

**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 201

Held at :

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

Thursday, February 28 2008

Tenue à:

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

Jeudi, le 28 février 2008

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Janie Larocque	Commission Counsel
Mr. John E. Callaghan Mr. Mark Crane	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Darrell Kloeze	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Dallas Lee	Victims Group
Mr. Michael Neville	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action

Table of Contents / Table des matières

	Page
Opening Remarks by the Commissioner/Remarques d'ouverture par le Commissaire	1
Ruling by the Commissioner/Décision par le Commissaire	2
GARY DEROCHIE, Sworn/Assermenté	78
Examination in-Chief by/Interrogatoire en-chef par Mr. Peter Engelmann	78

LIST OF EXHIBITS/LISTE D'EXHIBITS

NO.	DESCRIPTION	PAGE NO
P-1289	(200188) Career profile of Garry Derochie	84
P-1290	(719496) Performance evaluation	100
P-1291	(718210) Letter from Guy Simard to Garry Derochie - 05 Nov, 93	108
P-1292	(730961) Note from Deputy Chief to Garry Derochie - 07 Oct, 93	112
P-1293	(728438) Handwritten notes of Garry Derochie - 07 Oct, 93	120
P-1294	(729185) Copy of OMPPAC report - 04 Oct, 93	123
P-1295	(727784) OMPPAC report - 06 Oct, 93	129
P-1296	(728449) Criminal Record of David Silmser - 12 Mar, 93	144
P-1297	(728450) Criminal record query re Charles MacDonald - 18 Feb, 93	146
P-1298	(724203) Note from Deputy Chief to S/Sgt. Brunet - 08 Jan, 93	148

1 --- Upon commencing at 9:37 a.m. /

2 L'audience débute à 9h37

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you. Good morning
10 all.

11 It is my intention to deliver my decision
12 very shortly. However, we have experienced some technical
13 difficulties in the sense of I wanted to have copies ready
14 for distribution shortly after I rendered my decision, and
15 it seems that technology hasn't exactly cooperated with me
16 this morning.

17 So what I would like to do is adjourn until
18 10:30 and, at that time, hopefully those technical
19 difficulties will be overcome and then I will be able to
20 deliver my decision.

21 All right; thank you.

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

24 This hearing will resume at 10:30.

25 --- Upon recessing at 9:38 a.m. /

1 L'audience est suspendue à 9h38

2 --- Upon resuming at 11:42 a.m. /

3 L'audience est reprise à 11h42

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

6 The hearing is now resumed. Please be
7 seated. Veuillez vous asseoir.

8 **THE COMMISSIONER:** Thank you.

9 Thank you very much for your patience.

10 This is a ruling in relation to the effect
11 of the Court of Appeal decision recently released.

12 On January 18th, 2008, the Court of Appeal of
13 Ontario issued its decision in relation to the proposed
14 evidence of C-12 and 13. This decision is reported as
15 *Ontario Provincial Police v. Cornwall Public Inquiry*.

16 The matter was on appeal from an order of
17 the Divisional Court dated September 17th, 2007, and
18 reported at 229-0AC-238 dismissing the Appellant's
19 application for an order directing me as Commissioner to
20 stay the case.

21 In brief, the Appellants and the Intervenor
22 objected to the evidence of C-12 and C-13 and submitted
23 that it fell outside the ambit of the Commission's mandate.
24 They were successful on appeal.

25 Following the decision, several of the

1 parties to the Inquiry began raising concerns about the
2 impact of the Court of Appeal's decision on evidence of
3 certain witnesses who had testified and also concerns about
4 areas of evidence that the Inquiry was soon to hear.

5 In light of these concerns, Commission
6 counsel invited those parties who were objecting to my
7 consideration of certain evidence for the purposes of
8 making findings and issuing notices of misconduct, to make
9 submissions before me. Counsel opposed to these
10 submissions were also invited to prepare and make
11 submissions, and I heard the parties' submissions orally on
12 February 14th, 19th and 25th of 2008. We also considered
13 brief written submissions filed by some of the parties.

14 I should note that the contested evidence
15 was all in the Inquiry's record in the form of transcripts
16 and exhibits with the exception of evidence Commission
17 counsel intends to lead dealing with the investigation and
18 prosecution of Earl Landry, Jr.

19 A summary of agreed statement of facts was
20 prepared by Commission counsel and proved by counsel with
21 the Cornwall Community Police Service. It was entered as
22 Exhibit 1-A1 for identification purposes on the Motion with
23 the proviso that the summary would only be used for the
24 purpose of this Ruling and would not otherwise be an
25 exhibit before the Commission.

1 Court of Appeal Decision:

2 I think it is useful to very briefly review
3 and comment upon some aspects of the Court of Appeal
4 decision.

5 The Court of Appeal found that the proposed
6 evidence of C-12 and C-13 does not fall within the subject
7 matter assigned to the Commission by the terms of the Order
8 in Council and, furthermore, that it is not reasonably
9 relevant to the subject matter of the Inquiry. In so
10 finding, the Court of Appeal commented on the OIC
11 establishing the Commission, portions of which I will
12 review here for ease of later reference.

13 "WHEREAS allegations of abuse of young
14 people have surrounded the City of
15 Cornwall and its citizens for many
16 years. The police investigations and
17 criminal prosecutions relating to these
18 allegations have concluded. Community
19 members have indicated that a public
20 inquiry will encourage individual and
21 community healing;"

22 "AND WHEREAS under the *Public Inquiries*
23 *Act*, the Lieutenant Governor in Council
24 may, by commission, appoint one or more
25 persons to inquire into any matter

1 connected with or affecting the good
2 government of Ontario or the conduct of
3 any part of the public business thereof
4 or the administration of justice
5 therein or any matter of public
6 concern, if the inquiry is not
7 regulated by any special law and if the
8 Lieutenant Governor in Council
9 considers it desirable to inquire into
10 that matter;"

11 "AND WHEREAS the Lieutenant Governor in
12 Council considers it desirable to
13 inquire into the following matters.
14 The inquiry is not regulated by any
15 special law; THEREFORE, pursuant to the
16 *Public Inquiries Act*: A Commission
17 shall be issued effective April 14th,
18 2005, appointing the Honourable G.
19 Normand Glaude as a Commissioner."

20 The mandate:

21 "[2] The Commission shall inquire
22 into and report on the institutional
23 response of the justice system and
24 other public institutions, including
25 the interaction of that response with

1 other public and community sectors, in
2 relation to: (a) allegations of
3 historical abuse of young people in the
4 Cornwall area, including the policies
5 and practices then in place to respond
6 to such allegations, and (b) the
7 creation and development of policies
8 and practices that were designed to
9 improve the response to allegations of
10 abuse in order to make recommendations
11 directed to the further improvement of
12 the response in similar circumstances.

13 (3) The Commission shall inquire
14 into and report on processes, services
15 or programs that would encourage
16 community healing and reconciliation in
17 Cornwall.

18 [4] The Commission may provide
19 community meetings or other
20 opportunities apart from formal
21 evidentiary hearings for individuals
22 affected by the allegations of
23 historical abuse of young people in the
24 Cornwall area to express their
25 experiences of events and the impact on

1 satisfactory results and a cloud of suspicion and mistrust
2 continues to hang over the citizens of Cornwall.

3 The Court of Appeal found that the
4 legislative intention in ordering the Inquiry was to have
5 the Commission investigate the institutional response to
6 allegations of historical sexual abuse of young people in
7 the Cornwall area by persons in authority or persons of
8 trust and to recommend ways in which those institutions
9 could better respond to this type of allegation.

10 Based on its further analysis of the
11 Preamble, the Court of Appeal determined that the second
12 sentence narrowed the scope of allegations of abuse -- and
13 that's referenced in the first sentence in the Preamble --
14 to those that form the subject matter of police
15 investigations and criminal proceedings related to these
16 allegations that have concluded.

17 Such allegations related to historical
18 sexual abuse of young people in the Cornwall area by
19 persons in authority or persons of trust that were the
20 subject of Project Truth investigations.

21 The Court of Appeal's analysis did not end
22 with paragraphs 43 through 47. In paragraphs 53 through
23 55, the Court acknowledged that it has to look beyond the
24 Preamble and paragraph 2(a) of the OIC and must examine the
25 remainder of paragraph 2 and then read the OIC as a whole

1 in conjunction with all its other provisions.

2 In so doing, the Court of Appeal found in
3 paragraph 55 that this Commission was directed to look at
4 the response to allegations of historical abuse of young
5 people in a broader fashion than the Project Truth
6 investigation. In particular, the Court held that such
7 allegations would include the following, and I quote from
8 paragraph 15:

9 "Those that were the subject of the
10 Project Truth investigation, as well as
11 any similar allegation of historical
12 abuse of young people by persons in
13 authority or positions of trust that
14 were not investigated by Project Truth
15 or that came to light after the Project
16 Truth investigation ended."

17 In its concluding paragraph on the meaning
18 of the OIC and, in particular, with what it empowers this
19 Commission to look into and report on, the Court of Appeal
20 stated that "the perpetrators or alleged perpetrators must
21 be persons in positions of authority or trust."

22 While these words are absent from the OIC,
23 they had been added by the Court of Appeal in several
24 paragraphs of its decision including the paragraph that
25 summarizes this Commission's powers. In particular, the

1 Court held that -- and I'm reading from paragraph 62:
2 "[62] Properly construed, the OIC
3 empowers the Commissioner to look into
4 and report on institutional responses -
5 -past, present and future -- relating
6 to allegations of historical abuse of
7 young people in the Cornwall area by
8 persons in authority or positions of
9 trust, including the allegations
10 investigated in Project Truth as well
11 as similar such allegations.
12 Allegations that were reported at the
13 time of the abuse, or years later, or
14 both, would fall within this mandate.
15 In other words, the Commissioner can
16 look at the response of various
17 institutions to allegations made and
18 reported in the 1950s, as well as their
19 response to allegations made for the
20 first time or renewed in the 1990s."

21 Although the Court of Appeal consistently
22 added the words, "person in a position of authority or
23 trust," despite their absence from the OIC, it did not
24 always add the word "sexual" between the word "historical"
25 and "abuse."

1 The Court of Appeal confirmed that the
2 Commission is entitled to review evidence that falls
3 outside of the subject matter of this Inquiry if it
4 reasonably relevant.

5 In its direction concerning the reasonable
6 relevance test, the Court left a great deal of discretion
7 to me in determining this issue.

8 The Court of Appeal affirmed, in
9 paragraph 65 and reads as follows:

10 "If the Commissioner believes that an
11 item or body of evidence, though
12 peripheral to the subject matter of the
13 Commission, bears on an issue to be
14 resolved and will in some degree
15 advance the Inquiry, so long as the
16 Commissioner's view is reasonably
17 based, the admission of the evidence
18 will not constitute jurisdictional
19 error."

20 In my view, the Court of Appeal decision,
21 just like the OIC itself, must be read in its entirety when
22 seeking guidance on what is within the Commission's
23 mandate. Determining whether the contested evidence is
24 within my mandate will be the first step I must make in
25 considering the parties' submissions and then, if still

1 necessary, I must consider whether the evidence in question
2 is, in any event, reasonably relevant.

3 With all of this in mind, I will now turn to
4 the positions of the parties in respect of the effect, if
5 any, the Court of Appeal's decision may have upon the
6 evidence of the witnesses already heard before this
7 Commission and the evidence yet to be called.

8 I'll now turn to the parties' positions.

9 Counsel for the Cornwall Community Police
10 Services (CPS), and the Children's Aid Society of Stormont,
11 Dundas and Glengarry (the CAS) and the family of Ken Seguin
12 and Father Charles MacDonald each submitted that the
13 testimony of a number of witnesses already heard by this
14 Commission falls outside of the Commission's mandate, based
15 on the reading of the Court of Appeal's decision.

