** Thank you.  
9 Good afternoon.

10 **MR. ENGELMANN:** Good afternoon.

11 The next witness for the Inquiry is  
12 Professor Nicholas Bala. If the witness could be affirmed.

13 **THE COMMISSIONER:** Thank you.

14 **NICHOLAS BALA, Affirmed/Sous affirmation solennelle**

15 **MR. ENGELMANN:** Mr. Commissioner, as with  
16 the previous witness, a letter was sent to all counsel on  
17 Friday, January 27<sup>th</sup>, advising as to how the Commission  
18 intended to qualify Professor Bala, and we have received no  
19 objections to this. So I will briefly review his  
20 qualifications.

21 I will be seeking to qualify him as an  
22 expert on the evolution of legislation, law and legal  
23 processes involving children and, in particular, child  
24 sexual abuse.

25 Before I start again, you should have two

1 Books of Documents, which upon qualification, I will ask  
2 that they be marked and, counsel, you should all have 17  
3 tabs that would have been provided to you electronically.

4 --- EXAMINATION ON QUALIFICATION BY/INTERROGATOIRE SUR  
5 QUALIFICATIONS PAR MR. ENGELMANN:

6 MR. ENGELMANN: Professor Bala, do you have  
7 a copy of the Books of Documents?

8 MR. BALA: Yes, I do.

9 MR. ENGELMANN: All right. If you could  
10 then turn to Tab 1, sir, and if you could tell us whether  
11 or not we're looking at a current and accurate copy of your  
12 Curriculum Vitae.

13 MR. BALA: Yes. There are a few things I've  
14 done since it was -- it's dated January the 6<sup>th</sup>, but --  
15 basically it's accurate, yes.

16 MR. ENGELMANN: All right; almost up to  
17 date.

18 At Tab 2, would that be a copy of your  
19 biography?

20 MR. BALA: Yes.

21 MR. ENGELMANN: And again, would that be  
22 accurate and relatively complete?

23 MR. BALA: Yes.

24 MR. ENGELMANN: All right. Now, I note from  
25 -- let's just look at Tab 2, if we can. It would be much

1 easier.

2 I note that you've worked for approximately  
3 25 years as a Professor of Law at Queen's University. Is  
4 that correct?

5 **MR. BALA:** Yes.

6 **MR. ENGELMANN:** I understand while working  
7 there that you have taught and researched, among other  
8 things, children and the law, child abuse, child witnesses,  
9 child welfare law, family violence, the best interests of  
10 children, and juvenile justice.

11 Is that correct?

12 **MR. BALA:** Yes.

13 **MR. ENGELMANN:** In your bio, it states that  
14 you have written or coauthored 12 books and over 100  
15 articles and book chapters.

16 Is that also correct?

17 **MR. BALA:** Yes.

18 **MR. ENGELMANN:** As I understand it, a number  
19 of these articles, chapters or other publications relate to  
20 child sexual abuse.

21 **MR. BALA:** Yes.

22 **MR. ENGELMANN:** Professor Bala, have you  
23 provided us with a selected bibliography that outlines some  
24 of the work you've done in this area?

25 **MR. BALA:** Yes, I have and I believe that

1 that is at Tab 4.

2 MR. ENGELMANN: All right. So at Tab 4 we  
3 have a number of articles, some of which are then set out  
4 in the Books of Documents, and a few that are just there  
5 for general interest.

6 MR. BALA: Yes.

7 MR. ENGELMANN: And it's my understanding,  
8 sir, that there are several more that you have either  
9 authored or coauthored in this subject matter.

10 MR. BALA: Yes.

11 MR. ENGELMANN: Professor Bala, aside from  
12 an active academic life, I understand as well that you've  
13 been engaged in legal consulting work for approximately 20  
14 years?

15 MR. BALA: Yes.

16 MR. ENGELMANN: And some of the work you  
17 have done is listed in your bio. Is that correct?

18 MR. BALA: Some of it is in the bio and all  
19 of it is in the full CV.

20 MR. ENGELMANN: All right. So let's again  
21 just stick with the bio for a minute. There's a reference  
22 in the middle paragraph to work you did as the lead  
23 researcher in the report on the Ontario Child Abuse  
24 Register.

25 Can you just tell us briefly what you would

1 have done and what the Ontario Child Abuse Register is?

2 **MR. BALA:** The Ontario Child Abuse Register  
3 is a government-operated register operated pursuant to the  
4 *Child and Family Services Act* where people who are believed  
5 to have abused children have their name placed so the  
6 Children's Aid Societies can keep track of where they are.  
7 One of the issues was how that register should be used,  
8 could it be used for screening. It's not now used in that  
9 way. We did a -- I led a research team who did a review of  
10 that. We did a literature review. We surveyed  
11 professionals. We had questionnaires. We wrote a report  
12 that was in part accepted by the government.

13 **MR. ENGELMANN:** You also talk about the fact  
14 that you've been a member of research teams reviewing the  
15 Ontario Office of Child and Family Service Advocacy. I  
16 believe that was in 2004.

17 **MR. BALA:** Yes.

18 **MR. ENGELMANN:** And that you've also done  
19 reporting work on child abuse in health care settings in  
20 1999?

21 **MR. BALA:** Yes.

22 **MR. ENGELMANN:** And I note as well that you  
23 worked as a consultant to Rix Rogers.

24 **MR. BALA:** Yes. I should say we will be  
25 coming to his report. I worked quite closely with him as

1 is indicated in the acknowledgments to his report.

2 MR. ENGELMANN: And I understand that work  
3 was done in 1989-90?

4 MR. BALA: Yes.

5 MR. ENGELMANN: As well, sir, I understand  
6 that you had some involvement in a report that was prepared  
7 by Justice Robbins?

8 MR. BALA: I was -- I met with him and he  
9 acknowledged in the report that I was one of many people  
10 that he talked to, but I had a private consultation session  
11 with him.

12 MR. ENGELMANN: I also understand, Professor  
13 Bala, that you've testified on numerous occasions as a  
14 witness before parliamentary committees?

15 MR. BALA: Yes.

16 MR. ENGELMANN: And that at least five of  
17 those occasions related to child sexual abuse, child abuse  
18 and child witness issues?

19 MR. BALA: Yes. The main focus I think was  
20 child witness issues.

21 MR. ENGELMANN: Professor Bala, I understand  
22 that your research work has been cited by various levels of  
23 courts in many provinces and also the Supreme Court of  
24 Canada?

25 MR. BALA: Yes.

1                   **MR. ENGELMANN:** Mr. Commissioner, subject to  
2 any questions my friends may have, as I said I'm seeking to  
3 qualify Professor Bala as an expert on the evolution of  
4 legislation, law and legal processes involving children  
5 and, in particular, child sexual abuse.

6                   **THE COMMISSIONER:** All right.

7                   Does anyone have any questions of this  
8 witness' qualifications for the purposes of this Inquiry  
9 only of course?

10                   All right. So done. Now, we should be  
11 marking the ---

12                   **MR. ENGELMANN:** Yes. It's ---

13                   **THE COMMISSIONER:** --- Book of Documents as  
14 Exhibit number 17P(a) and (b) I suppose. All right.

15                   **MR. ENGELMANN:** Seventeen (17)P(a)?

16                   **THE COMMISSIONER:** Yes.

17                   **MR. ENGELMANN:** Seventeen (17)P(b). All  
18 right.

19                   --- **EXHIBIT NO./PIÈCE NO 17P(a) :**

20                   Book of Documents - Volume I of II - Tabs 1  
21 to 8

22                   --- **EXHIBIT NO./PIÈCE NO 17P(b) :**

23                   Book of Documents - Volume II of II - Tabs  
24 9 to 17

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

1                   **ENGELMANN:**

2                   **MR. ENGELMANN:** Professor Bala, the outline  
3 of evidence at Tab 3 ---

4                   **MR. BALA:** Yes.

5                   **MR. ENGELMANN:** --- is that a document you  
6 would have prepared for the purposes of giving your  
7 evidence?

8                   **MR. BALA:** Yes.

9                   **MR. ENGELMANN:** And just -- we've looked at  
10 Tab 4, which is the selected bibliography, and then from  
11 Tab 5 on, sir, what we see are various reports that you've  
12 authored or coauthored?

13                   **MR. BALA:** That's right.

14                   **MR. ENGELMANN:** All right. We'll be coming  
15 to some of those as we go through your evidence in-chief.

16                   Now, your outline of evidence at Tab 3, page  
17 1, starts with the caption "Prior to the mid-seventies, how  
18 did the law and the legal system respond to child sexual  
19 abuse." You start your outline with a discussion of  
20 common-law rules that you say were developed in the 1800s.  
21 You say that the laws dealing with child sexual abuse were  
22 largely unchanged until the late 1980s.

23                   Is that correct?

24                   **MR. BALA:** Yes. The common-law rules and  
25 early legislation in the Criminal Code of 1892 were, I

1 think, very insensitive to the needs of children. They  
2 were regarded as inherently unreliable. There was some  
3 psychological literature from the early 20<sup>th</sup> Century that  
4 has now been completely discredited that reinforced the  
5 biases against children, and I should say also against  
6 adult female complainants in sexual assault cases. And  
7 this was very much reflected in the law and made it very  
8 difficult for children to come to court, to testify, and  
9 when they were there, they were regarded as inherently  
10 unreliable. So we had very few prosecutions. There were  
11 certainly some, and some of those that went ahead were  
12 unsuccessful, even though when we look back there was  
13 clearly evidence, very strong evidence that would have  
14 convicted the accused today.

15 **MR. ENGELMANN:** All right. And so you have  
16 a body of law that remains fairly unchanged for almost a  
17 century.

18 **MR. BALA:** Yes; over a century, in fact.

19 **MR. ENGELMANN:** I want to just talk to you a  
20 little bit about what happened perhaps in the 60s. First  
21 of all, were there many Criminal Code provisions dealing  
22 with issues surrounding child sexual abuse at that time?

23 **MR. BALA:** There were some and certainly an  
24 adult having sexual relations with a child was a criminal  
25 offence, but there were fewer in number, less

1 sophisticated, did not deal with the issues, particularly  
2 abuse of trust as opposed to simply sexual exploitation per  
3 se, sexual assault.

4 **MR. ENGELMANN:** And how would you describe  
5 the response of the criminal justice system in the '60s or  
6 earlier vis-à-vis its treatment of child sexual abuse and,  
7 in particular, child witnesses.

8 **MR. BALA:** Well, it was very difficult for  
9 children to come to Court, particularly younger children,  
10 even adolescents. When they came there, there were none of  
11 the accommodations that we have now, so the child would  
12 have to face the accused. If the child testified, there  
13 was generally a requirement for corroboration of her or his  
14 evidence, which in some cases was set at a very high  
15 standard, which are discussed in some of the materials  
16 there. So it was difficult to obtain a prosecution --  
17 well, it was difficult to bring a child to Court and once  
18 there, difficult to obtain, very difficult to obtain a  
19 conviction.

20 **MR. ENGELMANN:** All right. And this  
21 situation with whether or not the courts were receptive to  
22 child witnesses and/or alleged victims of child sexual  
23 abuse, did that situation change in the '70s, to your  
24 knowledge?

25 **MR. BALA:** There was no significant change

1 in the 1970s. It was really only in the late 1980s that we  
2 saw a change in Canada. There were earlier changes in some  
3 other jurisdictions, but even there it was really in the  
4 mid-'80s that we started to see a significant change in the  
5 criminal justice system.

6 **MR. ENGELMANN:** Now, you set out at the  
7 fourth point on your first page that it was difficult for  
8 children to testify, and you set out three reasons why.  
9 Can you talk about those briefly and perhaps you could  
10 start with the difficulty understanding the oath.

11 **MR. BALA:** There were a range of laws. I  
12 just identified three of the most significant ones. One  
13 was that when a child came to court, the child had to  
14 testify, was asked questions in initial so-called  
15 competency inquiry voir dire to establish that he or she  
16 understood the nature of an oath. There were some  
17 exceptions to it, but it was a very abstract kind of  
18 questioning that we now realize that children were having a  
19 lot of difficulty in answering those questions even though  
20 they could and often did tell the truth. So many children  
21 were, if you want, blocked right at the start. The judge  
22 held this inquiry and the judge said, "It doesn't matter  
23 whether or not you are telling the truth, you can't define  
24 what an oath is and, therefore, I am not going to allow you  
25 to testify."

1                   **MR. ENGELMANN:** And did that effectively end  
2 the process?

3                   **MR. BALA:** That effectively would be the end  
4 of the prosecution with younger children who were not  
5 qualified to give an oath or could not explain the moral  
6 obligation to tell the truth, and the standard was quite  
7 high, particularly in the '70s and '80s.

8                   **MR. ENGELMANN:** What about the second point,  
9 the need for corroboration? What effect did that have?

10                   **MR. BALA:** In many circumstances, both  
11 legislation in terms of dealing with children who were  
12 testifying on a promise to tell the truth, in a common law  
13 required children, and I should say up until the early '80s  
14 female or adult, actually, and should say male,  
15 complainants in sexual assault cases to have corroboration;  
16 that is to say independent evidence that would support  
17 their allegations. And, of course, abuse often occurred in  
18 private, almost always occurred in private. At that time,  
19 we didn't have the kind of forensic DNA test that we have  
20 today and, in fact, often there would not have been any  
21 evidence like that, and so the cases, it was very hard for  
22 the prosecution to be successful. Often the Crown would  
23 realize that and the police would not lay charges or if  
24 they did, in some of the cases in the document, the courts  
25 had a very high notion of what is corroboration and they

1 would enter an acquittal.

2 **MR. ENGELMANN:** So just so I understand.  
3 Not only children but adult victims of sexual assault  
4 required some form of corroboration as you say until the  
5 early '80s?

6 **MR. BALA:** Yes.

7 **MR. ENGELMANN:** And then children, even  
8 later?

9 **MR. BALA:** Right. And of course at that  
10 time, almost all the sexual assault cases that would be  
11 prosecuted involved female -- with adults, involved female  
12 complainants.

13 **MR. ENGELMANN:** And your last point, sir,  
14 was no accommodation and little support for child  
15 witnesses. What do you mean by that?

16 **MR. BALA:** Until 1988, when a child would  
17 come to court, the child would be treated like any other  
18 witness. We had cases where children could not even see  
19 over the witness stand, or someone would get out a  
20 phonebook or something for the child to sit on. The child  
21 had to face the accused directly. The courtroom typically  
22 was there were people in the courtroom, and there was no  
23 preparation of the child or very little preparation of the  
24 child. Today, and we'll probably come to it, we have  
25 victim-witness support people who meet with the child

1 before to try to make the child comfortable before he or  
2 she testifies; they accompany the child to court. Often  
3 children now would testify from another room by closed  
4 circuit television or use of a screen.

5 So we have a much, much different environment in the  
6 courtroom today.

7 **MR. ENGELMANN:** So none of those child-  
8 friendly facilities were available then?

9 **MR. BALA:** Right; exactly. Both the  
10 facilities were not available, the personnel were not  
11 available, people weren't trained, prosecutors had no  
12 education about how to question children.

13 **MR. ENGELMANN:** You've indicated several  
14 impediments right within the courts themselves. You've  
15 also indicated that there were issues about disbelief with  
16 children as well?