16 None of the other parties are taking the
17 position that any of the evidence heard to date is outside
18 the Commission's mandate. In other words, they are of the
19 view that the Court's decision does not affect evidence
20 heard so far.

21 Some of those parties including the victims'
22 group, the Citizen's for Community Renewal (CCR), and the
23 Coalition for Action vigorously oppose the submissions of
24 the objecting parties.

25 The objecting parties submitted that the

1 contested evidence ought not to form the basis of any
2 notices or findings in misconduct; however, given the late
3 timing of their objections, none of the parties is asking
4 that the contested evidence be expunged.

5 Counsel for the CPS further submitted that
6 it should not be required to respond to the contested
7 evidence as part of its institutional response.

8 The CPS also submitted that the subject
9 matter of some proposed evidence regarding a particular CPS
10 investigation, that being the Earl Landry, Jr.
11 Investigation, would also be outside the Commission's
12 mandate, given the Court of Appeal's decision.

13 The grounds for the parties' objection
14 include one or more of the following:

15 (1) The person alleged to have committed
16 the abuse was not a person in a position of trust or
17 authority;

18 (2) The alleged victim does not fit within
19 the term "young people", given his or her age;

20 (3) There is no allegation of abuse or
21 sexual abuse; and

22 (4) Historical abuse means historical
23 sexual abuse only and cannot include a consideration of
24 physical and/or emotional abuse.

25 Counsel for the CPS submitted that the

1 evidence or part thereof of the following witnesses fall
2 outside of the mandate, that being Larry Seguin, Juliette
3 Seguin, David Petepiece, Marc Carriere, C-10, Keith
4 Ouellette, Ron Leroux, and C-8.

5 Counsel for the CPS also submitted that the
6 upcoming evidence concerning the Earl Landry, Jr.
7 Investigation falls outside of the Commission's mandate.

8 Counsel for Father MacDonald, Mr. Neville,
9 submitted that the evidence or part thereof of the
10 following witnesses fall outside of the mandate; namely,
11 Robert Renshaw, C-3, and C-4.

12 Mr. Neville also submitted, as counsel for
13 the family of Ken Seguin, that the evidence or part thereof
14 of Gerry Renshaw and C-8 falls outside of the mandate.

15 Counsel for the CAS submitted that the
16 evidence or part thereof of the following witnesses fall
17 outside of the mandate; namely, Roberta Archambault,
18 Jeanette Antoine, Andre Bissonnette, Catherine Sutherland,
19 C-14, and Keith Ouellette.

20 More details of the specific objections
21 together with comments from the responding parties will be
22 outlined in the reasons to follow.

23 I will first address each of the grounds for
24 objection before turning to the specific witnesses;
25 however, before commenting on the different grounds, I do

1 wish to state that I am of the view that any allegations
2 investigated by Project Truth are part of the mandate and
3 that the Court of Appeal has confirmed this understanding.

4 I will now turn to an examination of the
5 various grounds for the objections.

6 The first objection was that the person
7 alleged to have committed the abuse was not a person in a
8 position of trust or authority.

9 Counsel for the CPS referred me to a number
10 of cases in his submissions on point, starting with *Regina*
11 *v. Audet*. In this decision, the Supreme Court of Canada
12 considers the definition of "position of trust" and
13 "position of authority" in the context of Section 153 of
14 the *Criminal Code of Canada*, being child exploitation.

15 This case notes some distinctions between "a
16 position of authority" and "a position of trust," citing
17 comments made in *Léon v. La Reine* and *R. v. P.S.*

18 For example, a position of authority stems
19 from, and I quote:

20 "[an]adult's role in relation to the
21 young person and..."

22 Again quoting:

23 "...evokes of notions of power and the
24 ability to hold in one's hands the
25 future or destiny of the person who is

1 the object of the exercise of the
2 authority."

3 And that's in *Audet*, paragraph 33.

4 A position of trust, on the other hand, is
5 described as follows:

6 "Where the nature of the relationship
7 between an adult and a young person is
8 such that it creates an opportunity for
9 all of the persuasive and influencing
10 factors which adults hold over children
11 and young persons to come into play, and
12 the child or young person is
13 particularly vulnerable to the sway of
14 these factors, the adult is in a
15 position where those concepts of
16 reliability and truth and strength are
17 put to the test. Taken together, all of
18 these factors combine to create a
19 'position of trust' towards the young
20 person."

21 Counsel for the CPS also noted the number of
22 relationships illustrating positions of trust in authority,
23 such as teacher/student, priest/altar boy or parishioner and
24 probation officer/current probationers. He submitted that a
25 doctor/patient relationship would be one of trust.

1 Counsel then reviewed the following cases:
2 *E.D.G v. Hammer, Bazley v. Curry, E.B. v. the Order of the*
3 *Oblates of Mary Immaculate, Jacobi v Griffiths.* He submitted
4 that these cases, in essence, narrowed the definitions of
5 "position of trust and authority" from that set out in *Regina*
6 *v. Audet.*

7 In response, counsel for the victims' group
8 and the CCR argued that the interpretations of "positions of
9 trust and authority" in *Regina v. Audet* is much broader than
10 asserted by counsel for CPS in that the other cases cited
11 involved vicarious liability and are not of great assistance.

12 Counsel for the CCR submitted that the
13 determination of whether a person is in a position of trust
14 or authority involves an examination of a matrix of factors.
15 Counsel suggests that the examination include the following:

- 16 (a) The status and role of the adult;
17 (b) The age and vulnerability of the young
18 person;

19 The legal or the *de facto* control
20 exercised or exercisable by the adult
21 over others, including the young person,
22 (d) any perception, right or wrong, of
23 the degree of control exercised or
24 exercisable by the adult over others
25 including the young person, (e) any

1 relationship by the adult with another
2 adult who would be in a position of
3 trust or authority in relation to that
4 particular young person and (f) the
5 circumstances of the relationship that
6 encompasses the alleged abuse in terms
7 of control, power or the creation of an
8 opportunity for all of the persuasive
9 and influencing factors which adults
10 hold over children and young persons to
11 come into play."

12 It appears that counsel for the CPS has
13 suggested that my determination of a person in authority or
14 person in a position of trust must be restricted to set
15 categories or relationships. I disagree. In my view, the
16 determination of whether an alleged perpetrator was a
17 person in authority or position of trust must be made on a
18 case-by-case basis having examined the circumstances and
19 the nature of the relationship.

20 I can derive some guidance from cases such
21 as *Regina v. Audet* which suggests that positions of trust
22 should be broader than positions of authority.

23 Useful guidance is also available in the
24 summary of the report of the Committee on Sexual Offences
25 Against Children and Youth also known as the Badgley Report

1 and that's found in the book of documents of Wendy Harvey,
2 Exhibit 239 which also contains definitions of persons in
3 positions of trust.

4 The other civil cases cited by counsel for
5 the CPS are, in my view, not particularly helpful in this
6 analysis. These cases deal, essentially, with vicarious
7 liability and fiduciary duty in the context of civil claims
8 against employers for intentional -- intentional acts of
9 their employees.

10 As stated above, the Court of Appeal has
11 confirmed that the OIC empowers me to look at the
12 institutional response to all allegations investigated by
13 Project Truth. Accordingly, I can also draw some guidance
14 from the relationships between the alleged victim and
15 perpetrators in the Project Truth investigations. In this
16 regard, I note that Project Truth conducted investigations
17 into allegations made against individuals who may not fit
18 the limited definition put forward by the objecting
19 parties; some examples from evidence now before me
20 including investigations into a butcher, a bus driver, and
21 a federal public servant.

22 Based on the above, the determination of
23 whether or not an alleged perpetrator is a person in
24 authority or position of trust in the context of this
25 Inquiry must require a broader analysis than that submitted

1 by the objecting parties.

2 The determination of whether an alleged
3 perpetrator is a person in authority or position of trust
4 must be based on a specific review of the evidence. In my
5 view, in making this determination, the list of factors set
6 out by counsel for the CCR is helpful.

7 On the second point of contention: The
8 alleged victim or witness does not fit within the term of
9 "young people" given his or her age. Counsel for the CPS
10 and counsel for Father McDonald and the family of Ken
11 Seguin submitted that some of the witnesses who have
12 testified here were not young people at the time of their
13 alleged abuse and thus fell outside the scope of the
14 Commission's mandate.

15 In their submissions, counsel attempted to
16 provide some context for the term "young people" by looking
17 to other legislative provisions. They referred to the
18 *Young Offenders Act* which is former legislation which is
19 defined as a young offender as being someone under the age
20 of 18 and to section 153 of the *Criminal Code*, the child
21 exploitation section, which defines a young person as
22 between -- as being 14 years of age or more, but under the
23 age of 18.

24 It was their submission that young people in
25 the context of this Commission means people under the age

1 of 18. In addition, counsel for Father McDonald and the
2 family of Ken Seguin further submitted that the factual
3 matrix outlined by Detective Superintendent McQuade's
4 Affidavit and certain Hansard extracts provides evidence of
5 context. He highlighted two of the three statements the
6 Court of Appeal makes in paragraph 43 of its decision which
7 refers to the term "paedophile." He then submits that the
8 Court's use of this term suggests that in keeping with the
9 definition of paedophile, "young people" must be under the
10 age of 18.

11 In response, both counsel for the victims'
12 group and the CCR submitted that the term "young people" is
13 not restricted to persons under 18 years of age.
14 Furthermore, there's no reason to define a threshold above
15 which an individual is no longer considered to be within
16 the category of young people so long as the individual can
17 still be reasonably described as young and if 18 years of
18 age or older, there exists a power imbalance or
19 manipulation -- manipulation of vulnerability.

20 Counsel for the victims' group and the CCR
21 also submitted the relevant time to assess the age of young
22 people is not the date of abuse, but rather the date the
23 relationship of authority or trust began, so long as there
24 remains a reasonable nexus between the relationship and the
25 abuse.

1 The term "young people" is used in
2 paragraphs 2(a) and 4 of the OIC. The drafters of the OIC
3 chose the words young people and not young persons or child
4 or children. Neither the OIC nor the Court of Appeal
5 precisely defined the term young people nor placed any age
6 limitation on it for general application.

7 In my view, the term "young people" should
8 not be narrowly construed to include only children under
9 the age of 18.

10 In his written submissions, counsel for the
11 CCR opposed the position that young people is an age-
12 limited term and noted that the definition of young person
13 in section 153 of the *Criminal Code* cannot be the
14 definition contemplated by the drafters of the OIC. This
15 is because incorporating this age would exclude evidence of
16 abuse of someone under 14 years of age.

17 I agree with that interpretation.

18 Considering the context of the work of
19 this Commission and its particular reference to Project
20 Truth allegations, I do not find the legislative provisions
21 referred to by counsel instructive. Furthermore, as I noted
22 in my ruling on the factual overview of the Ministry of
23 Community Safety and Correctional Services, in reading the
24 preamble of the OIC, it is reasonable to conclude its
25 drafters were aware of the allegations of historical abuse

1 that were made by individuals during Project Truth. These
2 alleged victims must have been considered young people by
3 the drafters of the OIC, hence their choice of language.

4 Additionally, although the Project Truth
5 investigation was tasked, at least in part, to investigate
6 paedophilic activity, in the investigation they conducted
7 included the investigation of complaints of victims and
8 alleged victims who were under 18, 18 or older.

9 Some of these victims or alleged victims
10 could be characterized as young adults. Based on this, I
11 do not believe the OIC limits this Commission's work to
12 examining the institutional response to allegations of
13 people who are less than 18 years of age at the time of the
14 alleged abuse.