17 **MR. BALA:** Yes. The law, to some extent,  
18 reflected societal values and perceptions and the  
19 perception -- and it began to change in the 1970s, but  
20 certainly the perception early on was the children were  
21 inherently unreliable. They were to be disbelieved. And  
22 so we now have documented cases where children -- and Mount  
23 Cashel was perhaps the most famous example where children  
24 were coming forward and telling the police "I've been  
25 sexually abused by a priest," and the police would say --

1 not only wouldn't they prosecute, they'd say "How can you  
2 make an allegation like that? You must be lying." And the  
3 child would be punished for having told a lie about -- and  
4 I'll use that in quotation marks -- "about a respected  
5 community figure" and then return to the care of that  
6 person who would then punish the child again. And of  
7 course the message to other children was that you better  
8 not disclose abuse.

9 **MR. ENGELMANN:** And this issue of Cashel and  
10 disbelief by police took place well into the '80s, as I  
11 understand it.

12 **MR. BALA:** Certainly, I think the change  
13 went on different places and in different ways but  
14 certainly until the mid '80s, yes.

15 **MR. ENGELMANN:** You talk about the enactment  
16 of child abuse reporting laws in Ontario. What was it  
17 specifically that happened in 1965, to your knowledge?

18 **MR. BALA:** In the early 1960s, there was a  
19 growing awareness particularly of issues about physical  
20 abuse, and there was a seminal article written in 1962 by  
21 an American Pediatrician, Dr. Henry Kempe, who wrote about  
22 physical abuse, the so-called battered child syndrome and,  
23 as a result of that, most jurisdictions in North America  
24 enacted mandatory reporting laws. So in 1965, I believe,  
25 Ontario enacted the *Child Welfare Act* provisions about

1 making it a requirement, an offence, for a professional to  
2 report a suspected child abuse or neglect, which would have  
3 included, I should say, sexual abuse. But the concern in  
4 the 1960s was primarily physical abuse, undiagnosed  
5 physical abuse.

6 **MR. ENGELMANN:** So just that I'm clear  
7 there, there was a requirement then added to the *Child*  
8 *Welfare Act* that required people to report?

9 **MR. BALA:** It required professionals and  
10 allowed others to report; it provided it was an offence for  
11 professionals to fail to report; it provided that others  
12 were expected to report; it provided so-called good faith  
13 protection for those who would report in cases where there  
14 was not ultimately a finding of abuse but they couldn't be  
15 civilly sued; significant protection.

16 **MR. ENGELMANN:** And do you recall, Professor  
17 Bala, if there was a definition of "professional" or who  
18 was encompassed by that?

19 **MR. BALA:** There was a definition that was  
20 -- I'd have to go back and look at it. It changed in 1984  
21 and changed again in 2000. It was narrow. Each time, it  
22 was getting broader.

23 **MR. ENGELMANN:** And aside from ---

24 **MR. BALA:** It was those who were providing  
25 services in regard to children. I know there were some

1           contentious issues about who exactly was included in that  
2           definition. That's why it was expanded in 1984 and in  
3           2000, and I would have to go back and look in detail.

4                       **MR. ENGELMANN:** And that requirement now  
5           goes beyond professionals to every adult?

6                       **MR. BALA:** We now have a much broader --  
7           yes.

8                       **MR. ENGELMANN:** Now, you next talk about the  
9           mid-'70s, mid-'80s and you've entitled this "The Beginnings  
10          of Change". And I note your first point that "although the  
11          law is not changing much, our awareness is".

12                      I think you've talked to us already about the inter-  
13          relationship between societal attitudes or views and the  
14          law. Have you seen some of that in the '70s and '80s?

15                      **MR. BALA:** Yes, and one has to be careful  
16          about the word "our understanding" in that, in fact,  
17          society is made up of many, many individuals, but it's  
18          certainly true to say that starting in the 1970s, coming  
19          out of particularly the Women's Movement, I think -- and it  
20          started at different places at different times, but as  
21          there were discussions among women -- and professionals  
22          actually were not the leaders here. It was victims. Women  
23          were coming forward and sharing with other women that they  
24          had been sexually assaulted as adults and then start to  
25          talk about the sexual abuse that they experienced as

1 children. Therapists began to hear about the social  
2 workers. People began to write about it, to talk about it,  
3 and I would think that roughly from the early 1970s.

4 **MR. ENGELMANN:** All right.

5 And you say at the top of page 2 of your  
6 outline that these efforts on the behalf of women's groups  
7 led to changes to Canadian law and legislation with respect  
8 to adult victims of sexual assault.

9 **MR. BALA:** Yes.

10 **MR. ENGELMANN:** If you could just briefly  
11 describe for us some of those changes and why if at all  
12 they had an impact then on laws relating to child sexual  
13 abuse.

14 **MR. BALA:** Well, the first successful major  
15 success of the advocates for victims was in regard to adult  
16 victims, primarily women of -- I should say some of the  
17 changes affected male victims as well, at least in theory,  
18 but the focus was on women coming and talking about their  
19 experiences as victims and also their experience in the  
20 criminal justice system. When we look back on this now, we  
21 can certainly see that the legal system was highly  
22 discriminatory against women who were sexually assaulted  
23 and were put on the witness stand and asked very intrusive  
24 questions that weren't quite relevant about their sexual  
25 history and so on.

1                   So in 1983, we had a major change in the  
2                   sexual assault laws as they affected adults. The concept  
3                   of rape was removed from the *Criminal Code* and replaced  
4                   with sexual assault so that, for example, the issue of  
5                   penetration became less legally significant. Up until  
6                   1983, a husband, a man who was married to a woman had a  
7                   legal right to have sexual relations with her even if they  
8                   had separated and even if she wasn't consenting. So a  
9                   husband could not rape his wife. That changed in 1983.

10                   Up until 1983, there was very extensive  
11                   questioning of complainants, of women who were coming  
12                   forward about their sexual history even if it was  
13                   completely irrelevant to the offence. And, indeed, if  
14                   women didn't complain -- there was a so-called abuse of  
15                   complaint rule if they didn't make a complaint at the first  
16                   opportunity -- their credibility could be affected. We now  
17                   know that women and children even more so were reluctant to  
18                   disclose so that the fact that they did not disclose should  
19                   not be held against them in terms of their credibility.

20                   So there were a number of very significant  
21                   changes in the criminal law in Canada, evidentiary law in  
22                   1983.

23                   **MR. ENGELMANN:** So those changes then that  
24                   were put into place and some of that discriminatory  
25                   attitude you talked about and some of the difficulties for

1 female victims of sexual assault, how if at all did they  
2 impact then on perhaps the child victim?

3 **MR. BALA:** Well, some would characterize  
4 this as a victim-driven movement in some ways and the first  
5 successful variety of reasons was in regard to changing the  
6 laws about adult victims. So then to some extent advocates  
7 looked to children. I think part of the reason that women,  
8 that adult victims were dealt with first is that these were  
9 the first people to come forward. It was only that they  
10 started saying -- and you know, many of them were saying,  
11 "I was sexually assaulted as a child also. What are you  
12 going to do about today's children?" and people said, "Yes,  
13 we were aware of the issue for adults. We should also  
14 start to think about our laws about children".

15 **MR. ENGELMANN:** Is that what you're talking  
16 about then in your third bullet, sir, discovery of child  
17 sexual abuse as some of these adult survivors started  
18 coming forward?

19 **MR. BALA:** Yes.

20 **MR. ENGELMANN:** All right. You have  
21 described that in the '70s and '80s?

22 **MR. BALA:** Yes.

23 **MR. ENGELMANN:** And you have told us as well  
24 that there was some experimental research going on in the  
25 '80s.

1                   **MR. BALA:** Yes, and one of the things that  
2 was going on in the 1980s was as professionals started to  
3 be aware of this issue, as victims started to come forward,  
4 on one side there was research by experimental  
5 psychologists who were working with children in non-abuse  
6 situations but also abuse situations about children's  
7 memory.

8                   One of the tenets of the previous law was  
9 where children were just unreliable, have very poor  
10 memories. So people were doing studies to show that  
11 children could have very good memories. They remember less  
12 than adults but they may be as accurate as an adult memory.  
13 And so that started to change attitudes -- that research  
14 was being done and appeared in the academic literature.  
15 People began to think about maybe we should change our laws  
16 that it will premise on the reliability of children.

17                   As the same time as the experimental people  
18 were working about issues about children's memory,  
19 clinicians were working with child victims and started to,  
20 for example, realize that children would often delay  
21 disclosure and so how to help children disclose the fact  
22 that they had been abused. So there was different kinds of  
23 research going on that were mutually reinforcing.

24                   In fact, other countries, particularly in  
25 the United States, were changing many of their laws before

1 Canada so it was by the time 1980 came along and we had  
2 those reforms. It was easy to state, "Look, they are doing  
3 this in other countries. Why aren't we doing it here?"

4 **MR. ENGELMANN:** Now, some of that work that  
5 was happening in the United States, perhaps in the '70s,  
6 did that at all lead to what you refer to next, which is  
7 the Badgley Report, which I understand starts in 1980 and  
8 wraps up with a report that's issued in August of 1984?

9 **MR. BALA:** That's right.

10 The Badgley Report, I think, in terms of the  
11 law and policy and knowledge in Canada is one of the  
12 seminal events that the Committee was struck in 1980. It  
13 produced a two-volume report in 1984. That Committee did  
14 very extensive work both in terms of research to understand  
15 the dimensions of the problems of child sexual abuse,  
16 pornography and also making recommendations for policy  
17 change, for program change and for legal change.

18 **MR. ENGELMANN:** Now, that particular report  
19 -- and you've listed a couple of key findings from that  
20 report that you say was the first significant Canadian  
21 research on the incidence of child sexual abuse. I think  
22 you have created that this is something that went on for  
23 three to four years.

24 **MR. BALA:** Yes, it was a major undertaking.  
25 They did a lot of different kinds of research and both -- a

1 lot of survey work, interviewing people, interviewing  
2 victims, interviewing professionals and certainly, there  
3 was some work before then but I think this would be by far  
4 the biggest initiative both in terms of doing research and  
5 also in terms of making recommendations.

6 **MR. ENGELMANN:** All right.

7 And there were an awful lot of people  
8 involved in this process, were there not, Professor Bala?

9 **MR. BALA:** Well, there were certainly a  
10 number. In fact, the summary report is at Tab 5. There is  
11 the summary report prepared by the Committee. The  
12 Committee was chaired by a sociologist, Robin Badgley, and  
13 a description of the work of the Committee is there.

14 For example, I would take you to page 10 in  
15 Tab 5. There you can see a table that sets out the kind of  
16 research that they were doing. That research was being  
17 carried out by sociologists, social workers, psychologists  
18 in the field, both in terms of meeting with victims,  
19 advertising people to come forward. There was a legal  
20 research component. There were some lawyers on their  
21 staff. They were looking at what was happening in other  
22 jurisdictions.

23 So they did both empirical work in terms of  
24 trying to document the incidence of child abuse,  
25 particularly child sexual abuse, child pornography, child

1 prostitution, and then making recommendations for legal  
2 reforms but also program reforms and policy reforms.

3 **MR. ENGELMANN:** All right.

4 So the research conducted by the Committee  
5 quite extensive. We see, for example, 14 different items;  
6 14 different research studies being performed. We see  
7 information received and who it was received from and just  
8 before then, at page 7, we see some of the senior research  
9 associates where we've got Elisabeth Hurd, National Child  
10 Protection Survey; Masters in Social Work. We have got  
11 someone involved in a national hospital survey, national  
12 correction survey. We've got a director of legal research.

13 We have Wendy Leaver on leave of absence  
14 from the Metro Toronto Police Force. We have someone else,  
15 Brian Levine, National Child Protection Survey, and then  
16 another individual on leave from Metro Toronto Police. So  
17 we have some social workers, we have some police officers.  
18 We have others who are legally trained. We have a number  
19 of people working together on this Badgley Report; is that  
20 fair?

21 **MR. BALA:** Yes, yes.

22 **MR. ENGELMANN:** So we have all of this  
23 research being undertaken. This is a -- would you view it  
24 as a seminal work in the area of child sexual abuse in  
25 Canada?

1                   **MR. BALA:** Yes, and I should say, by the  
2 way, that you've listed, and quite appropriately, the  
3 research people. If you look back at page 6 there you can  
4 see the actual members of the Committee. There was a  
5 judge, actually a couple of judges involved; some doctors  
6 and so on. So it was a very -- it was a very significant  
7 group of people who were involved in a range of different  
8 professional capacities. Some had a lot of professional  
9 experience dealing with child sexual abuse, others more  
10 with children in the justice system and so on, and then  
11 they had the research staff you've identified there.

12                   **MR. ENGELMANN:** All right.

13                   Professor Bala, we talked about some of the  
14 research studies that were done and some of the information  
15 received. There were a number of recommendations made with  
16 respect to reforms.

17                   **MR. BALA:** Yes.

18                   **MR. ENGELMANN:** You talk about in your  
19 outline that there were two -- you mentioned two key  
20 findings. The incidence of child sexual abuse was higher  
21 than was widely understood and the incidence of juvenile  
22 prostitution was higher than was widely understood.

23                   **MR. BALA:** Yes.

24                   **MR. ENGELMANN:** Were there any other key  
25 findings that you wanted to leave with us at this point?

1                   **MR. BALA:** Well, I think that the major  
2                   finding, and there was similar research in the United  
3                   States, although not nearly as thorough, was that the  
4                   incidents of child sexual abuse was much higher than people  
5                   had imagined. Up until, you know, in the 1950s and '60s,  
6                   there was a sense that child sexual abuse was very rare,  
7                   that it was something that was done by strangers, and in  
8                   fact Badgley documented, as others did, that in fact  
9                   strangers' sexual abuse was a significant problem, was a  
10                  relatively small part of the much broader picture.

11                  In the 1970s, we had, if you want, what some  
12                  called the discovery of child sexual abuse which would say  
13                  child sexual abuse had a very long history since the  
14                  beginning of time but physicians and social workers began  
15                  to be aware of it. But in the 1970s, they were primarily  
16                  focusing on incest, then on children; girls being sexually  
17                  exploited by relatives, family friends, and Badgley  
18                  documented that it was a much wider problem that affected  
19                  both males and females. It was one of the first major  
20                  works in the world and certainly in Canada to start to  
21                  document the extent to which boys had been sexually  
22                  exploited.

23                  **MR. ENGELMANN:** All right. I want to take  
24                  you through a little about this. We've already had some  
25                  discussion here about what might have been known or not

1 known at certain points in time and I think this report  
2 might be illuminating.

3 Let's go through a little bit of it if we  
4 can. For example, let's look at pages 15 to 17.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **MR. ENGELMANN:** This is the summary. As I  
7 understand it, this is a two-volume -- fairly thick volumes  
8 -- report and these 70-odd pages are -- this is the  
9 summary. I wouldn't call it an executive summary but it's  
10 the summary of the Badgley Report. Fair enough?

11 **MR. BALA:** Yes.

12 **MR. ENGELMANN:** So at pages 15 through 17,  
13 we have some discussion about reforms of sexual offences.  
14 Correct?

15 **MR. BALA:** Yes.

16 **MR. ENGELMANN:** And the committee is making  
17 some recommendations at page 17 with respect to amendments  
18 to our *Criminal Code*.

19 **MR. BALA:** Yes.

20 **MR. ENGELMANN:** And in fact, Professor Bala,  
21 when -- we'll come to this a bit later but when did  
22 significant changes to the *Criminal Code* come into place  
23 following Badgley?

24 **MR. BALA:** In 1988. If I could just take us  
25 back for one moment ---

1                   **MR. ENGELMANN:** Sure.

2                   **MR. BALA:** --- to page 2 of the summary  
3 there and I think this is a nice -- it really captures that  
4 Badgley refers to as -- the committee refers to as child  
5 sexual abuse. This is on page 1 of the report in fact and  
6 it says:

7                                 "The national concern beginning of  
8                                 that..."