15 The lack of definition of the term "young
16 people" suggests that I must look at the evidence before me
17 in determining whether the allegations of an individual
18 fall within the mandate of this Commission. In saying
19 that, I am not referring simply to the individual's age at
20 the time the alleged abuse occurred. Other factors to
21 consider may include the age at which the relationship
22 between the alleged perpetrator and alleged victim began;
23 the context in which it began; the vulnerability of the
24 alleged victim; the status of the alleged perpetrator; a
25 pattern of grooming geared towards abuse; and the existence

1 of allegations of continuing abuse over time.

2 The third objection was that there was no
3 allegation of abuse or sexual abuse.

4 Counsel for the CPS, Father McDonald and the
5 family of Ken Seguin submitted that with respect to some
6 witnesses who have already testified, their evidence
7 contained no allegation of abuse and thus the evidence is
8 not within the mandate. With respect to one witness, for
9 example, counsel described the act as a proposition. Other
10 descriptions were in the nature of non-sexual touching and
11 verbal sexual harassment.

12 Abuse of a sexual nature should not be
13 viewed in an overly restrictive fashion. There are various
14 degrees of abuse. The effect of alleged abuse of whatever
15 degree will vary from person to person. Any allegation of
16 any degree of abuse may require some form of an
17 institutional response. In the context of this Inquiry,
18 historical abuse is not limited to allegations of sexual
19 assault and may include allegations of broader sexual
20 improprieties such as grooming, invitation to sexual
21 touching, some forms of sexual harassment and any attempt
22 to do any of the above.

23 Accordingly the parties' objections on the
24 basis that the alleged act does not constitute abuse must
25 be considered on a case-by-case analysis.

1 Finally, the fourth objection is that
2 historical abuse means historical sexual abuse only and
3 cannot include a consideration of physical or emotional
4 abuse.

5 With respect to the submissions counsel for
6 the CAS submitted, that the mandate of this Commission, as
7 defined by the Court of Appeal, is now limited to
8 historical sexual abuse and that no other form of abuse,
9 such as physical or emotional, can be considered.

10 Paragraph 2(a) of the OIC does not include
11 the word "sexual" and, therefore, it was his original view
12 that the Commission was empowered to look at physical,
13 emotional and other types of abuse in achieving its
14 mandate. His submission appeared to be that the Court of
15 Appeal now requires the Commission to dissect the evidence
16 given by the CAS witnesses and that only that portion of
17 the abuse that is sexual in nature falls within the
18 mandate.

19 Both the CCR and the victims' group submit
20 that the Court of Appeal has not restricted historical
21 abuse to historical sexual abuse. They rely upon
22 paragraphs 62 of the decision. Alternatively, they submit
23 that there has been a sexual abuse component to all of the
24 allegations of abuse that are in evidence before me and
25 that the physical and/or emotional abuse found with it

1 informs the institutional response of the CAS.

2 The OIC refers to historical abuse not
3 historical sexual abuse. As I noted earlier, although the
4 Court of Appeal added the term "sexual" between
5 "historical" and "abuse" in several paragraphs, it reverted
6 back to historical abuse in later paragraphs and in its
7 concluding paragraph, paragraph 62, on the scope of the
8 Commission's mandate.

9 I have consistently taken the approach that
10 the main focus of the Inquiry is historical sexual abuse.
11 As noted by counsel of the victims' group, all of the
12 contested evidence raised by counsel for the CAS has a
13 sexual component to it. In many cases, abuse in all its
14 forms, emotional, mental, physical and sexual, is
15 inextricably linked in the victim or the alleged victim's
16 experience.

17 In my view, in those cases, it would be
18 impossible for me to properly evaluate and assess the
19 institutional response to the sexual component of the
20 alleged abuse taken in isolation from the other forms of
21 abuse. Accordingly, in those circumstances, I would have
22 to consider the abuse in its totality, and the contested
23 evidence would be within the mandate of the Commission.

24 I will now consider below on a case-by-case
25 basis whether the contested evidence dealing with

1 allegations of emotional, mental and/or physical abuse is
2 linked to the sexual abuse such that the evidence, in its
3 totality, falls within the mandate. In the alternative, I
4 will consider whether the evidence is reasonably relevant
5 to the subject matter of the Inquiry based on the links to
6 sexual abuse or for other reasons.

7 So application to the evidence in question:

8 After carefully considering the legal
9 arguments made, I will now turn to the specific evidence
10 identified by counsel for the objecting parties as arguably
11 falling outside the Commission's mandate. Before doing so,
12 I note that objecting counsel provided very limited
13 assistance to me in considering whether or not the
14 contested evidence, if not within the mandate, is
15 reasonably relevant to the subject matter of this Inquiry.
16 As stated by the Court of Appeal, it is open to me to
17 determine that evidence not within the mandate is
18 nonetheless reasonably relevant and I will undertake that
19 analysis with respect to the contested evidence.

20 It will therefore be necessary for me to
21 consider some of the evidence before me. In their
22 submissions, counsel have directed my attention to portions
23 of the applicable evidence.

24 I have considered these submissions and
25 other evidence from the record in coming to my conclusion

1 on the objections. I am cognizant of the fact that there
2 will be further evidence heard before the Inquiry is over.
3 Accordingly, my comments should not be considered as final
4 findings.

5 Turning now to Larry Seguin and Juliette
6 Seguin. Larry Seguin was the first alleged victim to
7 testify before this Inquiry. His mother, Juliette, also
8 testified. Counsel for the CPS submits that both their
9 evidence fall outside the Commission's mandate on the basis
10 that Mr. Seguin's allegations did not involve an allegation
11 of abuse by a person in a position of authority or trust.

12 Larry Seguin made two allegations: The
13 first was that, as a young boy, he was abducted and
14 allegedly abused by a stranger. The second was that, at
15 the age of 16, he was physically and sexually assaulted at
16 knifepoint by a man in his early forties.

17 Counsel for the victims' group, of which
18 Larry Seguin is a member, urged me to find that his client
19 was abused by a person in a position of authority or trust
20 or, alternatively, that his evidence is reasonably relevant
21 to the subject matter of this Inquiry. He spoke about the
22 vulnerability of his client who testified to growing up in
23 a single-parent household without a father figure in a poor
24 area of Cornwall known as Westgate Court.

25 Larry Seguin also testified about the

1 institutional response to his allegations; how that
2 response changed the way he viewed the police and his later
3 troubles with drugs and the law.

4 While I find the arguments of counsel for
5 the victims' group very compelling, I must reluctantly find
6 that Larry Seguin's evidence does not fit within the
7 Commission's mandate. I agree with counsel for the CPS
8 that neither allegation made by Larry Seguin involves
9 alleged abuse by a person in a position of trust or
10 authority.

11 Having found that this evidence does not
12 fall within the mandate of the Commission, I must also
13 determine whether it is reasonably relevant to the subject
14 matter of the Inquiry. I found Larry Seguin's evidence
15 both helpful and informative from many perspectives. He
16 testified about his feelings of the police response to him
17 as a young complainant; how in turn it led him to distrust
18 or lack respect for the police and other authority figures.
19 In addition, he told us how these encounters changed his
20 life and, in part, caused him to have trouble with the law.

21 While these aspects of his evidence are
22 helpful, I am mindful of the Court of Appeal's direction in
23 its findings in the case of C-12. The Court of Appeal
24 suggested that one reason that evidence might be reasonably
25 relevant, if it is, together with other evidence, indicated

1 a pattern of behaviour or response on the part of an
2 institution.

3 Counsel for the CPS submitted the evidence
4 of Larry Seguin and the institutional response thereto was
5 not indicative of a pattern of behaviour. In addition, it
6 was not considered by the OPP in its investigations of
7 Project Truth or otherwise, nor were the alleged
8 perpetrators linked in any way to a group of paedophiles
9 alleged to be operating in the Cornwall area.

10 In conclusion, I find that I may consider
11 the impact of the alleged abuse on Mr. Seguin and
12 difficulties he personally experienced. I find this
13 evidence reasonably relevant in a limited way as is the
14 evidence of Juliette Seguin, insofar as it deals with the
15 impact of alleged sexual abuse on young people. However,
16 it is not sufficiently relevant to issue notices of
17 misconduct or make findings of misconduct, thus, the
18 institutions will not be required to respond to this
19 evidence.

20 With respect to David Petepiece, counsel for
21 the CPS submitted that the testimony of Mr. David Petepiece
22 falls outside of the scope of this Commission's mandate
23 because it did not raise an allegation of abuse and because
24 the alleged abuser did not hold a position of authority or
25 trust over him.

1 David Petepiece testified that when he was
2 in the hospital, as a 10-year old, a member of the Anglican
3 clergy came into his room and claimed to be conducting a
4 job assigned by the Church documenting the change in the
5 size of a male's penis from a flaccid state to a state of
6 erection. He testified that the clergyman told him that he
7 had to put his hand under the blankets to conduct his
8 experiment. Mr. Petepiece did not permit the clergyman to
9 do so. This man visited him on several occasions and, on
10 one occasion, placed more pressure on him to partake in the
11 project that he claimed was assigned by the Church. Mr.
12 Petepiece testified that he never succumbed to the
13 pressure.

14 These visits had a significant impact upon
15 Mr. Petepiece.

16 I indicated earlier in my Ruling that abuse
17 of a sexual nature should not be viewed in an overly
18 restrictive fashion. It was Mr. Petepiece's evidence that
19 the clergyman was pressuring him to engage in acts of
20 sexual touching.

21 Given my earlier finding that historical
22 abuse with a sexual component could include sexual assault
23 or broader sexual improprieties, I find that the alleged
24 act perpetrated against Mr. Petepiece can be seen as abuse.

25 Mr. Petepiece recognized the man as a member

1 of the clergy of the Anglican Church. He also gave
2 evidence that the man wore a collar on his visits to him
3 and was purportedly carrying out pastoral duties in the
4 hospital. In my view, the alleged perpetrator, while not
5 in a position of authority over Mr. Petepiece, was in a
6 position of trust.

7 In addition, I note that Mr. Petepiece had
8 involvement with Project Truth. He testified that the OPP
9 did not deal with his allegations because they involved the
10 Anglican Church as opposed to the Catholic Church. Project
11 Truth stated that he could contact the CPS.

12 Given all of this, I'm of the view that Mr.
13 Petepiece's evidence falls within the mandate of the
14 Commission.

15 In the alternative, should this evidence not
16 fall within the mandate, Mr. Petepiece's evidence is
17 reasonably relevant to the subject matter of the
18 Commission, particularly given the apparent issue he faced
19 when dealing with Project Truth.

20 The question of why Mr. Petepiece's
21 allegations were rejected by Project Truth is an area for
22 examination as is the interaction between public
23 institutions such as the OPP and the CPS.

24 I now turn to C-10. Counsel for the CPS
25 also submits that the evidence of C-10 as it pertains to

1 allegations against one of his alleged abusers falls
2 outside the Commission's mandate because this alleged
3 abuser was not in a position of trust or authority in
4 relation to C-10. According to the submissions of counsel
5 for the CPS, at the time of the alleged abuse, C-10 was 10
6 years of age and the alleged abuser was 14 years of age.
7 This alleged abuser lived in the neighbourhood and had no
8 caregiver or other role with respect to C-10. It appears
9 that C-10's allegations, as they pertain to this abuser,
10 are not allegations against a perpetrator in a position of
11 authority or of trust.

12 I note that all of his other allegations
13 involve not only persons in positions of authority or trust
14 but individuals who are central to the Project Truth
15 allegations.

16 As set out in the submissions of the CCR, C-
17 10's testimony contains the following elements:

18 a) C-10 was a confidant of Perry and Helen
19 Dunlop;

20 b) C-10 first disclosed his allegations to
21 Project Truth officers;

22 c) in total, C-10 made sexual allegations
23 against Father Scott, who is now deceased, Malcolm
24 MacDonald and Ken Seguin and this abuser;

25 d) Project Truth officers transferred the

1 investigation of this abuser to CPS and C-10 testified as
2 to his confusion about the transfer, including why the CPS
3 did not deal with all of his allegations given that they
4 were all said to have occurred in Cornwall;

5 e) CPS was involved in discussions with the
6 Crown's office about the resolution of the charges against
7 this abuser which resulted in a general section 810
8 recognizance for one year with no mention of "young
9 people."