9                   **MR. ENGELMANN:** If you could just wait a  
10 minute until we have it on the screen?

11                   **MR. BALA:** Yes, page 1 of the report.

12                   **MR. ENGELMANN:** And where is it on page 1,  
13 sir?

14                   **MR. BALA:** It's at the beginning of the  
15 fourth paragraph and it begins:

16                                 "Child sexual abuse..."

17 This is right in 1984 ---

18                                 "...is a largely hidden yet pervasive  
19 tragedy that has damaged the lives of  
20 tens of thousands Canadian children and  
21 youth. For most of them, their needs  
22 remain unexpressed and unmet. These  
23 silent victims, and there are  
24 substantial numbers of them, are often  
25 in the greatest need of help and care."

1                   And he then went on to say that -- to  
2                   conclude that one third of -- one in three males and one in  
3                   two females had been victims of one or more unwanted sexual  
4                   acts.

5                   Now, there is always controversy about what  
6                   the incidence is but he was certainly starting to identify  
7                   that this was a very significant problem.

8                   And then over on page 2, in about the middle  
9                   of the page there, he pointed out that coercion was  
10                  certainly often present but by no means always. He then  
11                  went on to say that abuse by strangers was a relatively  
12                  small problem, certainly a significant one but most sexual  
13                  abuse was by family -- well, either by family members, one  
14                  in four, and in fact, one-half of sexual abuse was by  
15                  friends or acquaintances which would include teachers,  
16                  coaches and so on.

17                  That was his estimate of the incidents of  
18                  child sexual abuse and then went on to make many  
19                  recommendations about -- as we're getting into about policy  
20                  change, legal change, better training for professionals,  
21                  more resources devoted towards this problem.

22                  **MR. ENGELMANN:** Now, if we could then go to  
23                  page 21 of Tab 5?

24                  We have a couple of references there I'd  
25                  like to ask you about. One is called "Invitation Cases"

1 and the other one "Abuse of Position of Trust". And again,  
2 I just want you to comment on these from the point of view  
3 of child sexual abuse and, again, what type of child sexual  
4 abuse we might be talking about here.

5 **MR. BALA:** Well, the Badgley Committee made  
6 recommendations about many different kinds of legal change  
7 but in this part of the report they are focusing on the  
8 concern that our sexual assault laws at that time did not  
9 have adequate provisions to deal with issues around  
10 exploitation of positions of trust, around sexual  
11 exploitation that did not necessarily involve penetration  
12 and around what today we call "grooming" by pedophiles that  
13 might be going on that would be leading towards more  
14 serious and intrusive acts and might not have been  
15 considered to be sexual offences at that time.

16 So he recommended that there should be  
17 changes to the *Criminal Code* to deal with a broader range  
18 of exploitive and abusive sexual events that often either  
19 would lead to more serious intrusive forms of abuse or  
20 indeed in and of themselves cause tremendous psychological  
21 harm to victims even though they weren't criminal offences  
22 in some cases until 1988.

23 **MR. ENGELMANN:** All right.

24 So what we're seeing in Recommendation 8 is  
25 perhaps a broadening of what is sexual and we're talking

1 about touching various parts of the body and there's a  
2 reference to a child as well, et cetera.

3 **MR. BALA:** Yes.

4 **MR. ENGELMANN:** Then at the bottom of the  
5 page, what's happening here? You mentioned this earlier  
6 that the early law in this area didn't really deal with  
7 individuals who were in positions of trust or authority,  
8 who would be acquaintances of the child victim.

9 What do we see here now?

10 **MR. BALA:** Well, I think there was a  
11 recognition that -- there was both a growing recognition of  
12 the problem of exploitation of children by persons in  
13 positions of trust and authority and recognition that some  
14 of the criminal offences that we had did not deal with that  
15 situation adequately. Now, some of the acts would have  
16 been sufficiently intrusive to have been sexual offences,  
17 some of them wouldn't.

18 But he advocated both a broadening  
19 definition and recognition that those who are in positions  
20 of trust and responsibility have special responsibilities  
21 for children and, therefore, there is a particular need to  
22 protect children and have appropriate criminal legislation.

23 **MR. ENGELMANN:** I'm just noting at the  
24 bottom of page 21 and onto 22 that they talk about a common  
25 denominator and they say:

1 "Their opportunities for sexually  
2 abusing the children were greater than  
3 ordinary. Correspondingly, their young  
4 victims were particularly vulnerable to  
5 them and, lastly, by so acting, these  
6 offenders breach the vital position of  
7 trust proposed in them due to their  
8 special relationship to their young  
9 victims."

10 Did that in fact lead to some  
11 recommendations then about individuals who might abuse  
12 trust or be in positions of authority or trust?

13 **MR. BALA:** Yes, and in particular you can  
14 see there at page 22, Recommendation 9, that provided for a  
15 much more detailed and broad -- set up provisions in the  
16 criminal law to deal with sexual exploitation by persons in  
17 positions of trust and responsibility.

18 **MR. ENGELMANN:** All right. And I note we  
19 see some positions of trust that would be intra-familial  
20 abuse or incest, people in the home and some that would be  
21 extra-familial or the acquaintance molester type of abuse.

22 **MR. BALA:** Yes, and I should incest has long  
23 -- itself has long been a criminal offence, although even  
24 there the focus with the law at that time was on  
25 penetration as opposed to sexual molestation, if you want,

1 a non-penetration sexual contact, and we now know that  
2 penetration offences were relatively rare in the context of  
3 sexual offence against children but they certainly occur.  
4 But fondling, exposure and so on is more common, and that  
5 it's certainly not just parents. Of course, the literature  
6 makes clear that the vast majority of offenders are males  
7 but there are also female offenders.

8 **MR. ENGELMANN:** And sir, we appear to have a  
9 non-exhaustive list for people in positions of trust in  
10 their recommendations.

11 Yes, but certainly included there you can  
12 see teachers, group home workers and so on.

13 **MR. ENGELMANN:** All right.

14 Now, as well, at pages 27 to 29 we see some  
15 issues dealing with the principles of evidence. I think  
16 you talked to us earlier about one of the problems that  
17 existed before -- well, before '83 for both female victims  
18 of sexual assault and child victims of child sexual abuse  
19 but now in '84 this issue of corroboration seems to be  
20 discussed.

21 **MR. BALA:** Yes, Badgley recommended major  
22 changes to the procedural and evidentiary law to facilitate  
23 the process of children coming to court to allow use of  
24 closed circuit TV in screen. Those kinds of legal  
25 developments were already happening in some of the American

1 states and he was saying we should be doing the same thing.

2 **MR. ENGELMANN:** And we have some of the  
3 findings with respect to the evidence of children set out  
4 in the middle of page 28, those bullets?

5 **MR. BALA:** Yes, both findings about -- and  
6 again, you have a nice summary there towards the top of the  
7 page, top of page 28 about some of the literature, the  
8 research that was going on and then, you know, that  
9 sentence there in this brief, "Our research" and we  
10 summarize the research of others "indicates that the  
11 assumptions about the untrustworthiness of young children  
12 and their inability to recall events with respect to sexual  
13 offences are largely unfounded" and then it goes on. He  
14 summarized the literature -- they summarized the  
15 literature and stated both that the assumptions are wrong  
16 and then goes on to recommend changes in the laws governing  
17 evidence of procedural child witnesses.

18 **MR. ENGELMANN:** All right.

19 And then the next discussion after that is  
20 on the corroboration issue?

21 **MR. BALA:** Yes, to essentially abolish the  
22 corroboration -- it was for child witnesses -- and treat  
23 child witnesses just as any other witness and there is no  
24 doubt that for any kind of court case, if you want to call  
25 it supporting evidence, is always going to be helpful, but

1 to have a legal requirement for corroboration for one  
2 category of witnesses, child witnesses, was inappropriate  
3 and unjustified.

4 **MR. ENGELMANN:** All right.

5 So this is the Badgley Report and it takes  
6 some time, I think, as you've indicated before, it then  
7 leads to legislative change or significant legislative  
8 change?

9 **MR. BALA:** Right. In 1988 we had a major  
10 change, what's called Bill C-15 that changed the *Criminal*  
11 *Code* both in terms of some of the offence provisions, some  
12 of the evidentiary provisions, some of the procedural  
13 provisions to facilitate children coming to court and to  
14 expand the range of offences.

15 **MR. ENGELMANN:** All right. And some of  
16 those descriptions you set out -- this is on page 3 of Tab  
17 3 in your outline?

18 **MR. BALA:** Yes, 3.

19 **MR. ENGELMANN:** Under the caption "Bill C-  
20 15, 1988 Amendments to the Criminal Code and Canada  
21 Evidence Act"?

22 **MR. BALA:** Yes.

23 **MR. ENGELMANN:** And these changes, to your  
24 knowledge, Professor Bala, do they flow directly from the  
25 Badgley Report?

1                   **MR. BALA:** Well, essentially, yes. I mean,  
2 as is always with law reform there are many players  
3 involved. The federal government had the report. The  
4 people in the Department of Justice are looking at it, and  
5 saying, well, what do we think is appropriate? They are  
6 talking to their provincial colleagues. What do we think  
7 is saleable? At that time we already had the *Charter of*  
8 *Rights*. What's consistent with the *Charter of Rights*?

9                   And so they implement some of his  
10 recommendations but not all of them.

11                   **MR. ENGELMANN:** So did this issue just die  
12 for three or four years or were there provincial and  
13 national dates and correspondence?

14                   **MR. BALA:** I think that -- there was an  
15 ongoing dialogue that I have some awareness of. Law reform  
16 is a slow process. The unfortunate reality is that while  
17 we often give a lot of rhetorical support to the importance  
18 of children it was not a national priority at that time for  
19 the department -- it was not a sufficient priority. I want  
20 to say in fairness -- you know, some would say going from a  
21 report to the legislation, four years is actually pretty  
22 fast.

23                   **MR. ENGELMANN:** Okay.

24                   **MR. BALA:** If you think about how things  
25 happen in Ottawa.

1                   **MR. ENGELMANN:** So I want to just ask you a  
2 little bit then -- we talk about the amendments to the  
3 *Criminal Code* and you've talked about -- in your first  
4 bullet about the addition of the breach of trust issue and  
5 issues dealing with sexual exploitation of children. You  
6 also talk about amendments to the *Canada Evidence Act*. You  
7 have set some of those out; the corroboration issue, the  
8 ability to have child-friendlier courtrooms and the use of  
9 close circuit television screens, et cetera.

10                   You also talk about, in your third bullet,  
11 about training and about getting something up and going.  
12 You talk about the Institute for the Prevention of Child  
13 Abuse. Would that be one example of an institute or  
14 association that was available to do training under  
15 education of professionals?

16                   **MR. BALA:** I think there was certainly an  
17 awareness, a growing awareness that the substantive  
18 criminal law, the procedural criminal law -- what they  
19 enact in Ottawa is only a small part of the solution to the  
20 problem of child sexual abuse and that training -- the  
21 provision of adequate resources is as or more important  
22 than simply changing the law. So the government of Ontario  
23 in 1985 set up the Institute for the Prevention of Child  
24 Abuse. It was primarily a training organization province-  
25 wide, a bit of a national mandate and also they were

1 carrying out research and doing a little bit of advocacy  
2 work.

3 **MR. ENGELMANN:** And this is one example of  
4 an association that was out there to do some of this  
5 training and education?

6 **MR. BALA:** Well, it was certainly, I think,  
7 perhaps one of the leading places in Ontario.

8 **MR. ENGELMANN:** All right.

9 **MR. BALA:** In fact, although it did have  
10 some private funding, some federal funding, it was  
11 primarily a provincial Ontario initiative to provide better  
12 resources for frontline workers, child protection workers,  
13 police prosecutors, people in the health field. IPCA, in  
14 some ways mirroring what was going on in the Badgley  
15 Report, recognized that there has to be interdisciplinary  
16 research, interdisciplinary training, so that the  
17 professionals work together more closely and are aware of  
18 matters outside their own discipline.

19 **MR. ENGELMANN:** And who were these  
20 professionals that would then have been able to benefit  
21 from this training?

22 **MR. BALA:** Well, IPCA, their staff was  
23 largely social workers but they had many people they  
24 brought in for educational purposes. I was one of the  
25 people. Many others -- there were pediatricians involved.

1 I think Dr. Marcy Meehan, for example, was very much  
2 involved in Toronto. Lawyers, police officers, social  
3 workers were involved in going out and training. It was  
4 both interdisciplinary training and multidisciplinary in  
5 the sense that a group of professionals would come to  
6 present to -- with different backgrounds come to present to  
7 a mixed professional audience. They also did some training  
8 which focused on particular groups; child welfare workers  
9 and so on. Their major mandate, I think, was in the child  
10 welfare field; Children's Aid Societies but also,  
11 certainly, a significant mandate was in regard to training  
12 of police officers, crown prosecutors, those who work in  
13 the criminal justice system.

14 **MR. ENGELMANN:** All right, so individuals  
15 who worked at a police service in the province of Ontario  
16 or individuals who worked in the CAS in the province of  
17 Ontario or individuals who worked in government ministries  
18 that had contact with children. Was this training  
19 available to them?

20 **MR. BALA:** Well, available, I don't want to  
21 say how much was available, exactly where and exactly to  
22 whom because it's a large province and it's a large country  
23 but ---

24 **MR. ENGELMANN:** I'm not asking you for  
25 specific cities. I'm just asking whether or not this was

1 out there.

2 **MR. BALA:** But it was certainly out there  
3 and, you know, I would say if you compare 1988 to 1978 a  
4 huge -- we've gone up a very steep slope and had enormous  
5 change. A lot more of this was available.

6 **MR. ENGELMANN:** Professor Bala, when you  
7 were involved in the training what sorts of issues were you  
8 dealing with?

9 **MR. BALA:** I was primarily there talking  
10 about the change in the legislation so I was writing about  
11 the law for them and giving training primarily to those who  
12 were working in the justice system but police prosecutors,  
13 child protection workers saying, "Here is what's happening  
14 in terms of the legislation, here is what's happening in  
15 terms of the research, here is what's happening in terms of  
16 the evolution of the common law, writing for a general,  
17 professional audience about the change in the law and then  
18 IPCA would either organize training conferences, training  
19 programs and also disseminating written material to the  
20 professionals in the field.

21 **MR. ENGELMANN:** And these training  
22 conferences, educational seminars, et cetera, were they  
23 only available in the city of Toronto or did they go on the  
24 road.

25 **MR. BALA:** They certainly went on the road

1 and again, I can't comment about exactly where they went  
2 but they were going around Ontario and the programs in  
3 Toronto were certainly bringing in people from outside  
4 Toronto, so by no means was it just in Toronto. Again, you  
5 would have to ask others about how widely was it  
6 disseminated in every place in Ontario. We have a -- the  
7 justice system is very large in terms of we have a lot of  
8 judges, we have a lot of police officers and a lot of child  
9 protection workers and so on. So how widely it was  
10 disseminated -- it looks different if you're in a place  
11 where it's something poured into the system and say, hey,  
12 it's going out.

13 **MR. ENGELMANN:** But sessions you were  
14 involved with, were on the road, so to speak, around the  
15 province.

16 **MR. BALA:** Yes, some of them were around --  
17 and in fact, at Tab, I believe it's Tab 7 ---

18 **MR. ENGELMANN:** 7.

19 **MR. BALA:** --- you can see one of the things  
20 that I wrote for IPCA, and you may notice there at Tab 8,  
21 on page 1 of that it says "Preface". There it sets out a  
22 number of ---

23 **MR. ENGELMANN:** Just let me stop you for a  
24 minute. Are you at Tab 7, sir? And this is ---

25 **MR. BALA:** Yes, I'm at Tab 7.

1                   **MR. ENGELMANN:** All right.

2                   **MR. BALA:** And that's my -- at Tab 7 and  
3 then Preface, page 1, it sets out and says some of the  
4 things that were going on there, that was the edited text  
5 of a presentation that I gave, was a transcript that I  
6 rewrote a little bit. You'll notice there that that's my  
7 talk that I gave in Toronto. There were other talks, that  
8 you can see on page 1, in London, another one in Thunder  
9 Bay. So there was some effort to go around the province.  
10 They were also preparing - and then they gave the  
11 educational programs that were a day or two in length and  
12 then prepared printed materials based on them. There was  
13 also, you can see at the bottom of page 1 there, it says,  
14 "Resource Paper"; a paper that I co-wrote with a social  
15 worker that went into the Bill C-15 provisions in quite a  
16 lot of detail. And IPCA disseminated that, again around  
17 the province.

18                   **MR. ENGELMANN:** All right. In fact, I  
19 notice just at page 2 which is, I guess, the first page of  
20 this substantive paper, you acknowledge in footnote that

21                                    "This paper is a substantially revised  
22                                    version of a speech, given at the Bill  
23                                    C-15 forum for child workers, police,  
24                                    Crown attorneys and other  
25                                    professionals, sponsored by the

1                   Institute for the Prevention of Child  
2                   Abuse, February 5, 1988, Toronto".

3                   **MR. BALA:** Yes.

4                   **MR. ENGELMANN:** All right.

5                   And again, in the Preface you talk about the  
6                   fact that professional forums were held across Ontario and  
7                   the purpose of the forums.

8                   **MR. BALA:** Yes, although in fairness, across  
9                   -- you know, the work, there are a lot of people who work  
10                  in the justice system. They certainly all didn't attend.  
11                  The forum that, for example, I gave that presentation at,  
12                  in Toronto, there would have been, I guess, about 200  
13                  front-line workers there, primarily who were learning about  
14                  the new legislation at a time when there will be thousands  
15                  of people working in the justice system.

16                  **MR. ENGELMANN:** Absolutely.

17                  How long did you do work for this Institute?

18                  **MR. BALA:** I began to do some work for them  
19                  in 1987, and I continued to do work for them until 1995,  
20                  when the Institute was -- when the government stopped  
21                  funding that Institute. If I can take you back to my CV,  
22                  the full CV in Tab 1, at page 12 there, you can see ---

23                  **MR. ENGELMANN:** Just a minute.

24                  **MR. BALA:** Page 12 ---

25                  **MR. ENGELMANN:** The bottom half of the page?

1           **MR. BALA:** Yes, you can see a list of  
2           publications that I wrote for the Institute and some of  
3           those, I would have presented at conferences. If you move  
4           on to ---

5           **MR. ENGELMANN:** So just if I can stop you  
6           for a moment, sir. Items 1, 3, 5, 6, 7, 8, 10, 11, 12, 14;  
7           those would all be either publications or papers you would  
8           have presented at some of these sessions you have talked to  
9           us about?

10          **MR. BALA:** Those, in fact, were all  
11          publications that they disseminated ---

12          **MR. ENGELMANN:** Okay.

13          **MR. BALA:** --- and then in fact, if you look  
14          over to page -- continue on in the CV, about pages 23 and  
15          towards the bottom of 23 and 24, you can see various  
16          presentations that I was giving for IPCA in different  
17          places around the province. And I was just one of the -- I  
18          want to emphasize that I was one and not their leading  
19          person; they had people on staff who were doing -- they  
20          were doing a significant amount of training.

21          **MR. ENGELMANN:** Okay.

22          **MR. BALA:** Obviously if it becomes relevant,  
23          one could go back and reconstruct their records, but I  
24          wouldn't want to say, this was all we were doing -- far,  
25          far from it.

1                   **MR. ENGELMANN:** Okay. So you ---

2                   **MR. BALA:** I had a relatively small role in  
3 comparison. It was a significant organization, I mean,  
4 they had a staff and I don't want to, it could have been 20  
5 or 25 people involved in doing training at different points  
6 in time.

7                   **MR. ENGELMANN:** You said the Institute  
8 started in 1985. Do you know, sir, if it was in response  
9 to Badgley?

10                  **MR. BALA:** I assume it was but I'm not sure.  
11 That would seem like a fair guess, but you would have to --  
12 -

13                  **MR. ENGELMANN:** All right.

14                  And sir, we were in Tab 7; can you tell us  
15 what the purpose of this particular paper or address was,  
16 when you were dealing with, you know, child welfare  
17 workers, police officers, people involved in the justice  
18 system? What are you trying to get across to them, in  
19 February of 1988 and then later?

20                  **MR. BALA:** Trying to explain what the new  
21 law is, how they could work with it, how they should work  
22 with it, for example, discussing issues about videotaping  
23 of interviews of children that could then be played in  
24 court. So we had new change in terms of substantive law,  
25 training of frontline workers, providing resources, but

1 it's a slow process, so this was really -- for some people,  
2 this was introducing them to the ideas. Some people were  
3 actually doing some of these things already.

4 So I was -- although because I was an  
5 academic, I was asked to prepare a keynote address, I was  
6 presenting with other professionals, some of whom were  
7 saying, "Oh, yes, my police force is already doing this."  
8 Other people were sitting in the audience saying, "Well, we  
9 never heard about this; thank you for telling us."

10 **MR. ENGELMANN:** So it appears -- I'm just  
11 looking at page 9 through the following pages, that you are  
12 emphasizing the fact that the corroboration rule has been  
13 abolished?

14 **MR. BALA:** Yes, so changes in the  
15 substantive law there, in the evidentiary law.

16 **MR. ENGELMANN:** Just be a moment.

17 **(SHORT PAUSE/COURTE PAUSE)**

18 **MR. ENGELMANN:** Now, this is now 1988, we've  
19 seen the changes to the *Criminal Code*; we've talked about  
20 some of the training that's been ongoing or started with  
21 IPCA and your own involvement.

22 The next item in your outline is the Rogers  
23 Report, the Report of the Special Advisor on Child Sexual  
24 Abuse. That's 1990. Anything else happening that's  
25 significant in Canada in the late '80s, that needs to --

1 more public awareness or more issues and legal processes?

2 **MR. BALA:** Well, I think there were two  
3 things. We were starting, as the *Criminal Code* was being  
4 amended, we were starting and training was starting. We  
5 were getting more prosecutions. We were seeing changes in  
6 the common law, that I'll come to in a moment.

7 I think another very important event in  
8 Canada was the Mount Cashel Inquiry and Mount Cashel, which  
9 is sort of referred to as one place was actually a series  
10 of legal events. There were criminal prosecutions coming  
11 out of Mount Cashel in the mid-eighties, late eighties, but  
12 in the fall of 1989, the Hughes Inquiry began -- Hughes  
13 Public Inquiry into Mount Cashel began in Newfoundland and  
14 I think that really heightened public awareness, political  
15 awareness, professional awareness about issues of sexual  
16 exploitation of boys in various institutions. We were also  
17 starting to get stories in the media and the professional  
18 literature about survivors of child abuse in residential  
19 schools. Allegations were starting to come forward. Cases  
20 would come forward about abuse in training schools in  
21 Ontario, St. Joseph's, St. John's, Grandview, and so on.  
22 So a lot of things were starting to happen in the late  
23 1980s.

24 **MR. ENGELMANN:** All right. So we have the  
25 Badgley Report saying we've got a widespread problem in '84

1 and then we're seeing the development of a number of cases  
2 in the late '80s?

3 MR. BALA: Yes.

4 MR. ENGELMANN: And that then leads us to  
5 the Rogers Report and I understand, sir, that you were  
6 quite involved in that report.

7 Can you tell us just a little about what the  
8 report was about and what your involvement was? And if you  
9 do want to take a look at it, it's at Tab 15 of the second  
10 book.

11 MR. BALA: Yes. After Badgley -- and  
12 bearing in mind in terms of changes, we have an area of  
13 federal responsibility, the substantive laws, procedural  
14 evidentiary and offence-related in the *Criminal Code* and  
15 providing funded and provincial responsibility which is  
16 affected by the federal decisions but different.

17 In the late 1980s, the federal government  
18 again was concerned that there had been insufficient  
19 progress in dealing with these issues or a recognition that  
20 while Badgley made a very important contribution, there  
21 were more -- there was more to be done and Rix Rogers was  
22 appointed by the federal government to carry out a series  
23 of consultations, if you want, and write a report to have  
24 further changes after Badgley. It was a follow-up from  
25 Badgley.

1                   Rix Rogers was appointed by the Minister of  
2 Health, so a slightly different focus, but his -- and his  
3 report which is there -- he worked between 1988 and 1990  
4 and he had a somewhat different approach from Badgley.  
5 Badgley was carrying out primarily research, working with  
6 victims but in a fairly discreet way and meeting one-on-one  
7 and so on.

8                   Rix Rogers was working more, if you want, as  
9 a bit of a mobilization of professionals in the field. So  
10 he talked to very large -- he met with very large,  
11 relatively large numbers of professionals, senior people  
12 but also frontline workers in a range of disciplines,  
13 therapists, teachers, nurses, doctors, lawyers, police  
14 officers, and so on, and had fairly wide consultation with  
15 professionals in the field to write -- ultimately to write  
16 a report. And I think it was significant it was both the  
17 process, because it was an educational process, in part, as  
18 well as a consultation, so as to get ideas from the field,  
19 to hold national workshops and provincial workshops in  
20 different places, and then to write the report. Certainly,  
21 the central ideas were very much his.

22                   As you can see on page 6 of that report in  
23 Tab 15, he acknowledges various people and he acknowledges  
24 that I had a role, together with Susan Thomas, in  
25 researching and writing the report. And I would emphasize

1 that, on the one hand, the main -- the analysis, the main  
2 ideas were his, but some of the writing and drafting the  
3 report, particularly around the legal issues, I had a  
4 significant role in.

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

6 If we could just turn to the second page of  
7 that tab for a moment, where he's reporting -- he's  
8 reporting directly to the Minister of National Health and  
9 Welfare in his role as the Special Advisor to the Minister  
10 on Child Sexual Abuse.

11 That was the title he held at the time?

12 **MR. BALA:** Yes.

13 **MR. ENGELMANN:** All right. So we've got two  
14 years of work, 1,600 professionals; many people consulted,  
15 much more work in this area, and we have discussions. And  
16 this again is the summary of the report.

17 **MR. BALA:** Yes.

18 **MR. ENGELMANN:** The report is much longer.

19 At page 15 of the tab, of Tab 15, we have a  
20 caption -- first of all, a caption on "Public Awareness and  
21 Primary Prevention" and then we also have a caption "Child  
22 Sexual Abuse and the Justice System." We have a number of  
23 suggestions. They say there are 30-odd recommendations and  
24 several of those recommendations then find their way into  
25 some of the bullet points we see at the bottom of that page

1 and onto the next page.

2 **MR. BALA:** Yes.

3 **MR. ENGELMANN:** Including not just changes  
4 to the justice system and full utilization of provisions of  
5 Bill C-15, there's talk about specialization in the field  
6 of investigation and prosecutions. Correct?

7 **MR. BALA:** Yes. And so I think what is  
8 significant here is a recognition that the -- and he has a  
9 statement there on page 15 of the report. Page 15, if we  
10 can go to ---

11 **MR. ENGELMANN:** Which part?

12 **MR. BALA:** Page 15.

13 **MR. ENGELMANN:** On the right-hand column?

14 **MR. BALA:** On the right-hand column in  
15 particular. I think we're on 14.

16 **THE COMMISSIONER:** There is 15.

17 **MR. BALA:** Yes. A little further up, if we  
18 could just go up for a moment? Okay. There's a sentence  
19 there in the right-hand column and this is describing the  
20 view of what his assessment, which I shared, in 1990 was:

21 "The criminal justice system across  
22 Canada is having great difficulty in  
23 coping with the increased number of  
24 child abuse cases at the same time as  
25 minimize the trauma which the system

1                                   has on children.”

2                                   What was happening was, as there was greater  
3                                   awareness, as there was more sensitivity as frontline  
4                                   professionals, teachers, nurses, doctors, were becoming  
5                                   more aware of this, when children were coming forward with  
6                                   a vague disclosure, rather than dismissing it and saying  
7                                   “Oh, you might be lying” or whatever, they were saying  
8                                   “Well, we better investigate this more” and providing  
9                                   sensitive support to the children. So we had a dramatic  
10                                   increase in the number of cases going forward.

11                                   Our criminal justice system, while there had  
12                                   been changes in the substantive law, was in some ways being  
13                                   overwhelmed, and so workers -- there were worker burnout  
14                                   and there were certainly concerns about the difficulty that  
15                                   the criminal justice system was having in coping with the  
16                                   increased number of cases; a recognition that there was a  
17                                   need both for more legal change, but also -- then he goes  
18                                   on down the right-hand column there. Many of the changes  
19                                   that are being recommended are, if you want, more about  
20                                   programs, resources, training, priority for cases,  
21                                   coordination, writing of protocols to facilitate  
22                                   coordination, for example, between police and child  
23                                   protection, as opposed to just changes in the substantive  
24                                   procedural law. So he is saying the problem isn't Ottawa;  
25                                   the problem isn't in parliament. The problem is in

1 individual communities; Kingston, Cornwall, Prescott,  
2 Toronto, everywhere.

3 **MR. ENGELMANN:** All right. Just one more  
4 question perhaps before break.

5 **MR. BALA:** All right.

6 **MR. ENGELMANN:** Just above that, the  
7 paragraph you just referred to on page 15, there seems to  
8 be a recognition that the changes from Bill C-15 were  
9 important and, in particular, attempts to improve the  
10 manner in which children are treated in the criminal  
11 justice system -- but also the suggestion, and we see it  
12 throughout this report, that more needs to be done.

13 **MR. BALA:** Yes, very much so.

14 **MR. ENGELMANN:** And there's a reference to  
15 the fact that Parliament will be reviewing child sexual  
16 abuse and the laws related to it in 1992.

17 **MR. BALA:** Yes.

18 **MR. ENGELMANN:** Okay. Perhaps we could just  
19 take a break then?

20 **THE COMMISSIONER:** Sure. Why don't we come  
21 back at 3:15 then?

22 **MR. ENGELMANN:** At 3:30?

23 **THE COMMISSIONER:** I'm sorry; 3:30, yes.

24 **MR. ENGELMANN:** Thank you.

25 **THE REGISTRAR:** All rise. The hearing will

1 reconvene at 3:30.

2 --- Upon recessing at 3:15 p.m./

3 L'audience est suspendue à 15h15

4 --- Upon resuming at 3:32 p.m./

5 L'audience est reprise à 15h32

6 **THE REGISTRAR:** All rise. Veuillez vous  
7 lever. This hearing of the Cornwall Public Inquiry is now  
8 in session. Please be seated. Veuillez vous asseoir.

9 **NICHOLAS BALA, Resumed/Sous affirmation solennelle:**

10 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**  
11 **ENGELMANN (continued/suite):**

12 **MR. ENGELMANN:** Professor Bala, just before  
13 the break we had talked about the Rogers Report. Just  
14 before going further to some *Criminal Code* amendments for  
15 1993, I just want to go back for a minute because we talked  
16 about the recommendations from the Badgley Report, but I  
17 don't think I ever took you to the actual changes to the  
18 *Criminal Code* and the *Canada Evidence Act* that you talked  
19 about, I just want to go back for a minute because we  
20 talked about the recommendations from the Badgley Report,  
21 and I don't think I ever took you to the actual changes to  
22 the *Criminal Code* and the *Canada Evidence Act* that you  
23 talked about.