10 There are several factors from his testimony
11 that suggests that the remainder of C-10's evidence clearly
12 falls within the Commission's mandate. These factors
13 include the elements listed in paragraphs a) to e).

14 The allegations against this abuser in
15 isolation do not fall within the mandate. However, given
16 the factors previously mentioned and those that follow,
17 they are reasonably relevant to the mandate.

18 The abuse is an integral part of a sequence
19 of abuse that was reported to a number of institutions. As
20 a result of this reporting, several public institutions,
21 including CPS, Project Truth and the Crown dealt with this
22 matter.

23 Finally, his evidence as to how the charges
24 were dealt with raises questions as to communication and
25 cooperation between him and the various institutions.

1 Following, therefore, on the evidence of
2 Marc Carriere, counsel for the CPS submitted that the
3 evidence of Marc Carriere did not include an allegation of
4 abuse and that he did not fit within the term "young
5 people" when he made his allegations against Keith Jodoin,
6 a justice of the peace, who was Mr. Carriere's supervisor
7 when he worked at the courthouse in Cornwall.

8 Mr. Carriere testified that Mr. Jodoin asked
9 him to do personal tasks for him, as well as asking him on
10 a number of occasions to attend with him at his cottage.
11 At some point, he felt that he had no choice but to go and
12 alleged that on a car ride there, Mr. Jodoin touched him on
13 the thigh. Mr. Carriere testified that he was
14 approximately 21 years of age at the time of his
15 allegations against Mr. Jodoin. Mr. Carriere's allegations
16 were reported to and investigated by Project Truth and thus
17 falls squarely within my mandate.

18 I further note that Mr. Carriere described
19 the incident as a sexual assault and as I understood his
20 evidence, he believed Mr. Jodoin's intention was of a
21 sexual nature.

22 As I noted earlier, there are varying
23 degrees of abuse. I am of the view that the acts alleged
24 by Mr. Carriere can be considered to constitute abuse.

25 With respect to Mr. Carriere's age, as I

1 discussed earlier, I am of the view that the mandate is not
2 age-limited and one must consider the power imbalance, his
3 vulnerability, the fact that Mr. Jodoin was in a position
4 of trust or authority and the context in which the alleged
5 abuse began.

6 Accordingly, Mr. Carriere falls within the
7 term "young people" for the purposes of my mandate. Given
8 the foregoing, I am of the view that Mr. Carriere's
9 evidence is within the mandate of this Commission.

10 If I am wrong, Mr. Carriere's evidence is
11 reasonably relevant. Issues such as the interaction of the
12 Project Truth officers and the Crown and their
13 communications with Mr. Carriere, the reasons for the
14 withdrawal of the charges, including whether there was some
15 element of collusion or cover-up are all issues relevant to
16 the subject matter at hand.

17 With respect to Keith Ouellette, counsel for
18 both the CPS and the CAS made objections to portions of the
19 evidence of Mr. Ouellette.

20 Counsel for the CPS submitted that Mr.
21 Ouellette did not fall within the term "young people"
22 because he was 23 or 24 years old at the time that the
23 alleged abuse by his college teacher.

24 Project Truth investigated Mr. Ouellette's
25 allegations about his college teacher and there was

1 involvement with the Crown. Project Truth investigations
2 fall squarely within my mandate and, accordingly, I'm
3 entitled to consider the circumstances surrounding this
4 investigation.

5 As I discussed earlier, the term "young
6 people" is not age-limited but will depend upon an
7 examination of the evidence before me in each case and
8 issues such as power imbalance, his vulnerability and the
9 context in which the alleged abuse arose. That Mr.
10 Ouellette was in his early thirties -- his early twenties,
11 sorry, is not determinative.

12 On the basis of the above, I find that
13 evidence relating to the allegation made by Mr. Ouellette
14 against his college teacher falls within my mandate.

15 In the alternative, should the evidence not
16 fall within the mandate, Mr. Ouellette's evidence with
17 respect to the college teacher is reasonably relevant.
18 These allegations were investigated by Project Truth.
19 There was Crown involvement and interaction between these
20 institutions.

21 Mr. Ouellette also alleged abuse against
22 several other people including Ken Seguin, Richard
23 Hickerson and his adoptive brother. The allegations made
24 against Mr. Seguin and Mr. Hickerson were also reported to
25 Project Truth. The allegations against his adoptive

1 brother were reported to the CPS.

2 Counsel for the CAS submitted that Mr.
3 Ouellette's allegation against his adoptive brother fall
4 outside of the mandate because his brother would not have
5 been in a position of trust or authority. I find that the
6 allegations against his adoptive brother do not fall within
7 the mandate.

8 Mr. Ouellette has alleged -- Mr. Ouellette
9 has alleged abuse by multiple perpetrators over time
10 starting when he was a child and continuing until he was a
11 young adult. In dealing with his complaints of historical
12 sexual abuse, he had contacts with the Project Truth, the
13 CPS, the CAS and the Crown. Further, these institutions
14 had interactions between themselves concerning Mr.
15 Ouellette. Although there was no Project Truth involvement
16 with respect to the allegations against his adoptive
17 brother, the CPS and CAS considered the case.

18 In all of the circumstances, I find that the
19 evidence relating to the allegation against Mr. Ouellette's
20 adoptive brother is reasonably relevant to the subject
21 matter of the Commission. While it may be peripheral, I
22 find it may be helpful for me to consider the differences,
23 if any, in how the various public institutions responded to
24 his multiple complaints of historical abuse.

25 I now turn to Mr. Ron Leroux. Counsel for

1 the CPS made very brief submissions on the evidence of Mr.
2 Leroux. Mr. Leroux alleges that at the age of 31, he was
3 sexually abused by Nelson Barque, his probation officer.
4 Given his age, counsel for the CPS argued that Mr. Leroux
5 did not fit within the term "young people" at the time of
6 his alleged abuse.

7 Given my earlier comments that the young --
8 the term "young people" is not age-limited, Mr. Leroux's
9 age at the time of the alleged abuse is not determinative.
10 I must also consider his vulnerability and, in particular,
11 his prior alleged abuse dating back to early childhood, the
12 power imbalance in his relationship with Mr. Barque and the
13 context in which the alleged abuse arose.

14 Mr. Leroux also testified that he was a
15 victim of sexual abuse that began when he was in grade four
16 or five. Among other things, he spoke about allegations of
17 abuse by multiple persons, including persons in authority
18 or persons of trust, such as priests, and in the case of
19 this objection, a probation officer.

20 Further, there is evidence before me that
21 Mr. Leroux played a significant role in the background
22 circumstances that led to the formation of Project Truth.
23 Mr. Leroux signed many affidavits, which formed part of the
24 subject matter of the Project Truth investigations. His
25 affidavits allege, among other things, the existence of a

1 group of paedophiles and appeared on independently-operated
2 websites.

3 The role of Perry Dunlop in the preparation
4 of these affidavits was discussed before the Inquiry.

5 Mr. Dunlop later referred Mr. Leroux to
6 Richard Nadeau and eventually Mr. Leroux began a civil
7 action against the Ministry of Corrections. At one time,
8 he lived within close proximity to and considered himself a
9 friend of Ken Seguin and an acquaintance of several others
10 who were allegedly part of a group of paedophiles.

11 There is no doubt that all of Mr. Leroux's
12 evidence, with possible exception of his allegation against
13 Mr. Barque, is within my mandate.

14 Although it is difficult to conclude that
15 Mr. Leroux would still fit within the category of "young
16 people" at 31 years of age when Mr. Barque allegedly abused
17 him, I am of the view that this allegation is still within
18 my mandate.

19 This conclusion is based upon all of the
20 factors previously discussed, including his young age when
21 his alleged abuse commenced, his central role in the
22 Project Truth investigation, his interaction with many
23 central figures, his apparent vulnerability, and the power
24 imbalance he alleged between himself and Mr. Barque.

25 In the alternative, should this aspect of

1 Mr. Leroux's evidence not fall within the mandate, for all
2 of the reasons I have already provided, I find that this
3 aspect of Mr. Leroux's evidence is reasonably relevant.
4 Given his central role in the Project Truth investigation,
5 his interactions with many other witnesses, the
6 institutions, it is important that I examine the
7 institutional response, if any, to the totality of his
8 evidence.

9 C-8: Counsel for the CPS and counsel for
10 the family of Ken Seguin submitted that the portion of
11 C-8's evidence pertaining to allegations that Ken Seguin
12 made comments of a sexual nature to him are outside the
13 Commission's mandate. The combined submissions of counsel
14 for the CPS and the family of Ken Seguin were that the
15 allegations of comments made by Ken Seguin are outside of
16 the mandate because C-8 was not a member of the category of
17 "young people" at the time the comments were made, that the
18 comments did not amount to abuse, and that Ken Seguin was
19 not in the position of authority or trust.

20 C-8 testified that he was a victim of
21 historical abuse from a young age. According to the
22 evidence we have heard thus far, some of his allegations
23 were investigated by Project Truth officers, other of his
24 allegations were investigated by the CPS and he had
25 dealings with the Crown, Mr. Dunlop, and other alleged

1 victims and other alleged perpetrators.

2 There is evidence that C-8 played a
3 significant role in the background circumstances that led
4 in the formation of Project Truth.

5 The alleged comments made, in isolation,
6 would not be sufficient to bring the evidence within the
7 mandate. Whether or not he fits within the term "young
8 people" in this instance or whether Mr. Seguin is a person
9 in authority or position of trust with respect to C-8, I
10 find that given the above, it is important to consider the
11 totality of C-8's evidence as it relates to the
12 institutional response of several public institutions
13 accordingly, I consider the evidence if not within my
14 mandate, reasonably relevant to the subject matter of the
15 Inquiry.

16 Now I turn to the Earl Landry, Jr.
17 Investigation.

18 Further objection was raised by CPS counsel
19 to Commission counsel's intention to lead evidence
20 concerning the CPS investigation against Earl Landry, Jr.

21 CPS counsel's position is that Mr.
22 Landry, Jr. was not a person in a position of authority or
23 trust and, therefore, evidence relating to Mr. Landry, Jr.
24 falls outside of the mandate and should not be heard by me.

25 As I indicated earlier, a summary of Agreed

1 Statement of Facts, Exhibit I-A1, was filed to provide me
2 with some background concerning the allegations made
3 against Mr. Landry, Jr. and the institutional response to
4 those allegations.

5 I have reproduced Exhibit A-1 below;
6 however, names identifying the victims have been removed to
7 protect their confidentiality.

8 So here is the summary of Agreed Statement
9 of Facts that was produced before me:

10 One, Earl Landry, Jr. was born on June 30th,
11 1955. Landry's father, Earl Landry, Sr., was a CPS Chief
12 of Police from 1974 to 1984. Landry was employed by the
13 City of Cornwall as a custodian at city parks and at the
14 city arena from 1979 up to at least 1997; he also coached
15 minor league hockey.

16 In 1985, a mother made a complaint to the
17 Cornwall Police Service that her son, Victim 1, aged 8 to
18 10, had been sexually abused by Landry at the park where he
19 was employed as a custodian. The investigation was
20 assigned to Sergeant Lefebvre on June 25th, 1985, and
21 conducted by Lefebvre and Staff Sergeant Willis. Sergeant
22 Pierre Lalonde, of the CPS Identification Branch, also
23 assisted in the investigation.

24 On June 26th, 1985, Landry attended the CPS
25 office for an interview, which was held in the Senior

1 Officers' Lounge.

2 Landry denied the allegations made by
3 Victim 1, but agreed to take polygraph test the following
4 day.

5 In a subsequent statement, former CPS Chief
6 of Police Shaver wrote that shortly after being advised of
7 the investigation, he turn Earl Landry, Sr. about the
8 allegations against his son, Landry, and spoke with him.

9 Shaver asked Earl Landry, Sr. if his son
10 would take a polygraph test. On June 27th, 1985, Earl
11 Landry, Sr. called Willis and advised that Landry was not
12 going to take the polygraph test at this time.

13 According to Lefebvre's statement of August
14 25th, 1997, it was decided to place the investigation into
15 abeyance until similar complaints were received.

16 On July 8th, 1985, William Carriere and Jean
17 Depuis of the Children's Aid Society or Stormont, Glengarry
18 and Dundas were advised of the allegations made by Victim 1
19 against Landry.

20 A further investigation of historical sexual
21 abuse against Landry was disclosed in 1993 by a patient to
22 his psychologist; the psychologist disclosed the allegation
23 to the CAS, who reported the allegation to Staff Sergeant
24 Brunet at the CPS. The victim refused to come forward and
25 it appears that the CPS undertook no further investigation.

1 A third complaint of historical abuse
2 against Landry was made by Victim 2, to the CPS in or about
3 January 1996. The complaint was received by Brunet and
4 assigned to Constable Hanton, who had been temporarily
5 assigned to SACA.

6 Hanton took a statement from Victim 2 on
7 January 18th, 1996.

8 On April 5th, 1996, Hanton requested that
9 the matter be returned to SACA and reassigned, since he was
10 being transferred back to uniform patrol.

11 On September 27th, 1996, Constable Bough
12 authored a Supplementary Occurrence Report stating that
13 this matter was reassigned to Brunet, to be followed up by
14 the Sexual Assault Branch.

15 On November 7th, 1996, Hanton wrote a
16 further Supplementary Occurrence, reporting that there was
17 no positive identification and that he would therefore not
18 proceed with charges against the suspect.

19 The matter was assigned to Sergeant Brian
20 Snyder.

21 On May 26th, 1997, Landry was interviewed by
22 Snyder, admitted to the allegations made by Victim 2 and
23 was charged. After these charges were publicized, further
24 victims came forward.

25 Landry was charged with respect to the

1 following victims:

2 Victim 2: Victim 2's Will Say states that
3 he was assaulted by Landry at King George Park between 1979
4 and 1983, when Victim 2 was between the ages of 10 and 14.

5 Victim 3's Will Say states that he was
6 assaulted by Landry at King George Park between 1983 and
7 1984 when the victim was between the ages of 12 and 13. He
8 further stated that he figured it was Earl's word against
9 his and was concerned with his father's authority as being
10 one of Chief of Police.

11 Victim 1 Will Say states that he was assault
12 15 to 20 times at King George Park between 1983 and 1986
13 when Victim 1 was between the ages of 7 to 10.

14 Victim 4 Will Say states that he was
15 assaulted once when Landry was driving him home from the
16 rink at the city arena between 1982 and 1983 when Victim 4
17 was between the ages of 9 and 10. Landry had previously
18 been Victim 4's hockey coach.

19 After the assault, Landry allegedly told
20 Victim 4 he had boys working for him and asked if Victim 4
21 wanted to work for him.

22 Victim 5, his Will Say states that he was
23 assaulted approximately 25 times at multiple locations,
24 including Landry's home, Earl Landry, Sr.'s home, St.
25 Lawrence College between 1987 and 1990 when Victim 5 was

1 between the ages of 10 and 12.

2 In early 1993, the CAS office officially
3 placed Victim 5 in Landry and his wife's care.

4 Landry pled guilty to one charge against
5 each of the above victims. He was sentenced by Justice
6 Manton on December 23rd, 1999, to one year for each offence
7 to be served consecutively. Landry launched an appeal of
8 the sentence. Landry was also convicted of two counts of
9 failure to comply with conditions of Undertaking.

10 Landry was also charged with attempt to
11 obstruct justice for allegedly promising to give Victim 5 a
12 computer if he dropped the charges. Victim 5 did attempt
13 to drop the charges at one point, but Sergeant Snyder would
14 not accept his request. The charge of attempt to obstruct
15 justice was withdrawn.

16 On August 31st, 1999, a newspaper article
17 about Landry's guilty plea was published. The article
18 reported that Don Johnson was the local Crown attorney when
19 the initial 1985 complaint was made and later was Landry's
20 defence counsel after charges were laid in 1997.

21 After this article was published, Staff
22 Sergeant Derochie embarked upon an administrative review of
23 the investigations. His final report dated December 8th,
24 1999 identified the following concerns:

25 (a) that notes were attached to completed

1 investigative reports and so were destroyed at the end of
2 the retention period of those reports;

3 (b) that occurrences/incidents which
4 contained allegations of historical sexual assault, which
5 could not be prosecuted or pursued for any number of
6 reasons were classified as police information and so had a
7 very short retention period;

8 (c) that historical sexual assaults were not
9 pursued with the same type of urgency which, with recently
10 occurring assaults, were and are given;

11 (d) that case management issues in CIB
12 remain unresolved and a continued source of concern.

13 In response to Derochie's report, a new
14 standing order was passed effective December 30th, 1999.
15 The order required that highest priority be given to sexual
16 offences and that historical sexual assault be given the
17 same priority as recent sexual assaults. The investigating
18 officer was required to file a report on the status of the
19 case every 30 days. The order also required the OIC to
20 closely monitor such investigations and ensure that they
21 are done in a timely manner.

22 On September 25th, 2000, Snyder began working
23 on an investigation into allegation that members of the CPS
24 and others conspired together to prevent Landry from being
25 charged with sexual assault on Victim 1 in 1995. Snyder

1 found that Lefebvre and Willis had conducted a proper
2 investigation and that there was no investigation to
3 suggest that persons conspired to prevent Landry from being
4 charged with sexual assault.

5 In this decision, I have to rely on the
6 summary of agreed statements of facts and do not have the
7 benefit of more fulsome evidence as to the particular
8 relationship between Mr. Landry, Jr. and each of his
9 victims. Based on the summary of agreed facts, there is
10 not sufficient evidence to conclude that Mr. Landry, Jr.
11 was in a position of authority over the victims. I do note
12 that Mr. Landry, Jr. was an uncle to one of the victims and
13 that victim was later placed in Mr. Landry, Jr.'s care.

14 It may be that upon a fuller examination of
15 the evidence, it will be found that Mr. Landry, Jr. was in
16 a position of authority with respect to this victim.

17 In my view, based on the agreed facts before
18 me, it is reasonable to conclude that a position of trust
19 existed between that victim and Mr. Landry, Jr.

20 With respect to the other four victims, I
21 note that they were all of a very young age; that it
22 appears that they became acquainted with -- that he became
23 acquainted with the children at city parks or arenas. One
24 of the victims raised concern about Mr. Landry, Jr.'s
25 father's authority as a Chief of Police. Another victim

1 had previously been coached by Mr. Landry, Jr.

2 On the limited agreed facts before me, I
3 believe it is reasonable to conclude that a position of
4 trust existed between the victim and Mr. Landry, Jr. While
5 the allegations against Mr. Landry were not part of the
6 Project Truth investigation, they were similar to those
7 investigated by Project Truth. In particular, I would note
8 that it appears likely that Mr. Landry, Jr. held a position
9 of some prominence in the Cornwall community, given his
10 work at the parks and arena, his role as a hockey coach,
11 and the fact that his father was Chief of Police for 10
12 years. He was the subject of multiple complaints over time
13 and some 12 years passed between the first complaint and
14 the first charge.

15 The CPS investigation into the matter was
16 questioned in the media and an investigation was conducted
17 into allegations that the CPS and others conspired to
18 prevent Mr. Landry, Jr. from being charged. Accordingly, I
19 am of the view that the matter falls within the mandate.
20 Alternatively, should the evidence not fall within my
21 mandate, I must determine if it is reasonably relevant to
22 the subject matter of the Inquiry. On the basis of the
23 Agreed Statement of Facts, evidence in relation to Mr.
24 Landry, Jr. is important to this Commission in the
25 consideration of institutional response to allegations of

1 historical abuse of young people.

2 The fallout of the Mr. Landry, Jr.
3 investigations included an administrative review and an
4 internal investigation. The administrative review
5 identified ongoing concerns with respect to the
6 investigation of allegations of historical sexual assaults
7 by the CPS and resulted in a new standing order dealing
8 specifically with such investigations.

9 Accordingly, I am satisfied that the matter
10 is reasonably relevant to the subject matter of the
11 Inquiry.

12 Counsel for the CPS suggested that evidence
13 has been led on a sufficient number of CPS investigations
14 for me to prepare my report. With respect and with the
15 greatest of respect, given the importance of this evidence,
16 I would be abdicating my responsibility to conduct a
17 thorough inquiry and leave no stone unturned if I base my
18 decision solely on whether I had heard enough. I am
19 mindful of the time that this Inquiry is taking and a need
20 for efficiency, but I cannot overlook relevant information
21 on that basis alone.

22 I now turn to Robert Renshaw. Counsel for
23 Father MacDonald submits that a portion of the evidence of
24 Robert Renshaw does not fall within the Commission's
25 mandate. His specific objection is with regard to Mr.

1 Renshaw's allegations of sexual abuse by Father MacDonald
2 at the Rectory. The basis for counsel's argument was that
3 Mr. Renshaw did not fit into the category of young people,
4 as he was approximately 20 years of age at the time of his
5 allegations and that Father Macdonald was not in a position
6 of trust or authority with respect to the alleged abuse.
7 This, it was argued, is because Mr. Renshaw was not a
8 Catholic, not a parishioner and went to see Father
9 MacDonald for advice as he was having difficulty handling
10 the death of his father.

11 As I have previously stated, evidence
12 pertaining to allegations investigated by Project Truth
13 falls squarely within my mandate. Project Truth
14 investigated all of Mr. Renshaw's allegations, including
15 this one. Charges resulted and Mr. Renshaw had contact
16 with the Crown and the judicial system.

17 In addition, with respect to the argument
18 that Father MacDonald was not in a position of trust and
19 authority, I disagree. While Mr. Renshaw may not have been
20 a Catholic or a parishioner, he was aware that Father
21 MacDonald was a priest and was going to him for advice.
22 This is sufficient, in my view, to find a relationship of
23 trust.

24 With respect to Mr. Renshaw's age, as I
25 discussed earlier, I am not of the view that the mandate is

1 age-limited, and one must consider the power in balance,
2 his vulnerability, and the context in which the alleged
3 abuse occurred.

4 In Mr. Renshaw's case, he testified that he
5 was having emotional difficulties, and he had previously
6 been abused by Ken Seguin who then introduced him to Father
7 MacDonald as someone with whom he could speak regarding his
8 emotional difficulties. Accordingly, I find he fits within
9 the term "young people" for the purposes of my mandate.

10 For all of these reasons, I find that this
11 portion of Mr. Renshaw's evidence, as with his evidence in
12 its entirety, is within the Commission's mandate.

13 In the alternative, should this evidence not
14 fall within the mandate for all of the reasons above,
15 including the fact that he interacted with Mr. Perry Dunlop
16 during the course of his personal investigation, this
17 contested evidence is reasonably relevant. It is important
18 I examine the institutional response to the totality of
19 this evidence.

20 C-3; counsel for Father MacDonald submitted
21 that a portion of the evidence relating to C-3 is outside
22 of the Commission's mandate. In particular, he submitted
23 that at the time of an alleged incident of abuse by Father
24 MacDonald at the Rectory in Apple Hill, C-3 was 18 years of
25 age and, therefore, did not fall within the term "young

1 people." Counsel also submitted that the acts were
2 consensual, and therefore, did not constitute abuse.