24 If you could turn to Tab 7, which is the  
25 paper you presented first in February of '88 and then later

1 in October for IPCA. At the back of that document, you  
2 actually have Bill C-15; correct?

3 **MR. BALA:** Yes.

4 **MR. ENGELMANN:** And Bill C-15 was enacted in  
5 both the *Criminal Code* and the *Canada Evidence Act*, which  
6 was passed by the House of Commons in June of 1987?

7 **MR. BALA:** Yes, it came into force in 1988.

8 **MR. ENGELMANN:** Right, and I believe it was  
9 right at the beginning of the year. So if we could take a  
10 look at that and perhaps if we could try and get ---

11 It's section 140, at the bottom, left-hand  
12 corner.

13 **THE COMMISSIONER:** We are just one page  
14 away.

15 **MR. ENGELMANN:** Yes, it's the second page in  
16 to Bill C-15.

17 That's still the *Canada Evidence Act*, you  
18 have to go back further.

19 **MR. BALA:** It would be section 140.

20 **THE COMMISSIONER:** Yes, it's on the first  
21 page of the C-15. Go right up, Madam Clerk.

22 It's not in chronological order, but you're  
23 getting there. A little more, there you go.

24 **MR. ENGELMANN:** All right. So here we have  
25 Bill C-15. It's an Act of the Parliament of Canada to

1 amend the *Criminal Code* and the *Canada Evidence Act*;  
2 section 140; does that deal with one of the  
3 recommendations?

4 **MR. BALA:** Yes, and we're focusing here on  
5 one 140, 141, 146; these provisions were intended to more  
6 fully and appropriately deal with the growing awareness of  
7 the nature of child sexual abuse. In other words, it was  
8 not just the fact that people were coming along and  
9 sexually assaulting, in particular, let us say having anal  
10 intercourse with a child, but that there was a process of  
11 grooming that involved people slowly developing a sexual  
12 relationship with a child or a relationship that had a  
13 sexual dimension. They were having children not just where  
14 they assaulted children but some of them were having  
15 children sexually stimulate them.

16 And so these provisions dealt with creating  
17 criminal offences for things that had not been sexual  
18 offences before. They dealt with issues of grooming. They  
19 dealt with exploitation of positions of trust, particularly  
20 there in section 146, and that dealt with a broader range  
21 of sexual conduct recognizing its harmful nature.

22 So it was both the broadening in terms of  
23 recognizing that sexual offending was not simply  
24 penetration offences against children but involved  
25 encouraging children to engage in sexual touching of the

1 perpetrator as well.

2 **MR. ENGELMANN:** And these provisions,  
3 sections 141 and 146, 141 being "the invitation to sexual  
4 touching" and 146 being "the sexual exploitation",  
5 "Every person who is in a position of  
6 trust or authority towards a young  
7 person or is a person with whom a young  
8 person is in a relationship of  
9 dependency and who..."

10 And then it goes into "the sexual purpose, touching", et  
11 cetera.

12 That is a direct response, correct, to what  
13 we looked at in the Badgley Report at Tab 5, pages 21 and  
14 22?

15 **MR. BALA:** Yes, I think that that's a fair  
16 -- it was a response to Badgley, of course. It wasn't just  
17 Badgley, although Badgley had a very significant role.  
18 There was generally a growing awareness by professionals,  
19 by police, by prosecutors, by politicians to say, "We have  
20 to deal with this issue. Our present provisions are  
21 inadequate. They're too narrow."

22 **MR. ENGELMANN:** But Badgley made findings on  
23 these issues in the early to mid-'80s?

24 **MR. BALA:** Yes, I think that the '94 report  
25 was extremely important leading to this development, but it

1 certainly wasn't the only thing.

2 MR. ENGELMANN: Perfect.

3 Now we have just talked, Professor Bala,  
4 about the fact that Parliament was going to look at this  
5 again?

6 MR. BALA: Yes.

7 MR. ENGELMANN: Oh, by the way, if people  
8 are interested, the remainder of that Tab, Tab 7, at the  
9 back deals with the *Canada Evidence Act* amendments and  
10 amongst them are various child witness issues; correct?

11 MR. BALA: Yes. It made it easier for  
12 children to come to court and testify. The oath --  
13 provision of oath for children was there. They could also  
14 testify under a promise to tell the truth and there was  
15 also the introduction of videotaping allowing the display  
16 of videotapes of investigative interviews. Changes also  
17 allowed children to testify behind a screen or via closed  
18 circuit television.

19 MR. ENGELMANN: And of particular note, the  
20 provision that the corroboration is longer required for any  
21 of these offences?

22 MR. BALA: Yes.

23 MR. ENGELMANN: And they include the  
24 sections 140, 141, 146, et cetera?

25 MR. BALA: Yes. So a very significant

1 change in the law.

2 MR. ENGELMANN: And also rules respecting  
3 recent complaint were abrogated. So in that sense similar  
4 to female victims of sexual assault a few years earlier?

5 MR. BALA: Yes.

6 MR. ENGELMANN: And again, no evidence  
7 concerning sexual activities. So again, questions of  
8 sexual activity of children could not be asked?

9 MR. BALA: Yes.

10 MR. ENGELMANN: All right. So let us turn  
11 then back to your outline.

12 And, Professor Bala, just turning to the  
13 portion about the 1993 amendments to the *Criminal Code* and  
14 Child Witness Reforms, and you have written an article  
15 about some of those changes, and those are found in Tab 10,  
16 is it not?

17 MR. BALA: Yes, I believe so.

18 MR. ENGELMANN: Of your second book, and you  
19 deal with some of those new changes right in that first  
20 page, page 365?

21 MR. BALA: Yes.

22 MR. ENGELMANN: Where you outline children  
23 as witnesses and some of the changes to the courtroom,  
24 restrictions on cross-examination.

25 What is meant by "restriction of cross-

1 examination by the accused in person”?

2 **MR. BALA:** In cases where an accused does  
3 not have a counsel up until that time, if the accused does  
4 not have a counsel, he could directly cross-examine the  
5 child in person. That was extremely intimidating to  
6 children and this provision said that a judge should, in  
7 many cases, require that counsel be appointed for the  
8 purpose of carrying out the cross-examination of the child.

9 I should say that female complainants found  
10 that very intimidating also, and it was only in January of  
11 this year, of 2006, that we had legislation with the adult  
12 complainants.

13 **MR. ENGELMANN:** The issue of reliability of  
14 evidence, I am interested in that because we've seen that  
15 in early 1988. We have the *Canada Evidence Act* being  
16 amended, corroboration no longer required for any of these  
17 crimes involving -- any sexual offence crimes and sexual  
18 abuse of children, there still seems to be an issue about  
19 reliability, and you write about that at page 369 of this  
20 particular tab.

21 Is that correct, sir?

22 **MR. BALA:** Yes, there was still some ongoing  
23 discussion and there were issues both about the *Criminal*  
24 *Code*, about the significance of section -- what was in  
25 section 659, but also for a period of time, some judges

1           were saying, "Well, although the legislation has abrogated  
2           the recent complaint rule, so-called, we can still expect  
3           to have a so-called common law warning about the  
4           unreliability of children".

5                        The Supreme Court of Canada made it clear  
6           that was not the law and so we were seeing both common law  
7           changes and legislative changes at roughly the same time  
8           and going in a similar way and reflecting a greater  
9           awareness of issues, the dynamics of sexual abuse and the  
10          reliability of children.

11                       **MR. ENGELMANN:** So in your second paragraph  
12          there, you're saying, "However, even after 1988, ..." -- so  
13          that's after the corroboration requirements dropped -- "...  
14          some judges continued to apply the "common law" warning  
15          rule advising about the "inherent frailty" of the evidence  
16          of children".

17                       **MR. BALA:** Yes.

18                       **MR. ENGELMANN:** All right.

19                       So you say that there were further changes.  
20          You say they weren't as dramatic as in 1988 but they were  
21          still significant.

22                       **MR. BALA:** Yes, that's right.

23                       **MR. ENGELMANN:** And if we want to learn more  
24          about those, we can review that particular article.

25                       **MR. BALA:** Yes, but I would say that the

1 changes were probably more significant for a variety of  
2 domestic violence adult-related issues in 1993. The more  
3 significant changes I would say were in 1998 and again we  
4 had another round of changes that came into force this year  
5 in Bill C-2.

6 **MR. ENGELMANN:** All right. So let's look at  
7 the common law for a minute and you've listed a number of  
8 cases, and the first one is *R. v. Khan* or *R. versus Khan*  
9 and you tell us that is a case dealing with an exception to  
10 the hearsay rule, facilitated the reception in criminal  
11 court of a child's out of court disclosure of child sexual  
12 abuse.

13 Now, can you tell us just a little bit more  
14 about this, sir?

15 **MR. BALA:** Well ---

16 **MR. ENGELMANN:** This was a decision in 1990  
17 from the Supreme Court of Canada, correct?

18 **MR. BALA:** Yes. We had a number of  
19 decisions all at about the same time that I think both  
20 facilitated children's coming to court, facilitated their  
21 evidence being accepted. So it was recognized through  
22 reliability and reflected in some ways both the legislative  
23 changes and the growing social and professional awareness.  
24 So they both helped children come to court and gain  
25 convictions and also reflected increased knowledge.

1           The *Khan* decision in 1990, the Supreme Court  
2           of Canada decision was very significant in that that case  
3           involved a very young child who made a disclosure to her  
4           mother about a sexual assault by a physician, again a trust  
5           member of the community, and allowed the mother to come to  
6           court to testify in place of the child testifying and  
7           expanded the so-called hearsay rule to allow an adult to  
8           relate the child's out of court disclosures, facilitating  
9           again a successful prosecution.

10           **MR. ENGELMANN:** So that was a significant  
11           case from a common law point of view?

12           **MR. BALA:** Yes.

13           **MR. ENGELMANN:** With respect to exceptions  
14           to the hearsay rule giving a child's evidence?

15           **MR. BALA:** Yes.

16           **MR. ENGELMANN:** And, sir, as I understand  
17           it, it was a decision that upheld an earlier decision from  
18           the Ontario Court of Appeal?

19           **MR. BALA:** That's right. There was a 1988  
20           decision at trial court.

21           **MR. ENGELMANN:** And in fact, that ---

22           **MR. BALA:** The Court of Appeal.

23           **MR. ENGELMANN:** That 1988 decision from the  
24           Court of Appeal is the subject of some discussion in your  
25           paper that you give in ---

1                   **MR. BALA:** At Tab 7, yes.

2                   **MR. ENGELMANN:** At Tab 7.

3                   **MR. BALA:** Yes. So the paper at Tab 7  
4 written in 1988 ---

5                   **MR. ENGELMANN:** And I'm looking at page 8 of  
6 Tab 7. So what you're discussing there is the decision and  
7 you're giving this discussion to, as you say, professionals  
8 dealing with children, child sexual abuse.

9                   **MR. BALA:** That's right and I'm discussing  
10 there the Ontario Court of Appeal decision. Two years  
11 later, the Supreme Court of Canada upholds the Court of  
12 Appeal. It takes -- conceptually, it's a different  
13 approach but it allows the hearsay evidence to be admitted.

14                   **MR. ENGELMANN:** All right. And for a  
15 discussion of the *Khan* case from the Supreme Court of  
16 Canada, you've written about that at the next tab and that  
17 would be Tab 8; correct?

18                   **MR. BALA:** Yes. I have two papers here. I  
19 think one is at Tab 8 written in 1992 and perhaps a  
20 slightly fuller discussion in 1999 at Tab 9, another paper.  
21 Those papers review the process of change and discuss the  
22 law as it was at the time that they were written. They  
23 discuss both the statutory changes and the common law  
24 changes in, for example, the hearsay rule.

25                   **MR. ENGELMANN:** All right.

1                   So what about the next case then, Professor  
2           Bala, *R. v. CRB*? Is that again a decision from the Supreme  
3           Court of Canada?

4                   **MR. BALA:** Yes. That is a decision that  
5           dealt with the so-called similar fact rule and that's  
6           interesting because it both changed the evidence law and  
7           also reflects an appreciation that most pedophiles do not  
8           abuse just one child but to the contrary they abuse many  
9           children. And often, it's very hard to get a conviction  
10          based on the evidence of just one child because someone  
11          will say, "Well, the child's memory isn't very good. Their  
12          description isn't very good", and that's the end of it.

13                   But the change in the similar fact rule  
14          effectively said, well, in certain circumstances, the Crown  
15          can introduce evidence of a number of complainants, each  
16          one of whom in and of herself or himself might be lacking  
17          credibility, but if you hear 10 children describing very  
18          similar sexual acts, their credibility may in effect  
19          reinforce one another and there will be a conviction.

20                   So CRB both reflects an understanding of  
21          that dynamic of child sexual abuse and also changed the law  
22          to facilitate the admission of this kind of evidence.

23                   **MR. ENGELMANN:** So was this a case then  
24          dealing with similar fact evidence in the context of child  
25          sexual abuse?

1                   **MR. BALA:** Yes.

2                   **MR. ENGELMANN:** And would this case then  
3 have been instructive to Crown prosecutors for example?

4                   **MR. BALA:** It would certainly help Crown  
5 prosecutors but also of course the police in that one of  
6 the messages is go out and get as many victims as you can.  
7 And of course, I think, you know, properly trained police  
8 officers were looking for that kind of dimension that we've  
9 got one victim, there are probably more.

10                  **MR. ENGELMANN:** Yes. So whether you're  
11 prosecuting or investigating a case of a criminal  
12 allegation or investigating a harassment complaint or  
13 something like that looking for other individuals who may  
14 have been alleged victims is your common sense approach.

15                  **MR. BALA:** Yes.

16                  **MR. ENGELMANN:** Okay.

17                                What about *R. v. B.(G.)*; is that also a case  
18 from the Supreme Court of Canada?

19                  **MR. BALA:** Yes. That was a case dealing  
20 with children's evidence and recognized that children's  
21 evidence should not be assessed in the same way as adult  
22 witnesses. For example, if children are asked questions  
23 that involve time or numbers, particularly younger children  
24 now I'm talking about, they may not be reliable about the  
25 number of times that something occurred but they may

1           nevertheless be very reliable witnesses.

2                       Children, particularly ones who have been  
3           abused multiple times, a younger child now I'm talking,  
4           let's say a six or seven-year-old child, you say "How many  
5           times were you abused?" the first time the child may say  
6           10. The next time, the child says 20. The next time the  
7           child says 100. So someone says "Look, the child is  
8           completely unreliable. They're not giving numbers --  
9           they're using numbers inconsistently."

10                      And what the Supreme Court said was for  
11           certain kinds of questions, children, they don't count --  
12           actually, children at the age of five, six, seven may not  
13           have a very good sense of numbers and so -- which an  
14           elementary school teacher will be aware of. So a judge or  
15           juror should be sensitive to the fact that children may not  
16           use certain kinds of information the same way, or if you  
17           ask about size or speed they may not give you accurate  
18           information. That doesn't mean they're inaccurate in  
19           describing something that happened.

20                      **MR. ENGELMANN:** All right. I think *R. v. W.*  
21           we've talked about or at least we talked about the concept  
22           and that is abolishing that common law warning of  
23           unreliability.

24                      **MR. BALA:** Yes, a Supreme Court of Canada  
25           decision.

1                   **MR. ENGELMANN:** So that we're then  
2 consistent with the 1988 amendments about corroboration or  
3 no need for it?

4                   **MR. BALA:** Yes, essentially.

5                   **MR. ENGELMANN:** And what about the last  
6 case, Professor Bala, *R. v. FEJ*?