3 All of C-3's allegations, including the
4 allegation above, were investigated by Project Truth and,
5 in my view, fall squarely within the mandate of this
6 Commission

7 Charges arose from the Project Truth
8 investigation. The institutional response of the Ministry
9 of the Attorney General will also be examined.

10 I do not consider counsel's submissions on
11 consent persuasive. The purpose of this Inquiry is to
12 determine how institutions responded to the allegations
13 themselves and not to make findings of fact on essential
14 terms -- essential elements of the charges.

15 Given my earlier comments that the term
16 "young people" is not age limited, C-3's age at the time of
17 the incident is not determinative.

18 I must also consider his vulnerability and
19 in particular, his prior alleged abuse; the age at which
20 the relationship between the alleged victim and the alleged
21 perpetrator began and it's context, and the existence of a
22 power imbalance.

23 C-3 also alleged sexual abuse by Father
24 MacDonald when he was an altar boy, under the age of 18
25 years of age. Accordingly, I find that he fits within the

1 term "young people" for the purposes of my mandate.

2 For all of these reasons, I find that this
3 portion of C-3's evidence, as with his evidence in its
4 entirety, is within the Commission's mandate.

5 In the alternative, should this evidence not
6 fall within the mandate, for all of the above reasons, his
7 contested evidence is reasonably relevant. It is important
8 that I examine the institution's response to the totality
9 of C-3's evidence.

10 Now, turning to C-4.

11 Counsel for Father MacDonald submitted that
12 C-4's evidence is outside of the Commission's mandate on
13 the basis that C-4 does not fit within the term "young
14 people" at the time of the alleged abuse by Father
15 MacDonald.

16 C-4's allegations of sexual abuse by Father
17 MacDonald stem from a period during which he was
18 approximately 18 years of age. He also submitted that
19 there was an issue as to whether Father MacDonald was in a
20 position of authority or of trust.

21 C-4's allegations were investigated by
22 Project Truth and Father MacDonald was charged in relation
23 to them. C-4 interacted with Project Truth officers, the
24 Crown and the judicial system.

25 As I previously stated, evidence involving

1 allegations investigated by Project Truth officers fall
2 squarely within my mandate.

3 In addition, C-4 testified that he came to
4 know Father MacDonald when he served for him as an altar
5 boy. The priest/altar boy relationship predated the
6 alleged abuse.

7 Given the manner in which the relationship
8 between C-4 and Father MacDonald began, I am of the view
9 that Father MacDonald was still in a position of authority
10 or trust at the time of the alleged abuse.

11 With respect to C-4's age, as I discussed
12 earlier, I am of the view that the mandate is not age
13 limited and one must consider the power imbalance, his
14 vulnerability and the context in which the alleged abuse
15 occurred.

16 Given all of these factors, including the
17 pre-existing relationship of trust or authority, and the
18 age at which the relationship began, I find that C-4 was in
19 the category of "young people" within the mandate.

20 For all of these reasons, I find that C-4's
21 evidence is within the Commission's mandate.

22 Again, in the alternative, should the
23 evidence not fall within the mandate, for all of the above
24 reasons, his evidence is reasonably relevant to the subject
25 matter of the Commission.

1 I now turn to Gerry Renshaw. Counsel for
2 the family of Ken Seguin submitted that a portion of Gerry
3 Renshaw's evidence falls outside of the Commission's
4 mandate because the alleged perpetrator, Mr. Seguin, was
5 not in a position of trust or authority and that Mr.
6 Renshaw did not fit within the term "young people" at the
7 time of the alleged abuse.

8 Commission's -- counsel's submission, sorry,
9 with respect to Mr. Renshaw pertained to that period in Mr.
10 Renshaw's life when he was a tenant at the home of Ken
11 Seguin.

12 Counsel contends that Mr. Renshaw was
13 anywhere from 24 to 28 years of age and was not on
14 probation at the time.

15 Counsel for the Victims' Group, of which Mr.
16 Renshaw is a member, responded, submitting that Mr. Renshaw
17 met Mr. Seguin when he was 12 years of age when his older
18 brothers were on probation and reporting to Mr. Seguin.

19 He also noted that the first incidents of
20 alleged sexual abuse by Mr. Seguin, with respect to Mr.
21 Renshaw, occurred when he was a teenager and, in any event,
22 younger than 18.

23 He submitted that when Mr. Renshaw was in
24 his early twenties and living with Mr. Seguin, the abusive
25 relationship continued.

1 I note as well that I have heard evidence
2 from the Ministry of Community Safety and Correctional
3 Services which gave Mr. Renshaw special permission to
4 reside with Mr. Seguin.

5 As Mr. Renshaw's probation officer, Mr.
6 Seguin was clearly a person of authority and in a position
7 of trust at the time the alleged abuse commenced.

8 The testimony of Mr. Renshaw indicated a
9 relationship with Mr. Seguin spanning many years, beginning
10 when Mr. Renshaw was about 12 years of age and extending to
11 the period of time in which Mr. Seguin supervised his
12 probation and when he lived with Mr. Seguin.

13 The allegations of abuse in question are
14 said to have occurred both before and after Mr. Renshaw's
15 eighteenth birthday.

16 Considering all of the circumstances, I find
17 that Mr. Seguin was in a position of trust.

18 As I have already indicated, "young people"
19 is not age limited. Accordingly, Mr. Renshaw's age at the
20 time he was living with Mr. Seguin as a young adult is not
21 determinative.

22 I must also consider his vulnerability, the
23 age at which the relationship between the alleged victim
24 and the alleged perpetrator began and its context and the
25 existence of a power imbalance.

1 Given the pre-existing relationship, I find
2 that Mr. Renshaw still fits within the category of "young
3 people" at the time he resided with Mr. Seguin.

4 I further note that Mr. Renshaw had contact
5 with the Project Truth in relation to his allegations
6 against Mr. Seguin and the allegations of conspiracy and
7 cover-up.

8 There is evidence before me that Mr. Renshaw
9 played a role in the background circumstances leading to
10 the formation of Project Truth.

11 He testified that he met with Mr. Perry
12 Dunlop and provided a statement to him which later appeared
13 on an independently operated website.

14 For all of these reasons, I find that Mr.
15 Renshaw's evidence is within the Commission's mandate.

16 In the alternative, should this evidence not
17 fall within the mandate for all of the reasons above, this
18 evidence is reasonably relevant.

19 In addition, this portion of Mr. Renshaw's
20 evidence deals with the living arrangements between a
21 probation officer and a former probationer and it is
22 important to examine in the course of the institutional
23 response of the Ministry of Corrections.

24 I now turn to Jeannette Antoine. Counsel
25 for the CAS submitted that portions of the evidence of

1 Jeannette Antoine are not within the Commission's mandate
2 following the Court of Appeal's decision.

3 In his submissions, he provided the
4 following background with respect to Ms. Antoine's
5 allegations.

6 With respect to the Raymond foster home,
7 allegations of both sexual and physical abuse by the foster
8 father and physical abuse by the foster mother and the
9 daughter of the foster parents.

10 The Looyen foster home; allegations of
11 sexual and physical abuse by the foster mother's father;
12 sexual misconduct by a worker on their farm, and physical
13 abuse by the foster mother.

14 Second Street Group Home; allegations of
15 sexual and physical abuse.

16 Counsel for the CAS submitted that the
17 evidence of allegations of sexual abuse by the foster
18 father at the Raymond home, sexual abuse by Mrs. Looyen's
19 father and sexual abuse at the Second Street Group Home are
20 all within the mandate.

21 Given that these allegations pertained to
22 sexual abuse and were allegedly perpetrated by persons in
23 positions of authority or trust, I agree with counsel's
24 submissions.

25 Counsels for the CAS, however, objected to

1 the evidence of allegations of physical abuse at the
2 Raymond home, physical abuse at the Looyen home and
3 physical abuse at the Second Street Home, on the basis that
4 the Court of Appeal decision restricts the Commission to
5 looking at the institutional response to sexual abuse only.

6 He also objected to the evidence of sexual
7 misconduct by the farm worker at the Looyen home on the
8 basis that the alleged perpetrator was not in a position of
9 trust or authority.

10 None of the responding parties made specific
11 submissions concerning Mrs. Antoine's evidence.

12 Counsel for the CCR submitted that all of
13 the evidence given by wards of the CAS is within my
14 mandate. This includes not only evidence of sexual abuse
15 but all other forms of abuse as well.

16 Counsel for the CCR further submitted that
17 historical abuse is not restricted to historical sexual
18 abuse and alternatively, that it would be wrong for me to
19 separate allegations of different types of historical abuse
20 and only consider those that are sexual in nature.

21 Earlier in my ruling I commented that in
22 many cases, abuse in all its forms is inextricably linked
23 in the victim or the victim's experience and in those cases
24 I would have to consider the abuse in its totality.

25 Upon my review of Ms. Antoine's evidence, I

1 am of the view that the allegations of both sexual and
2 physical abuse by the foster father in the Raymond foster
3 home and the allegations of physical abuse by the foster
4 mother are inextricably linked in Ms. Antoine's experience.

5 With respect to the Looyen foster home, I am
6 of the view that the allegations of sexual and physical
7 abuse by the foster mother's father are inextricably
8 linked.

9 As for the Second Street Group Home, I find
10 her allegations of sexual and physical abuse cannot be
11 separated; I thus find that all of this alleged abuse is
12 within my mandate.

13 The type of abuse alleged by Ms. Antoine
14 against a farm worker at the Looyen home clearly falls
15 within my mandate. This still leaves the issue of whether
16 this alleged perpetrator was in a position of authority or
17 trust. This issue was not raised at the time of her
18 evidence and, therefore, questions which may have clarified
19 this issue further were not asked.

20 In any event, Ms. Antoine was a ward of the
21 CAS.

22 The CAS and the foster parents had
23 responsibility for her wellbeing and the foster parents
24 engaged an adult employee and allegedly did not take steps
25 to ensure her safety.

1 Given the relationship between the CAS, the
2 foster parents and their adult employee, I find that the
3 alleged abuse occurred within a relationship of trust and
4 is, therefore, within my mandate.

5 I am left with the alleged physical abuse by
6 the daughter in the Looyen home and the foster mother in
7 the Looyen home.

8 There is also an issue about whether or not
9 the relationship of trust or authority exists in the case
10 of the daughter who, on her own, is not a person in a
11 position of authority or trust.

12 I am not satisfied that this evidence
13 involving the daughter or the foster mother falls within my
14 mandate.

15 In any event, I find that all of Ms.
16 Antoine's evidence is reasonably relevant. Her allegations
17 suggest an environment in which sexual, physical and other
18 forms of abuse were prevalent.

19 I do not see a logical way to dissect parts
20 of the allegations she may have made when examining how the
21 CAS responded to her alleged abuse. It is important for me
22 to examine the institutional response to all of these
23 allegations to determine whether it was adequate or
24 appropriate.

25 I now turn to Roberta Archambault.

1 Counsel for the CAS submitted that portions
2 of the evidence of Roberta Archambault are not within the
3 Commissioner's mandate following the Court of Appeal's
4 decision.

5 In his submissions, he provided the
6 following background with respect to Ms. Archambault's
7 allegations: with respect to the Hubert foster home
8 allegations of sexual abuse by the foster father and other
9 forms of physical and mental abuse in the home; at the
10 Lapensée foster home, allegations of sexual abuse by the
11 foster parent's son.

12 Counsel for the CAS submitted that the
13 evidence of allegations of sexual abuse by the foster
14 father at the Hubert home is within the mandate: Given
15 that these allegations pertain to sexual abuse and were
16 allegedly perpetrated by a person in authority or trust, I
17 agree with counsel's submissions.

18 Counsel for the CAS objected to the evidence
19 of allegations of physical and mental abuse at the Hubert
20 home on the basis that the Court of Appeal decision
21 restricts the Commission to look at the institutional
22 response to sexual abuse only.