7                   **MR. BALA:** *FEJ*, it's an Ontario Court of  
8 Appeal decision. At that time, the courts were beginning  
9 to recognize that experts, psychologists in some cases,  
10 social workers would have useful and important information  
11 to come before the courts to help support the evidence of a  
12 child, even an allegation of child sexual abuse. And I  
13 should say that although the result is in the Supreme Court  
14 of Canada jurisprudence, the issue of the extent to which  
15 an expert will be allowed to come to criminal court in  
16 particular and testify is a controversial one and arguably  
17 the Supreme Court has somewhat pulled back from that a  
18 little bit in the 1990s in some other cases.

19                   **MR. ENGELMANN:** So we have seen the court go  
20 in two directions on that issue?

21                   **MR. BALA:** On that issue, but I should say  
22 generally, the common law by 1995, by 1992 was much more  
23 sensitive to children as victims, much more supportive of  
24 them coming to court and testify. That doesn't mean it was  
25 easier and they were all coming forward. Far from it, but

1       you know the legal system was in a much better shape in  
2       1992 than it was in 1982.

3                   **MR. ENGELMANN:** So we've got Badgley coming  
4       out in '84. We have an act passed in Parliament in '87,  
5       becomes law in early '88, significant changes to  
6       legislation, *Criminal Code, Canada Evidence Act*, and you've  
7       talked about some training that IPCA is giving and  
8       presumably others are giving to the justice system.

9                   **MR. BALA:** Yes.

10                  **MR. ENGELMANN:** You call it that. So the  
11       training would be important for police officers who are  
12       investigating, for prosecutors who are prosecuting;  
13       correct?

14                  **MR. BALA:** Yes.

15                  **MR. ENGELMANN:** And no doubt for judges who  
16       are adjudicating?

17                  **MR. BALA:** Yes, and there was the beginnings  
18       of -- well, the expansion of judicial education on some of  
19       these issues as well.

20                  **MR. ENGELMANN:** What about the significance  
21       of all of these common law cases? Four or five from the  
22       Supreme Court of Canada in 1990? Would they also be  
23       significant with respect to people working in the justice  
24       system?

25                  **MR. BALA:** I think that they were sending a

1 clear message; they both had practical implications but  
2 collectively, they were sending a message to say, "We have  
3 to do better -- the Supreme Court of Canada is aware that  
4 trial judges have been too restrictive". And I should say  
5 I feel a lot of sympathy for trial judges until the Supreme  
6 Court changes it, you know, if they are too liberal on  
7 admitting evidence, they are going to be overturned. So  
8 there were significant practical decisions in and of  
9 themselves and collectively, they were sending a clear  
10 message to the justice system, obviously, most directly to  
11 trial judges, prosecutors, defense counsel.

12 **MR. ENGELMANN:** Okay. So you have talked  
13 to us a little bit about some of the training you were  
14 involved with, with respect to the legislation in '88, for  
15 example.

16 **MR. BALA:** Yes.

17 **MR. ENGELMANN:** And at other times. Were  
18 individuals working for public institutions involved in the  
19 justice system getting some training on these common law  
20 cases, and some of these important principles from these  
21 common law cases?

22 **MR. BALA:** Yes. Among others and I must  
23 say, I just had a limited role compared to others. I was,  
24 for example, writing about these cases every year for IPCA.  
25 They were preparing a set of materials that they

1 distributed saying, "Here is Professor Bala's summary of  
2 the common law changes" and some other material that was  
3 available. I was doing that every year from 1988 until  
4 1995.

5 **MR. ENGELMANN:** So you conclude this section  
6 of the mid-'80s to the early '90s with just some overall  
7 comments on the fourth page.

8 **MR. BALA:** Yes, I should say by the way, I  
9 seem to have lost my screen, I don't know if that's just  
10 mine or everybody else's.

11 **THE COMMISSIONER:** No, I have lost mine.  
12 Oh, there it is.

13 **MR. BALA:** Oh, thanks.

14 **MR. ENGELMANN:** There you go.

15 **MR. BALA:** Thank you.

16 **MR. ENGELMANN:** I am looking at page 4 of  
17 Tab 3, your outline.

18 **MR. BALA:** Yes.

19 And during this time, we were also -- the  
20 publicity is going forward in 1989; we had the Mount Cashel  
21 Inquiry starting, the Public Inquiry after the criminal  
22 cases. We were having some highly publicized cases in  
23 Kingston, where I live.

24 **MR. ENGELMANN:** I just want to -- I'll come  
25 to that in just a moment, if I can.

1                   You seem to be suggesting that despite all  
2 these legislative changes, facilitations, changes in the  
3 common law, that it's still somewhat difficult to prove  
4 child sexual abuse.

5                   **MR. BALA:** Well, yes, and you know, it  
6 depends how you see -- you want the glass half-empty or  
7 half-full, we were certainly seeing more prosecutions, more  
8 successful prosecutions. There was also at that time, I  
9 was involved in doing research about the cases that were  
10 not successful, if you want. And where there was pretty  
11 strong evidence of abuse and the Crown was not able to get  
12 a conviction. So there was still lots of room for  
13 improvement in different kinds of aspects of the legal  
14 system.

15                   **MR. ENGELMANN:** All right, we'll talk a  
16 little bit more about some of the difficulties in proving  
17 both current and historic sexual abuse a bit later.

18                   Just before we go to some of these high  
19 profile cases you were talking about, you have a brief  
20 reference at the top of page 5 of your outline with respect  
21 to recent Criminal Law reform.

22                   **MR. BALA:** Yes.

23                   **MR. ENGELMANN:** And I think you mentioned  
24 earlier Bill C-2.

25                   **MR. BALA:** Yes.

1                   **MR. ENGELMANN:** And that relates to some  
2 changes that have just been made; is that correct? With  
3 respect to the *Canada Evidence Act*, for example?

4                   **MR. BALA:** Yes and until now when children  
5 were called to testify in court, until Bill C-2, in 1988,  
6 we allowed them to testify so-called upon a promise to tell  
7 the truth. So a judge would say, "Well you don't know what  
8 an oath is, can you promise to tell the truth?" and then  
9 there would be an inquiry, "Can you define a promise? Can  
10 you tell us what a promise is? Do you know the difference  
11 between a truth and a lie?"

12                   And research established that those kinds of  
13 questions were very difficult for younger children to  
14 answer and were not really to whether or not children would  
15 tell the truth. So we've abolished that and simply allow  
16 children to testify on a promise to tell the truth and  
17 specifically state that they should not be asked questions  
18 about can you define the concept of promise, can you tell  
19 us what a lie is before they are permitted to testify.

20                   There were other changes; expanding the use  
21 of videotape and closed circuit television, use of screens  
22 to allow vulnerable adults to use these as well as  
23 children.

24                   **MR. ENGELMANN:** All right and if people are  
25 interested in further discussion on some of those changes,

1       you've written a recent article, I'm not sure if, yes, in  
2       the Criminal Reports, it is at Tab 11 of our second Volume?

3               **MR. BALA:** Yes, and I should say you have  
4       the electronic version of it. It has just recently  
5       appeared in print.

6               **MR. ENGELMANN:** All right. So Professor  
7       Bala, let's talk about some of those high profile cases and  
8       when you say high profile cases, would it be fair to say  
9       that the cases you describe here are high profile media  
10      cases? They were out there in the public domain?

11              **MR. BALA:** That's right. These are the  
12      cases that were getting the most public attention often  
13      because they involved multiple victims, sometimes multiple  
14      offenders, often some kind of public institution and when I  
15      say "public" I mean very broadly, it could include a church  
16      or a school. There were also many other cases involving  
17      fewer numbers of victims that were going ahead. There was  
18      a dramatic increase in the level of reporting of child  
19      sexual abuse. More cases were being prosecuted. More  
20      convictions were being obtained. They were certainly in  
21      the media but not necessarily in the national media. So we  
22      saw a change on a lot of different dimensions, yes.

23              **MR. ENGELMANN:** So aside from all of those  
24      cases, you've chosen a few here that you thought were out  
25      there in the public domain in a big way.

1                   You start with Mount Cashel. And I think  
2                   you've talked to us about that and the fact that it led to  
3                   an inquiry. What can you tell us about the next case? Is  
4                   that the St. George's Cathedral case from Kingston?

5                   **MR. BALA:** Yes. It is interesting, this  
6                   case or set of cases involved sexual abuse by a choirmaster  
7                   who was a highly respected member of the community unlike  
8                   many other cases that involved situations where children  
9                   were institutionalized in a training school or an  
10                  orphanage. These are children who were living at home, and  
11                  the trust of the parents and of the children was exploited  
12                  by this individual. A query, was there more than one  
13                  individual? There was some suggestion that there have been  
14                  others, in fact, involved in sexually abusing children in  
15                  this particular institution, and I think, going back and  
16                  reading the history of a number of case studies that have  
17                  been written -- I want to say, by the way, I was not  
18                  directly involved in the case, but I'm familiar with it.

19                  One of the tipping points, I think, in that  
20                  case was the beginning of the Mount Cashel Inquiry in 1989  
21                  really publicized and energized or allowed some victims to  
22                  come forward. This case involved both children who --  
23                  boys, who were still children and young adults who were  
24                  coming forward and many of them were saying, "Well, I'm  
25                  reluctant to be identified, you know, I don't want to be

1 called a fag or whatever". And all of a sudden, they were  
2 seeing on TV men who had suffered a great deal saying, "I'm  
3 prepared to come forward and testify about the abuse that I  
4 suffered in Newfoundland". They were saying, "Well, if  
5 they can do it, so can we, and we can do it to protect  
6 other children, other vulnerable people". So we began to  
7 see that case.

8 I think an interesting dimension of that  
9 case is the recognition that there would be civil liability  
10 for institutions that were failing to protect children  
11 motivated the people responsible saying, "We can't turn a  
12 blind eye; we have to -- you know, it's not only a moral  
13 obligation, it's also there are going to be consequences  
14 for us if we don't do this".

15 **MR. ENGELMANN:** All right, so we are dealing  
16 in that case with adults coming forward, talking about  
17 historical sexual abuse, plus some children who are still  
18 children.

19 **MR. BALA:** Right.

20 **MR. ENGELMANN:** And so the allegations of  
21 child sexual abuse would have dated back perhaps into the  
22 '70s?

23 **MR. BALA:** In that case, I think that there  
24 were some from ---

25 **MR. ENGELMANN:** The '60s.

1                   **MR. BALA:** --- the '70s, not the --  
2                   certainly from the '70s and you know, one of the things  
3                   that is disturbing, I should say, I don't cite it, there is  
4                   a book called, by Judy Stead, S-T-E-A-D, written in 1994,  
5                   Our Little Secret, in which she has a quite long  
6                   description of the Kingston case. She describes how the  
7                   victims had a lot of difficulty in coming forward but  
8                   finally were able to do that. The interaction between the  
9                   civil liability and the criminal prosecutions and the fact  
10                  that there had been some initial disclosures that were  
11                  dismissed by people in positions of responsibility and  
12                  eventually by 1989, they were prepared to take  
13                  responsibility. Certainly, the major break-in came in '89,  
14                  '90.

15                  **MR. ENGELMANN:** So that would have been, as  
16                  you said, these people weren't in custody; they weren't in  
17                  an orphanage; they were in their own homes.

18                  **MR. BALA:** Right and were children of some  
19                  of the most prominent members of the Kingston community,  
20                  children of university professors among others.

21                  **MR. ENGELMANN:** And this was, as you've  
22                  called it, a breach of trust or a person in a position of  
23                  authority.

24                  **MR. BALA:** Yes.

25                  **MR. ENGELMANN:** Then you've talked about the

1 Ontario training schools and I think you've mentioned  
2 those.

3 **MR. BALA:** Yes, and these were significant  
4 cases. Those cases were allegations of abuse, started to  
5 come forward really in the late -- I think it was the late  
6 1980s but by the early 1990s, there was a recognition that  
7 there had been a significant amount of sexual abuse of  
8 girls at Grandview School, of boys at St. John's and St.  
9 Joseph's Training Schools. These were children who had  
10 been placed there because they were largely viewed as  
11 delinquent, but some of them were child protection cases in  
12 fact, and had been sexually exploited and that the  
13 government had an obligation to provide financial  
14 compensation when the abuse had been verified.

15 So they had a process of verification and  
16 financial compensation for survivors.

17 **MR. ENGELMANN:** So these were situations  
18 where again, we had persons in positions of trust or  
19 authority, but we had children in more of a closed  
20 facility, in the sense that they were ---

21 **MR. BALA:** Yes, very vulnerable and  
22 certainly these victims have a lot of difficulty in coming  
23 forward, so incremental disclosure. They need a lot of  
24 emotional support, but they eventually come forward and  
25 have disclosures of pretty widespread abuse.

1                   **MR. ENGELMANN:** And this would be similar to  
2                   Cashel in the sense that it was at a school, a residential  
3                   school?

4                   **MR. BALA:** Yes, although it differed in that  
5                   largely non-religious.

6                   **MR. ENGELMANN:** Okay.

7                   What about the fourth point? This is the  
8                   teacher in Sault Ste-Marie, correct?

9                   **MR. BALA:** Right, and I think what was going  
10                  on, although the Robins Report focused on one particularly  
11                  disturbing incident of child sexual abuse of largely girls  
12                  in one community, it is clear from the Robins Report --  
13                  Justice Robins wrote this report -- that many schools until  
14                  this time, many public schools, high schools, particularly  
15                  elementary schools also, were ignoring issues of child  
16                  sexual abuse, that they would -- if an allegation would  
17                  come forward, rather than phoning the police or having a  
18                  big investigation or firing a teacher, they would say,  
19                  "Well you better move on here. We've had this concern."  
20                  And so the teacher would move on and they would not deal  
21                  appropriately with those allegations.

22                  And again, the legal ramifications of not  
23                  doing that, schools start to dramatically change what they  
24                  were doing, I believe ---

25                  **MR. ENGELMANN:** So the Robins Report dealt

1 with the issue of schools or school boards ---

2 MR. BALA: Yes.

3 MR. ENGELMANN: --- sending teachers, who  
4 were allegedly abusing children, to other schools, just  
5 moving them.

6 MR. BALA: Yes.

7 MR. ENGELMANN: Okay.

8 Upper Canada College?

9 MR. ENGELMANN: Upper Canada College, and I  
10 should say that is really going on right now, and it  
11 reveals -- and I should say there is another case that's  
12 getting media attention now and another private -- Upper  
13 Canada College and in Montreal, Selwyn House School; two  
14 private schools where -- and again the most privileged,  
15 certainly the most financially advantaged children in  
16 society, are being exploited in this case by teachers and  
17 they are both boys' schools, are being sexually exploited  
18 and it takes them decades to come forward and reveal what  
19 was happening to them.

20 So it takes often a long time for victims to  
21 have the strength to come forward and it's clear from these  
22 cases that many of the victims have suffered long-term  
23 psychological, emotional, employment-related consequences  
24 from this.

25 MR. ENGELMANN: All right and this is yet

1 another case involving abuse of trust or a breach of trust?

2 **MR. BALA:** Yes, yes.

3 **MR. ENGELMANN:** Aboriginal and residential  
4 schools, I think we've heard a lot about that in the press  
5 and these are the schools where a number of Aboriginal  
6 Canadians have alleged they suffered abuse.

7 **MR. BALA:** And many of these cases, in the  
8 Aboriginal residential schools were going back 30, 40, 50,  
9 60 years. I think the last schools were shut down in the  
10 early 1980s. So they're all historic cases. It took a  
11 long time for the abusers to -- for the victims to come  
12 forward. Some of the abusers are dead.