23 He also objected to the evidence of sexual
24 misconduct by the foster parent's son at the Lapensée's
25 home on the basis that the alleged perpetrator was not in a

1 position of trust or authority.

2 Counsel for the victims groups of which Ms.
3 Archambault is a member, made submissions as to why I
4 should consider all of Ms. Archambault's evidence.

5 Earlier in my ruling, I commented that in
6 many cases abuse in all its forms is inextricably linked in
7 the victim or alleged victim's experience and in those
8 cases I would have to consider the abuse in its totality.

9 Upon my review of Ms. Archambault's
10 evidence, I am of the view that the allegations of sexual
11 abuse by the foster father in the Hubert foster home and
12 the allegations of other forms of abuse in the same foster
13 home are inextricably linked in Ms. Archambault's
14 experience. I thus find that all of this alleged abuse is
15 within my mandate.

16 The type of abuse alleged by Ms. Antoine
17 against the son, who was an adult at the Lapensée home,
18 clearly falls within my mandate.

19 This still leaves the issue about whether
20 the alleged perpetrator was in the position of authority or
21 trust. This issue was not raised at the time of her
22 evidence and, therefore, questions which may have clarified
23 the issue further were not asked.

24 In any event, Ms. Archambault was a ward of
25 the CAS.

1 The CAS and her foster parents had
2 responsibility for her wellbeing and the foster parents,
3 according to Ms. Archambault, had knowledge of the abuse
4 and permitted it to occur and continue.

5 Given the relationship between the CAS, the
6 foster parents and their adult son, I find that the alleged
7 abuse occurred within a relationship of trust and is,
8 therefore, within my mandate.

9 In the alternative, should this evidence not
10 fall within the mandate, I find that all of Ms.
11 Archambault's evidence is reasonably relevant. Her
12 allegations suggest an environment in which sexual,
13 physical and other forms of abuse were prevalent.

14 I do not see a logical way to dissect parts
15 of the allegations that she has made in examining how the
16 CAS responded to her alleged abuse. It is important for me
17 to examine the institutional response to all of these
18 allegations to determine whether it was adequate and
19 appropriate.

20 André Bissonnette.

21 Counsel for the CAS submitted that portions
22 of the evidence of André Bissonnette are not within the
23 Commission's mandate following the Court of Appeal
24 decision.

25 In his submissions, he provided the

1 following background with respect to Mr. Bissonnette's
2 allegations: at the Wharton foster home allegations of
3 physical abuse; at the Lamarche foster home, allegations of
4 physical and mental abuse; at the Meunier foster home,
5 allegations of sexual abuse while 14 years of age by
6 another Crown ward, approximately one year older than Mr.
7 Bissonnette.

8 Counsel for the CAS submitted that the
9 evidence of allegations of physical and mental abuse do not
10 fit within the mandate and, furthermore, that the alleged
11 sexual abuse by the Crown ward in the
12 Meunier home does not fit the mandate because it was not
13 alleged to have been committed by a person in a position of
14 trust or authority.

15 Mr. Bissonnette was represented by counsel
16 when he gave evidence before this Inquiry. His Counsel
17 provided written submissions on this matter, which I have
18 considered.

19 It was the position Mr. Bissonnette's
20 counsel that his evidence falls within the mandate and/or
21 is reasonably relevant.

22 Counsel for the CCR also submitted that Mr.
23 Bissonnette's evidence falls within the mandate and/or is
24 reasonably relevant.

25 It is clear that the Court of Appeal found

1 that an alleged perpetrator must have been in the position
2 of trust or authority with the victim in order to fall
3 within the mandate of the Inquiry.

4 Mr. Bissonnette alleged physical abuse at
5 the hands of his foster mother, while residing at the
6 Wharton foster home. He alleged physical and emotional
7 abuse by both foster parents while residing in the Lamarche
8 foster home.

9 Mr. Bissonnette testified that when he was a
10 child in the care of the CAS and while living in the
11 Meunier foster home, he was sexually abused by another
12 foster child who was one year older, but much bigger than
13 he was.

14 Mr. Bissonnette testified that he eventually
15 revealed the alleged abuse to his foster mother, who
16 reacted by slapping him in the face and scolding him for
17 making up stories.

18 He then told his mother and his social
19 worker, Pierre Debuc.

20 The case notes of the CAS state that a
21 problem arose between both boys and it was homosexuality.

22 Mr. Bissonnette testified that Mr. Meunier,
23 upon learning about the incident, did two things: He put
24 the boys in separate bedrooms and reprimanded Mr.
25 Bissonnette that he ought to have reported this incident to

1 him and not to the CAS.

2 The bulk of Mr. Bissonnette's testimony
3 centred on allegations of severe physical abuse at the
4 hands of different foster parents.

5 Unfortunately, the evidence with respect to
6 the sexual abuse falls short of complying with the Court of
7 Appeal's direction that the alleged perpetrator must be in
8 the position of trust or of authority.

9 I cannot find that the alleged perpetrator,
10 another CAS Crown ward and approximately the same age of
11 Mr. Bissonnette, was in a position of authority or trust.
12 Therefore, it is not necessary for me to determine whether
13 the physical abuse was intrinsically linked to the
14 allegations of sexual abuse.

15 I come to this conclusion with great
16 reluctance, as the evidence I have heard as to the extent
17 of the alleged sexual abuse and the physical violence has
18 raised serious questions as to Mr. Bissonnette's wellbeing
19 while in the care of the CAS and under different
20 circumstances, a response by the CAS would have been
21 warranted; however, I may consider the impact of the
22 alleged abuse on Mr. Bissonnette and difficulties he
23 personally experienced in reporting it.

24 I find this evidence reasonably relevant, in
25 a limited way, insofar as it deals with the impact of

1 alleged sexual abuse on young people, but not sufficiently
2 relevant to form the basis of notices or findings of
3 misconduct; thus, the institutions will not be required to
4 respond to that evidence.

5 Cathy Sutherland.

6 Counsel for the CAS also submitted that
7 portions of the evidence of Catherine Sutherland are not
8 within the Commission's mandate, following the Court of
9 Appeal's decision.

10 In his submissions, he provided the
11 following background with respect to Ms. Sutherland's
12 allegations: Alleged physical abuse by her mother; alleged
13 sexual abuse by a man whose home she was dropped off at by
14 her mother; alleged sexual abuse by her foster father.

15 Counsel for the CAS submitted that the
16 evidence of alleged physical abuse by Ms. Sutherland's
17 mother falls outside of the mandate on the basis that the
18 Court of Appeal restricts the Commission to look at the
19 institutional response to sexual abuse only.

20 It was his view that the alleged sexual
21 abuse by the stranger at the hands of her mother and the
22 allegation of sexual abuse by her foster father are within
23 the mandate.

24 Counsel for the Victims Group of which Ms.
25 Sutherland is a member made submissions as to why she

1 should consider all of Ms. Sutherland's evidence.

2 Ms. Sutherland testified to her longstanding
3 involvement with the CAS which began with her search for
4 answers to the continuous nightmares and flashbacks she was
5 having as an adult. She testified that during her life,
6 her foot was severely burned by her mother. She witnessed
7 the death of her younger brother and attempted to reconcile
8 what she recalls of her mother putting her hands on top of
9 hers and pushing down on a pillow to smother her infant
10 brother and the accusations of her mother blaming the death
11 of the child on her.

12 She also testified that her mother put her
13 brother up to threaten her life with a knife.

14 As for sexual abuse, Ms. Sutherland alleges
15 that her mother would lie naked and encourage her children
16 to touch her. Later in life, she alleged her mother would
17 drop her off at the home of men to face sexual abuse at
18 their hands.

19 Finally, she alleged that her foster father
20 sexually abused her when she was 13 years of age. She
21 alleges that she reported this to her doctor, her case
22 worker, her grandmother and to a worker in the receiving
23 home.

24 I agree with counsel for the CAS that the
25 alleged sexual abuse at the hands of the foster father and

1 the subsequent reporting to the CAS falls within the
2 mandate as being sexual abuse by a person in a position of
3 trust or authority.

4 I also agree with counsel for the CAS that
5 the alleged sexual abuse by the stranger at the hands of
6 her mother falls within the mandate. Earlier in my ruling,
7 I commented that in many cases abuse in all its forms is
8 inextricably linked in the victim's or alleged victim's
9 experience and, in those cases, I would have to consider
10 the abuse in its totality in order to properly assess the
11 institutional response.

12 Upon my review of Ms. Sutherland's evidence,
13 I note that Ms. Sutherland alleged multiple incidents of
14 physical and sexual abuse by her mother. She also made
15 allegations of sexual abuse by a stranger and threats to
16 her life that were directly linked to her mother's care.
17 The abuse allegedly experienced by Ms. Sutherland in all
18 its forms resulted in multiple contacts between Ms.
19 Sutherland and a number of institutions.

20 I find that the emotional, physical and
21 sexual abuse allegedly suffered by Ms. Sutherland at the
22 hands of her mother and others, while under the supervision
23 of the CAS, is so inextricably linked in her experience,
24 that I must consider the alleged abuse in its totality as
25 part of the mandate.

1 In the alternative, should this evidence not
2 fall within the mandate, I find that Ms. Sutherland's
3 evidence is reasonably relevant to the subject matter of
4 the Inquiry. Her allegations suggest an environment in
5 which sexual, physical and other forms of abuse were
6 prevalent. I do not see a logical way to dissect parts of
7 the allegations she made in examining how the CAS responded
8 to her alleged abuse.

9 It is important for me to examine the
10 institutional response to all of these allegations to
11 determine whether it was adequate or appropriate.

12 And finally, C-14. Counsel for the CAS
13 submitted that portions of the evidence of C-14 are not
14 within the Commission's mandate following the Court of
15 Appeal's decision. In his submissions, he provided the
16 following background with respect to C-14's allegations.

17 Barber foster home, allegations of physical
18 abuse by the foster parents, allegations of sexual abuse by
19 a 23-year old mentally challenged individual who resided in
20 the foster home.

21 MacIntosh foster home, allegations of sexual
22 abuse by an acquaintance of the foster parents.

23 Counsel submitted that the allegations of
24 sexual abuse by the acquaintance of the foster parents
25 falls within the mandate. I note that I heard evidence

1 from the victim that he worked for the man over a summer
2 and at the end of the summer, the man received permission
3 from the CAS to take C-14 to Montreal where he allegedly
4 sexually assaulted C-14.

5 Given that this allegation pertained to
6 sexual abuse that was allegedly perpetrated by a person in
7 a position of authority or trust, I agree with counsel's
8 submissions.

9 Counsel for the CAS admitted that the
10 evidence of allegations of physical abuse by the foster
11 parents at the Barber home does not fall within the mandate
12 on the basis that the Court of Appeal decision restricts
13 the Commission to looking at institutional response to
14 sexual abuse only.

15 Counsel further submitted that the evidence
16 of allegations of sexual abuse by the boarder does not fit
17 within the mandate on the basis that the alleged
18 perpetrator was not in a position of trust or authority.

19 Counsel for the Victims Group, of which C-14
20 is a member, made submissions as to why I should consider
21 all of C-14's evidence.

22 With respect to whether or not the boarder
23 was in a position of trust and authority, C-14 gave the
24 evidence that he was left in the boarder's care on multiple
25 occasions and was abused by the boarder on more than one of

1 those occasions. Given this, the age difference between
2 the two, and C-14's evidence of vulnerability, I am of the
3 view that the boarder can be seen as being in a position of
4 trust on that basis and, therefore, within my mandate.

5 In any event, C-14 was a ward of the CAS.
6 The CAS and the foster parents had responsibility for his
7 well being and the foster parents left him in the care of
8 an adult boarder and allegedly did not take steps to ensure
9 his safety.