13 There are issues there of institutional  
14 responsibility and so on and the cases, some of them are  
15 going ahead. We are having a process of resolution,  
16 hopefully, of those cases.

17 **MR. ENGELMANN:** Okay.

18 Now, the last case here, Martensville and  
19 this case is a little different, is that correct, Professor  
20 Bala?

21 **MR. BALA:** Martensville is actually very  
22 different and it illustrates the problem of going to the  
23 other extreme. And what happened in Martensville and there  
24 were a few similar cases around North America where, as  
25 people -- as professionals started to hear about the

1 problems of child abuse but were not adequately trained,  
2 some of them were going forward and carrying out  
3 inappropriate investigations, particularly with young  
4 children, in terms of the way they were carrying out  
5 interviews of children, highly suggestive interviews. You  
6 know we can get into it a little bit. I've written a  
7 little bit about it and I think it's at Tab ---

8 **MR. ENGELMANN:** At Tab 6?

9 And just before we do, sir, this was a case  
10 then where there was one conviction for, I think, sexual  
11 assault or sexual abuse upheld, but then there were several  
12 that were determined to be false.

13 **MR. BALA:** Yes, and what happened in  
14 Martensville was there was undoubtedly one genuine victim  
15 and one perpetrator. There was probably more than one  
16 victim but there was certainly one perpetrator.

17 But the investigators went in, without any  
18 training really or you know, very, very little and began to  
19 interview children in a highly suggestive way and one of  
20 the things that happens with particularly younger children  
21 is that if they were repeatedly questioned and asked,  
22 "Didn't somebody sexually assault you or abuse you or touch  
23 you?" and they say no. And then you keep on asking them  
24 and particularly if you're asking leading questions, some  
25 children at some point will start to make false and even

1       fantastic allegations and will implicate people who are in  
2       fact not guilty.

3                   It speaks to the need to carry out careful  
4       investigations. So we had a relatively small number, but  
5       there were certainly significant cases in Canada. There  
6       was particularly Martensville. There were a couple of  
7       other cases in Saskatchewan. There was the McMartin  
8       daycare in Manhattan Beach. There were some cases in  
9       England, France, where false allegations were the result of  
10      the cause of poor investigative techniques.

11                   **MR. ENGELMANN:** So, Martensville that you  
12      have written about at Tab 6, you've talked to us about some  
13      specific lessons that were learned as a result of  
14      Martensville.

15                   **MR. BALA:** Yes.

16                   **MR. ENGELMANN:** And was this a daycare or an  
17      orphanage?

18                   **MR. BALA:** Martensville was a daycare. Many  
19      of these cases -- there was Kelly Michaels' case in New  
20      Jersey as well -- involved relatively young children.

21                   **MR. ENGELMANN:** All right.

22                   **MR. BALA:** One of the things that we know  
23      from research is that young children are more suggestible  
24      than adults, although even adults are suggestible, but  
25      young children are more suggestible, more affected by

1 leading questions than even school-aged children, older  
2 adolescents.

3 So there are issues about appropriate  
4 investigations and it's necessary to carry out  
5 investigations with training, objectivity and so on.

6 **MR. ENGELMANN:** All right. And you set some  
7 of that out, do you not, at Tab 6?

8 **MR. BALA:** Yes.

9 **MR. ENGELMANN:** I was looking at the  
10 bullets.

11 **MR. BALA:** Yes.

12 **MR. ENGELMANN:** Where you say for example,  
13 "Child sexual abuse investigators must  
14 have appropriate training, up-to-date  
15 resources and adequate support."

16 Correct?

17 **MR. BALA:** Yes.

18 **MR. ENGELMANN:** And you say that,  
19 "They must always approach child sexual  
20 abuse allegations with objectivity and  
21 an alternate hypotheses."

22 And you say,

23 "Although most allegations are true,  
24 some are not".

25 You go on:

1                    "Investigators who are interviewing  
2                    children, especially younger children  
3                    ..."

4                    -- and I guess this was the case in Martinsville --

5                    "... must be very careful about asking  
6                    leading or suggestive questions."

7                    **MR. BALA:** Yes, and a number of these cases  
8                    involve very young children. So we're talking about  
9                    children who are three, four, five, six.

10                    **MR. ENGELMANN:** Okay.

11                    And you go on and there are several bullet  
12                    points there.

13                    And this is an article that, as I understand  
14                    it, you wrote for the Criminal Reports?

15                    **MR. BALA:** Yes, and I did another version of  
16                    it for the Institute for the Prevention of Child Abuse.

17                    **MR. ENGELMANN:** All right.

18                    Now, you go on and you say there are false  
19                    allegations; false allegations by children less frequent  
20                    than false denials by abusive adults. And you talk about  
21                    some of the contexts where there may be higher rates of  
22                    false allegations.

23                    **MR. BALA:** Yes.

24                    **MR. ENGELMANN:** And I understand that you  
25                    have written an article -- is this an article with Nico

1 Trocmé, actually?

2 MR. BALA: If we're getting into the issue  
3 of allegations of sexual abuse when parents are separated -  
4 --

5 MR. ENGELMANN: Yes, the first bullet point?

6 MR. BALA: Yes, I've written a number of  
7 articles. The most recent one is an article with Nico  
8 Trocmé that is at Tab 17, but as it is indicated in my CV,  
9 I've written a number of articles, going back -- well,  
10 actually starting in 1987 and 1999, 2001 on the issue of  
11 false allegations or allegations in the context of parental  
12 separation.

13 MR. ENGELMANN: Okay, so this is another one  
14 dealing with false allegations, abuse and neglect when  
15 parents separate and this -- I'm looking at Tab 17.

16 MR. BALA: Yes.

17 MR. ENGELMANN: And has this been published?

18 MR. BALA: It was just published. They have  
19 a 2005 date. In fact, I think it just came out. In the  
20 last couple of weeks we got into it.

21 MR. ENGELMANN: All right.

22 And the work you did with Professor Trocmé,  
23 the results are set out right on the first page there?

24 MR. BALA: Yes. And that indicates that  
25 while false allegations are certainly an important issue,

1       it documents that even in the context of parental  
2       separation there is a very high incidence of true  
3       allegations and that deliberately false allegations are not  
4       as common as some would suggest. There is literature about  
5       false allegations, you know, a range of controversy where  
6       some people say, well, it's the dominant thing that happens  
7       when parents separate and this article, I think -- the  
8       study refutes that.

9                   **MR. ENGELMANN:** So if we take a look at  
10       this, it seems to suggest that the false allegations are  
11       intentionally false allegations and more likely to be made  
12       by the non-custodial parent? And so are these false  
13       allegations that are primarily being made by the adult  
14       about the other adult?

15                   **MR. BALA:** Yes. So what it points out is  
16       that it's often -- and most of these, the non-custodial  
17       parent, is the father; the custodial parent is the mother.  
18       There is a suggestion by some of the father's rights  
19       movements that what is happening here is mothers are making  
20       lots of false allegations against fathers about access  
21       visits, and that certainly does occur. Of course, each  
22       false allegation is important. We can't take them lightly  
23       by any means and it points out the need to have a fair and  
24       balanced investigation, but it's also fathers making  
25       allegations about mothers or their boyfriends, false

1       allegations, unfounded allegations about custodial parents  
2       and their partners as well.

3                   **MR. ENGELMANN:** You do say that -- in your  
4       next bullet that -- you say there are some post-1990  
5       incidents of manipulative adolescents and you talk that  
6       there could be a false allegation against a teacher or  
7       foster parent. You say that while this exists manipulative  
8       adolescents may make false allegations but also are  
9       frequently genuine victims.

10                   Anything to say there about timing and  
11       what's been noted there?

12                   **MR. BALA:** One of the things about the whole  
13       issue of false allegations and I'll come in a moment to the  
14       issue -- there is a difference between a false allegation  
15       and an allegation that is not proven, but looking at the  
16       issue or thinking about the issue of an intentionally false  
17       allegation, we are in a very different environment in the  
18       year 2006 from where we were in, let's say, 1992 and  
19       certainly where we were in 1985 if we had to take three  
20       points in time.

21                   We now have a fairly wide knowledge by  
22       professionals and particularly adolescents about issues of  
23       making sexual allegations and there are, I think, cases in  
24       which an adolescent; for example, one living in a child  
25       welfare facility group home today, foster home, doesn't

1       like the foster home, which is sometimes not for very good  
2       reasons, like, "Well, these people are too strict, they are  
3       sending me to school. I want to move down where I have got  
4       a friend". And they go to the social facility, and say,  
5       "Change my place of residency". But some of these kids,  
6       some of them, I want to say, know that if they make an  
7       allegation of sexual abuse, they'll immediately be moved  
8       because unlike 20 or 30 years ago when the authorities  
9       would say, "You're lying", now they'd say, "We can't take a  
10      risk here. We may have legal liability". So they move the  
11      kids.

12                    So there are some adolescents who have made  
13      intentionally-false allegations and, of course,  
14      adolescents, they have some sexual knowledge, so they can  
15      make a fairly credible -- at least a *prima facie*  
16      allegation, and they will be moved or gain some other  
17      material advantage. There have been some documented cases  
18      in which allegations -- a false allegation made against  
19      teachers by students who don't like the marks they have had  
20      or whatever.

21                    I want to emphasize that the literature  
22      also, I think, makes clear that adolescents are most  
23      frequently the genuine victims of sexual assaults so I  
24      don't want to say sexual abuse -- sexual exploitation.  
25      What this points out to you is that cases have to be

1 investigated with sensitivity and objectivity. We are in  
2 very different environment now from where we were at some  
3 points in the past when genuine victims were not being  
4 believed, so there is no point in trying to manipulate the  
5 system. You know, you say, "Well, what happens when you  
6 are making a sexual assault allegation?" If it's true  
7 you're not going to be believed -- so that there would be  
8 both less knowledge and less to gain by making that  
9 allegation.

10 So I think it's more of an issue now than it  
11 was in the past.

12 The issue of false allegations is one that  
13 is not uniform over time and place. It varies in different  
14 times and places. Kids learn from each other.

15 **MR. ENGELMANN:** You also talk about  
16 unverified allegations for financial gain. What do you  
17 mean by "unverified"?

18 **MR. BALA:** Well, I think I would  
19 particularly here refer people and I must apologize. I  
20 think the citation seems to have dropped away here, but I  
21 refer -- there is, I think, a very good report by Justice  
22 Kaufman in 2002 that is what happened in Nova Scotia in the  
23 1990s. Allegations were brought forward by adult survivors  
24 of young -- particularly men who had been confined to  
25 institutions as juvenile offenders about sexual abuse, and

1       there were undoubtedly a very significant number of genuine  
2       allegations. There were criminal convictions, and there is  
3       no doubt that there were a number of people who were in  
4       those institutions who were sexually abusing boys and they  
5       suffered tremendously and long term effects.

6               The Nova Scotia government set up a system  
7       of compensation out of, I think, the best intentions but  
8       without giving adequate consideration to the issue of what  
9       is referred to as verification and at some points was  
10      simply saying, "Look, if you make an allegation we'll  
11      compensate you in a very significant way" and they were not  
12      carrying out any kind of attempts to verify or investigate  
13      them. They were simply saying, "If you make the  
14      allegation, you get some money". This became widely known  
15      among the people who had been in that institution, some of  
16      whom, many of whom were genuine victims, but some of whom  
17      were not victims at all, but they had been in juvenile  
18      detention facilities and had, you know, expectedly led  
19      lives of crime and said, "Hey, if I come forward and make  
20      this allegation, I'm going to get tens of thousands of  
21      dollars. They're not going to investigate. They're not  
22      investigating." They were making allegations. They were  
23      unfounded.

24              I would point you to the report of Justice  
25      Kaufman. It's a very -- I think it's not in my materials

1 but it's a 2002 document. In fact, I think it is in my ---

2 **MR. ENGELMANN:** That's in your "Selected  
3 Bibliography".

4 **MR. BALA:** So the citation is in the  
5 "Selected Bibliography".

6 **MR. ENGELMANN:** That's the top of page 2 at  
7 Tab 4?

8 **MR. BALA:** Yes.

9 **MR. ENGELMANN:** All right. And that's about  
10 the Shelburne Training School in Nova Scotia?

11 **MR. BALA:** And a number of related inquiries  
12 in Nova Scotia, what happened -- and this is an example of  
13 moving from one extreme to the other and that for many,  
14 many years there was a complete denial of the problem and  
15 it wasn't dealt with appropriately. Then some -- you know  
16 there is an awareness of it and rather than doing it in a  
17 balanced and appropriate way, they went to the other  
18 extreme and undoubtedly made some payments to people who  
19 were not genuine victims. The problem is always finding  
20 genuine victims, treating them fairly while not  
21 compensating those who are not victims. In fact, there  
22 were implications that some people had been sexually  
23 abusing children who clearly had not been, and careers were  
24 at least put under a cloud if not destroyed.

25 Justice Kaufman was then called in and wrote

1 a, I think, a very useful report that documents -- he both  
2 reviews the various compensation schemes that have been  
3 done in various jurisdictions and points out the need for  
4 fair investigations and verification processes.

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

6 So then you talk about the need under this  
7 caption to distinguish between false versus unproven,  
8 malicious versus honest mistake and child-initiated versus  
9 adult-induced, and those are all factors that we should  
10 consider?

11 **MR. BALA:** Yes, if I could just expand a  
12 little bit?

13 By "false", the way I'm using the word  
14 "false", and the way I think much of the literature, but  
15 not all because some of the literature is a little bit  
16 confusing -- I mean an intentionally false allegation, a  
17 situation where somebody is lying. Sometimes people make  
18 an allegation that is not true, but it is an honest kind of  
19 mistake and there are a range of situations in which  
20 someone may -- they may misidentify the perpetrator, they  
21 may have had poor therapy or whatever, but they are acting  
22 in good faith. And then there are situations in which they  
23 may have genuinely been abused but you come to a court or  
24 an inquiry and you can't prove it. And of course it  
25 depends if you are on the criminal standard of proof you

1       may say, "well, you haven't proven this", but even in a  
2       civil context, there are genuine victims who are making a  
3       civil claim and they can't prove it and they are not  
4       compensated. It doesn't mean it didn't happen.

5               I think it's very important when working  
6       with victims, the fact that there was a criminal acquittal  
7       or even a situation where there is no civil compensation  
8       does not mean that they were not genuine victims. It  
9       simply means there was not enough evidence to establish it.

10              **MR. ENGELMANN:** In fact, in your recent  
11       paper with Nico Trocmé, you say that 4 per cent of cases  
12       are considered to be intentionally false but you say there  
13       is a higher number again when it is parental separation.

14              **MR. BALA:** When.

15              **MR. ENGELMANN:** Okay. All right.

16              And I think you talk -- and in those  
17       parental separation cases, many of those claims may have  
18       been adult induced?

19              **MR. BALA:** Yes. So it's important when  
20       looking at it and particularly talking about  
21       contemporaneous. So if you hear there's an allegation  
22       being made about sexual abuse by a father against a five-  
23       year-old child to -- say if you find out it was malicious,  
24       was it from the child or was it from the adult custodial  
25       parent or I should say -- and it's by no means just the

1       custodial parent, even non-custodial parent. Sometimes  
2       it's grandparents, it's neighbours.

3                You know, the making of unfounded  
4       allegations today is a significant problem but I would  
5       again see the context in which there is still -- I mean  
6       there's, I think, a fairly persuasive body of evidence that  
7       there are many more or certainly more false denials. I  
8       mean, very few abusers will admit that they have done false  
9       allegations, and different in 2006 from what it was 10 or  
10       20 years ago.

11               **MR. ENGELMANN:** All right.

12               Now, you talk in your next section about  
13       some of the challenges in proving abuse in court and you  
14       talk about this in two ways. You talk about this with  
15       respect to current or present cases, so with child  
16       witnesses. And you also talk about it in the sense of  
17       historic sexual abuse cases where the witnesses obviously  
18       would be adults reporting historical sexual abuse. It  
19       appears you have some similarities.

20               Is that correct?

21               **MR. BALA:** There are some similarities but  
22       significant differences both in terms of investigations,  
23       psychological dynamics and so on.

24               **MR. ENGELMANN:** All right. One of the  
25       similarities appears to be the lack of physical evidence

1 typically.

2 **MR. BALA:** That's right. I mean most sexual  
3 abuse of children does not involve penetration and often  
4 there's a significant delay in disclosure. So there is not  
5 going to be, in most cases, physical evidence and I should  
6 say even if there has been penetration, unless there's an  
7 immediate report to the police, you don't get -- a medical  
8 examination often doesn't reveal that there has been  
9 penetration.

10 So it's important to have -- to recognize  
11 you may not have that physical evidence, and of course that  
12 makes it very difficult to prove because you have a four-  
13 year-old child saying something and a 40-year-old person  
14 saying "No, it didn't happen". And if you have so-called  
15 "he said, she said" or "he said, he said", it can be very  
16 difficult to establish what actually happened.

17 **MR. ENGELMANN:** And presumably in both  
18 instances it would be rare to have independent witnesses or  
19 any witnesses?

20 **MR. BALA:** That's right. Often there is not  
21 going to be -- I mean, sexual exploitation abuse by its  
22 very nature is typically carried on in private. There are  
23 certainly cases in which there are other victims or  
24 witnesses or whatever but it can be very difficult to  
25 prove.

1                   **MR. ENGELMANN:** So how were some of these  
2 different then between the child as the victim, so the  
3 current case, and the historic case? What are some of the  
4 difficulties that are different about those?

5                   **MR. BALA:** Well, there are particular issues  
6 about interviewing young children. So one has to do it in  
7 an age-appropriate way, developmentally appropriate, taking  
8 into account their language capacities and their cognitive  
9 capacities, be aware of why they might not be disclosing  
10 the intimidation that might come from parents to retract,  
11 so-called recantation, and aware of some of the  
12 difficulties that children have in describing anything.

13                   With adults -- I should say one of the  
14 things about children is many children, particularly  
15 younger children, are not -- they may be frightened but  
16 they are not actually embarrassed because they don't have a  
17 sexual awareness -- and I want to say embarrassment and so  
18 on; fear, can be major issues with children but they're  
19 different than with adults. An adult survivor will have  
20 concerns about embarrassment, guilt, and for men in  
21 particular fear about having engaged in homosexual acts if  
22 they're not homosexual.

23                   So there are different dynamics that make it  
24 difficult for adults to disclose than for children but  
25 there are, in both cases, difficulties about disclosure.

1       There are issues about, with adults, often the lack of  
2       records. Records may have disappeared. So what could be  
3       independent, you say, well, he says -- the victim says  
4       this. The alleged perpetrator says that. You might say  
5       "Well, there were records".

6               So going back to Shelburne, the inquiry  
7       there, one of the things was where there were records, some  
8       of the allegations somebody said, "Well, this person abused  
9       me at this time" and you discover by looking at the  
10      records, "Hey, that person, the alleged perpetrator, was  
11      not even working at that facility at that time and it  
12      couldn't have happened". So the records will prove it, but  
13      in other cases, "Sorry, the records have been destroyed".  
14      So you don't have that documentary evidence that could  
15      confirm or rebut the allegation.

16              And certainly you're not going to have  
17      physical evidence with -- there are issues that inevitably  
18      survivors -- not inevitably but in some cases, survivors  
19      will have been associating with other men who they lived  
20      with in that institution for many years and they may at  
21      some point start to discuss and someone will say, "Well,  
22      you know, you influence one another". So you have issues  
23      about contamination.

24              **MR. ENGELMANN:** And you've talked to us a  
25      little bit about some of the credibility issues that may

1           come up if people have criminal records or have alcohol or  
2           drug problems.

3                       **MR. BALA:** The reality is that men who are  
4           sexually assaulted, who were sexually exploited as boys,  
5           often as a result of the abuse have drug or alcohol  
6           problems. They may have criminal offending problems. They  
7           have trouble holding a job and so if they come to court and  
8           say "I was a victim of sexual assault", they're asked  
9           questions not illegitimately by defence counsel who is  
10          representing the alleged perpetrator, "So how can we rely  
11          on you? You're a drug addict. You've cheated on your  
12          welfare fraud or whatever and how can you be a credible  
13          witness?"

14                      So their credibility is undermined and their  
15          credibility is undermined because of things that happened  
16          as victims of abuse.

17                      **MR. ENGELMANN:** All right. So despite the  
18          changes in the legislation, despite the changes in the  
19          common law, it can be somewhat difficult at times to get a  
20          conviction in cases of child sexual abuse?

21                      **MR. BALA:** Yes, both present and historic  
22          cases.

23                      **MR. ENGELMANN:** Now, under civil liability  
24          and allegations of abuse against employees and volunteers  
25          of child-serving institutions, you've talked about some of

1 the changes to our tort laws and, in particular, you've  
2 talked about limitation periods.

3 **MR. BALA:** Yes. There were both common law  
4 changes in 1992 -- I don't cite it there, but in some of  
5 the material I think there was a decision of the Supreme  
6 Court of Canada in 1992 dealing with limitation periods  
7 that held that if an adult survivor of abuse did not  
8 realize the effects of abuse on them, even though they were  
9 aware of the abuse that they were not aware of the effect  
10 it had on their psychological well-being, the limitation  
11 period will only run from the time when they were aware of  
12 the effects of the abuse on their present psychological  
13 condition.

14 In effect, the Supreme Court of Canada  
15 dramatically extended limitation periods for adult  
16 survivors of abuse as a result of a decision.

17 **MR. ENGELMANN:** You've also talked about  
18 decisions dealing with negligence, institutional liability;  
19 vicarious liability.

20 **MR. BALA:** Yes.

21 **MR. ENGELMANN:** Those are all common law  
22 changes we've seen?

23 **MR. BALA:** Yes, and I think that the changes  
24 in civil liability have had a significant impact on public  
25 institutions. Things are happening together. I don't want

1 to say it's just civil liability but there is no doubt that  
2 people who are running organizations, child-serving  
3 organizations ranging from schools, correctional facilities  
4 but also volunteer organizations, churches, say if there is  
5 an allegation we have to take it seriously because if we  
6 don't, we may be liable.

7 **MR. ENGELMANN:** And these aren't just -- I  
8 think there was a question earlier but these aren't just  
9 institutions or corporations that are for profit. Many of  
10 these institutions that are being sued are not-for-profit?

11 **MR. BALA:** That's right, and in fact, the  
12 Supreme Court has clearly said that the mere fact that an  
13 organization is a none-for-profit does not mean that they  
14 don't have liability for child abuse or these other things.

15 **MR. ENGELMANN:** So some examples of that,  
16 we've seen cases against hockey associations for example?

17 **MR. BALA:** I mean I think it's important to  
18 realize that the vast majority of people who work with  
19 children, teachers, Scout leaders, coaches, are not  
20 abusive, the vast majority, but people who are pedophiles  
21 look -- most of them -- they're not, you know, the man in  
22 the trench coat lurking around at the playground. They are  
23 people who seek out positions of responsibility for  
24 children as coaches, as teachers, as scout masters, and  
25 they exploit those positions.

1                   So child-serving organisations have to be  
2                   aware of issues of child abuse, have to be prepared to  
3                   engage in screening; have to have protocols for dealing  
4                   with allegations; and respond to those allegations.

5                   **MR. ENGELMANN:** Now, I think we're  
6                   recognizing this as early as the 1980's. Were they not?

7                   **MR. BALA:** Yes, certainly, I think by the  
8                   late 1980s in Canada there was a recognition that child  
9                   serving institutions, youth-serving institutions had to  
10                  have a protocol, a set of policies in place to deal with  
11                  allegations of abuse in both the cases where children were  
12                  disclosing.

13                  And one of the things that was going on in  
14                  the late 1980s, as there was this growing professional  
15                  awareness, was teachers, for example, were more sensitive  
16                  to issues of child abuse and would talk about it in class.  
17                  And so some students were disclosing if they were being  
18                  abused by their parents. So they had more allegations  
19                  about intra-familial abuse being disclosed. At the same  
20                  time, children were more prepared to disclose that they  
21                  were being abused by others, by teachers, or coaches, or  
22                  whatever. So that organizations had to deal with both  
23                  disclosures of children about abuse by family members as  
24                  well as by staff members and volunteers.

25                  **MR. ENGELMANN:** So, as I understand it,

1 Professor Bala, sometime in the '80s, you had government  
2 departments and/or ministries and others developing  
3 protocols and policies or how to deal with allegations of  
4 child sexual abuse against their own staff?

5 MR. BALA: Yes.

6 MR. ENGELMANN: And as well if their own  
7 staff were told about allegations?

8 MR. BALA: Right.

9 MR. ENGELMANN: And, as a result of that,  
10 you had the voluntary sector also developing guidelines?

11 MR. BALA: Yes.

12 MR. ENGELMANN: And in fact you have at Tab  
13 14 of your second volume, a publication or pamphlet that is  
14 called "Put the Child First".

15 MR. BALA: Yes.

16 MR. ENGELMANN: That is a guidelines manual  
17 about child abuse for officials. This document, did you  
18 have something to do with its preparation?

19 MR. BALA: Yes, and I should say this was a  
20 document published in 1989. It had funding from the  
21 federal government and there were a number of brochures put  
22 together. It was part of a whole set of training  
23 materials. There were videotapes or a videotape, and there  
24 were across Canada training, so-called "Train the Trainer",  
25 so that people, not myself but others went out with these

1 materials and were meeting with child serving organizations  
2 in each province and saying, "You know, in the school  
3 system they are developing protocols. If you're running an  
4 organization" -- and you can see, it's on the screen now a  
5 list of organizations that were involved in, first of all,  
6 sponsoring this, and secondly, disseminating it.

7 So for example, the Boy Scouts -- the Boy  
8 Scouts are a good example. The vast majority of scout  
9 leaders are not abusive, but a tiny number of them were  
10 abusive and, indeed, if you were a pedophile, you'll look  
11 for a position as a scout leader. And the Boy Scouts were  
12 aware of, "We have to be proactive and screen out, look for  
13 people who are pedophiles, be aware of this issue; be  
14 prepared to deal with it in a sensitive and appropriate  
15 fashion." These materials came out in 1989; were intended  
16 to help frontline organizations, child-serving  
17 organizations, deal more effectively with child sexual  
18 abuse and child abuse in general, I should say.

19 **MR. ENGELMANN:** In fact if you look at the  
20 introduction on page 1, in the third paragraph, the  
21 comment,

22 "Challenge to respond to an increasing  
23 number of cases of suspected child  
24 abuse and neglect. The Association of  
25 National Youth Serving Organization

1 executives developed an idea for a  
2 national training project".

3 So in the mid to late '80s, we had some  
4 cases involving various of these organizations. Is that a  
5 fair comment?

6 **MR. BALA:** Yes, and particularly I think,  
7 say, there was a recognition that they had to be dealt  
8 with. The title, you know, is significant, "Put the Child  
9 First". It's saying when there is an allegation you have -  
10 - and in fact, it goes on to describe you do have to treat  
11 your staff fairly, the person against whom the allegation  
12 is made. There has to be a fair and full investigation.  
13 They may have legal rights and so on, but you can't say,  
14 "Well, if it's a child making the allegation, it couldn't  
15 be true".

16 **MR. ENGELMANN:** And I note at page 6, they  
17 have a model reporting procedure. And it is your  
18 understanding from your involvement in this that many of  
19 these procedures and models were developed following  
20 policies at ministries and/or other institutions?

21 **MR. BALA:** Yes, and as indicated in the  
22 introductions, I had a role in working on this with others  
23 and this was to some extent modeled on the protocols that  
24 were being developed by governments for; for example,  
25 training schools and schools as well. This is an issue for

1 -- and this was and is an issue for every child-serving  
2 organization.

3 **MR. ENGELMANN:** All right. And there is a  
4 discussion at page 10 about who these adults are who are  
5 sexually abusive and other information like this.

6 **MR. BALA:** Yes.

7 **MR. ENGELMANN:** And also there's the concept  
8 of a model screening procedure for youth-serving  
9 organizations.

10 **MR. BALA:** That's right and both -- and I  
11 should say there is a widespread recognition that and it  
12 goes here, a criminal record check is not enough. It is a  
13 minimal but a necessary part of screening. There must be a  
14 more broad exploration.

15 Child-serving organizations have  
16 responsibility for children to say this was interacting  
17 with the civil liability and awareness of "if we don't do  
18 this, we may have liability".

19 **MR. ENGELMANN:** Professor Bala, you also  
20 mention under "Institutional Responses", the role of the  
21 Office of Child Advocacy. Could you comment briefly on  
22 that?

23 **MR. BALA:** Yes, I think that children who  
24 are in state care, particularly those who are in the  
25 criminal justice system are particularly vulnerable and in

1 Ontario we have an Office of Child and Family Advocacy that  
2 is responsible for -- and this office was, I think,  
3 initially set up in 1984, but its role has changed,  
4 expanded.

5 And there are -- in youth facilities, for  
6 example, there is a sign saying if your rights have been  
7 violated, let alone abused, you can call this 1-800 number,  
8 and someone will come and meet with you. I think that's  
9 been an important part or a significant part of reducing,  
10 by no means eliminating, but reducing the incidence of  
11 child abuse in institutions. And there have been issues in  
12 Ontario, I coauthored a report written in 2004, the  
13 government has indicated that they are going to act on that  
14 recognized the office needs to be enhanced in some  
15 significant ways and there is ongoing discussion about how  
16 to do that.

17 But say even now we have a ways to go in  
18 terms of providing appropriate protection to children in  
19 care, not in terms of protecting their legal rights but in  
20 protecting them from abuse by staff or a countenance by  
21 staff.

22 **MR. ENGELMANN:** Okay. Professor Bala, those  
23 are my questions.

24 I understand, sir, that you are off to Nova  
25 Scotia to give some evidence at an inquiry there, but that

1           you are available to come back here on Monday.

2                   **MR. BALA:** Yes.

3                   **MR. ENGELMANN:** So I look forward to seeing  
4           you then and counsel here will have, I am sure, some  
5           questions for you in cross-examination.

6                   **THE COMMISSIONER:** All right. So we will be  
7           seeing you back here on Monday at 10:00.

8                   **MR. BALA:** Yes.

9                   **THE COMMISSIONER:** All right.

10                   Ad what do we have for tomorrow?

11                   **MR. ENGELMANN:** For tomorrow we will be  
12           starting with Nico Trocmé and if we finish with Dr. Trocmé  
13           before the end of the day, we will start with John Liston.

14                   **THE COMMISSIONER:** All right, thank you.  
15           Have a safe trip.

16                   **MR. BALA:** Thank you.

17                   **THE COMMISSIONER:** All right.

18                   We will come back tomorrow at 10:00.

19                   **THE REGISTRAR:** Order. All rise. À  
20           l'ordre, veuillez vous lever. The hearing is now  
21           adjourned.

22           --- Upon adjourning at 4:40 p.m./

23                   L'audience est ajournée à 16h40

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C E R T I F I C A T I O N

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I, Sean Prouse a certified court reporter in the 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, Sean Prouse, 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.



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Sean Prouse, CVR-CM