10 Given the relationship between the CAS and
11 the foster parents and their adult boarder, I find the
12 alleged abuse occurred within a relationship of trust and
13 is, therefore, within my mandate.

14 Earlier in my ruling, I commented that in
15 many cases, abuse in all its forms is inextricably linked
16 in a victim's or an alleged victim's experienced and, in
17 those cases, I would have to consider the abuse in its
18 totality.

19 Upon my review of C-14's evidence, I am of
20 the view that the allegations of sexual and physical abuse
21 at the Barber home are inextricably linked to C-14's
22 experience. In addition, C-14 has given evidence that the
23 response by the CAS to his disclosure of physical abuse
24 discouraged him from reporting the sexual abuse and that
25 the impact of the severe abuse, both physical and sexual,

1 caused him to act out in ways that came to the attention of
2 the CAS and other institutions.

3 I am of the view that the allegations of
4 sexual and physical abuse at the Barber foster home are
5 inextricably linked.

6 I thus find that all of this alleged abuse
7 is within my mandate.

8 Finally, in any event, I find that all of C-
9 14's evidence is reasonably relevant. I do not see a
10 logical way to dissect parts of the allegations that he has
11 made in examining how the CAS responded to his alleged
12 abuse. It is important for me to examine the institutional
13 response to all of these allegations to determine whether
14 it was adequate or appropriate.

15 I have kept you much longer than I should,
16 and I apologize for that. However, I thought it best to go
17 through and complete this rendering of this decision.

18 So accordingly, Mr. Engelmann, I think we
19 should take a lunch break. So can we come back at what, a
20 quarter to 3:00?

21 **MR. ENGELMANN:** Okay. Thank you, sir.

22 **THE COMMISSIONER:** Thank you.

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

25 This hearing will resume at 2:45 p.m.

1 --- Upon recessing at 1:19 p.m. /

2 L'audience est suspendue à 13h19

3 --- Upon resuming at 2:46 p.m. /

4 L'audience est reprise à 14h46

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

7 **THE COMMISSIONER:** Mr. Engelmann.

8 **MR. ENGELMANN:** Sorry for the brevity before
9 you came in. We were discussing a slightly corrected
10 version of your decision, and some counsel had hoped it was
11 more corrected than it was, so I'll leave the comment
12 there.

13 (LAUGHTER/RIRES)

14 **MR. ENGELMANN:** Of course, I won't identify
15 counsel to my right.

16 **THE COMMISSIONER:** Let's just say, Mr.
17 Engelmann, that I've talked myself out of everything I had
18 to say today, so you are going to have clear sailing for
19 the rest of the afternoon.

20 **MR. ENGELMANN:** All right.

21 Well, I'm going to get some help because we
22 have the first witness for the Cornwall Police Service,
23 Staff Sergeant Garry Derochie.

24 **THE COMMISSIONER:** Good afternoon, sir.

25 **MR. DEROCHIE:** Good afternoon, sir.

1 **GARY DEROCHIE, Sworn/Assermenté:**

2 **THE COMMISSIONER:** Thank you. Good
3 afternoon, sir.

4 **MR. DEROCHIE:** Good afternoon, Mr.
5 Commissioner.

6 **THE COMMISSIONER:** Good of you to join us.
7 So the preliminaries, I think you've been here before.

8 **MR. DEROCHIE:** I have.

9 **THE COMMISSIONER:** The microphone is there
10 for you to answer. There's a speaker in front of you in
11 case people don't speak up. You can either increase or
12 decrease the volume, depending on how you want to do that.

13 There's water and glasses and, more
14 importantly, if there's anything you feel uncomfortable
15 about just let me know. I'm sure your lawyer will object
16 if there's something that Mr. -- or anyone asks you that
17 isn't proper, and I will interject at times. But if you
18 feel uncomfortable about anything, just let me know and
19 we'll address it.

20 **MR. DEROCHIE:** I will. Thank you very much.

21 **THE COMMISSIONER:** Thank you.

22 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.**
23 **ENGELMANN:**

24 **MR. ENGELMANN:** Good afternoon, Mr.
25 Derochie.

1 **MR. DEROCHIE:** Good afternoon, Mr.
2 Engelmann.

3 **MR. ENGELMANN:** Welcome to a new role at the
4 Cornwall Public Inquiry. I know you've been here on
5 several occasions, but never in the witness seat.

6 **MR. DEROCHIE:** That's correct.

7 **MR. ENGELMANN:** So ---

8 **MR. DEROCHIE:** And I'm looking forward to
9 giving my testimony.

10 **MR. ENGELMANN:** Good. Good.

11 If you can't hear me, please, there's a
12 small speaker just to your right and you can adjust the
13 volume. There's water to your right.

14 You will be getting documents either on your
15 screen or in paper. Usually people prefer the paper, but
16 one of the nice things about the screen is it can be blown
17 up a bit. So you'll have both options.

18 **MR. DEROCHIE:** Fine. Thank you.

19 **MR. ENGELMANN:** All right?

20 So let's just start with a few questions
21 about your background, sir.

22 **MR. DEROCHIE:** Okay.

23 **MR. ENGELMANN:** I understand you are a
24 native of the City of Cornwall?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** And you were born and raised
2 here?

3 **MR. DEROCHIE:** Born and raised in Cornwall,
4 yes.

5 **MR. ENGELMANN:** Yeah. When -- did you go to
6 school here in Cornwall?

7 **MR. DEROCHIE:** I went to school in Cornwall.
8 The high school is at CCBS.

9 **MR. ENGELMANN:** All right.
10 And how long did you stay in Cornwall after
11 high school?

12 **MR. DEROCHIE:** I stayed -- well, I left
13 before I completed high school, but I left Cornwall in
14 1966. I joined the Royal Canadian Navy and stayed there
15 until 1970.

16 **MR. ENGELMANN:** All right.
17 And after your military service, sir, in
18 1970, what did you do next?

19 **MR. DEROCHIE:** I joined the Mississauga
20 Police Service. That eventually amalgamated into the
21 Region of Peel Police Service. I stayed there until 1976.

22 **MR. ENGELMANN:** All right.
23 And in 1976, I understand you moved back to
24 this area?

25 **MR. DEROCHIE:** I did. I applied for and was

1 successful in getting a job with the Cornwall Police
2 Service. Been here since.

3 **MR. ENGELMANN:** Can you tell us, sir, what
4 prompted the move back to Cornwall?

5 **MR. DEROCHIE:** Cornwall was home and I
6 didn't really appreciate the lifestyle of the big city and
7 the hustle and bustle of the Golden Horseshoe area.

8 **MR. ENGELMANN:** All right.

9 And, sir, are you the longest-serving or one
10 of the longest-serving members of the Cornwall Police
11 Service, having a seniority date to 1976?

12 **MR. DEROCHIE:** Yes, that's correct. I have
13 -- with regards to total police service, I am the senior
14 officer. There are officers that are senior to me with
15 service on the Cornwall Police Service.

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

17 And, sir, I understand during the course of
18 your career with the Cornwall Police you worked in a number
19 of departments?

20 **MR. DEROCHIE:** I have.

21 **MR. ENGELMANN:** And I'm going to list a few,
22 and if I make a mistake, please correct me. If I miss one,
23 feel free to add.

24 **MR. DEROCHIE:** Fine.

25 **MR. ENGELMANN:** Field Operations?

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: What does that mean, sir?

3 MR. DEROCHIE: That's normally uniform
4 patrol. I would have served in there, both as a patrol
5 officer, a sergeant and a staff sergeant.

6 MR. ENGELMANN: All right.
7 Criminal Investigation Bureau?

8 MR. DEROCHIE: Yes, I served there twice as
9 staff sergeant.

10 MR. ENGELMANN: The Administration and
11 Special Services Branch?

12 MR. DEROCHIE: Yes, I did. I served in that
13 unit.

14 MR. ENGELMANN: And what is that, sir?

15 MR. DEROCHIE: It's administrative
16 functions. I've dealt -- I've been -- over the course of
17 my career, I've dealt with policy and procedure
18 development. I did a costing to provide policing services
19 to the townships in and around Cornwall and various
20 administrative duties that various chiefs have assigned to
21 me.

22 MR. ENGELMANN: All right.
23 And you've also worked in the Executive
24 Branch?

25 MR. DEROCHIE: Exactly. It's one and the

1 same with the Administration Branch, I would ---

2 MR. ENGELMANN: Okay. All right.
3 Professional Standards Bureau?

4 MR. DEROCHIE: Yes, I have served in
5 Professional Standards as a staff sergeant.

6 MR. ENGELMANN: And what does that mean,
7 sir?

8 MR. DEROCHIE: Normally, it's investigating
9 complaints against police. I had the additional
10 responsibility of training, as well as policy procedures
11 and development.

12 MR. ENGELMANN: And I understand you've also
13 worked in the Investigative Support Branch?

14 MR. DEROCHIE: Yes, I have. That's what I'm
15 currently doing now.

16 MR. ENGELMANN: Okay. And what does that
17 entail?

18 MR. DEROCHIE: I'm liaison with the lawyers
19 and with the Commission with regards to our activities with
20 the Inquiry here.

21 MR. ENGELMANN: And would -- are there other
22 people in the Investigative Support Branch?

23 MR. DEROCHIE: No, I report directly to the
24 Deputy Chief on that.

25 MR. ENGELMANN: All right.

1 If I can just be a moment, sir?

2 **MR. DEROCHIE:** Sure.

3 **(SHORT PAUSE/COURTE PAUSE)**

4 **MR. ENGELMANN:** If the witness could be
5 shown -- it's Document 200188. It's entitled "Staff
6 Sergeant Garry Derochie, Badge Number 10". I think these
7 are generically known as career profiles.

8 **THE COMMISSIONER:** Thank you. Exhibit
9 Number 1289 will be -- well, it's a document entitled
10 "Staff Sergeant Garry Derochie, Badge 10".

11 **--- EXHIBIT NO./PIÈCE No. P-1289:**

12 (200188) Career profile of Garry Derochie

13 **MR. ENGELMANN:** Sir, we've gone through a
14 few of the departments that you've worked in in the
15 Cornwall Police Service.

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** And this particular
18 document, in the first two pages, does it set out when you
19 would have worked in the various branches and which ones
20 they are?

21 **MR. DEROCHIE:** That's correct. And I note,
22 Mr. Engelmann, that I did spend some years in the Community
23 Services and Crime Prevention Unit.

24 **MR. ENGELMANN:** And when was that, sir?

25 **MR. DEROCHIE:** That would have been during

1 the -- probably the late seventies.

2 MR. ENGELMANN: Okay. So does this
3 accurately set out your background and the various
4 positions you've held, both within the Cornwall Police
5 Service and then prior to that, with the service in
6 Mississauga and Peel?

7 MR. DEROCHIE: Yes, my service in
8 Mississauga and Peel would have been as a patrol officer.

9 MR. ENGELMANN: All right.

10 And, for example, the Criminal
11 Investigations Bureau, you would have been there on, I
12 believe, two occasions?

13 MR. DEROCHIE: On two occasions, that's
14 correct.

15 MR. ENGELMANN: And can you just tell us the
16 times when you would have been there?

17 MR. DEROCHIE: It would have been from
18 January 1986 to February of 1987.

19 MR. ENGELMANN: Okay. So that's your first
20 stint?

21 MR. DEROCHIE: That was my first stint, yes.

22 MR. ENGELMANN: So just over a year?

23 MR. DEROCHIE: Just over a year.

24 MR. ENGELMANN: And then again in 2001, am I
25 correct?

1 MR. DEROCHIE: That's correct.

2 MR. ENGELMANN: In late 2001?

3 MR. DEROCHIE: Yes.

4 MR. ENGELMANN: And you were there for
5 approximately four years?

6 MR. DEROCHIE: Exactly.

7 MR. ENGELMANN: All right.

8 And you've been in the Investigative Support
9 Branch since at or about the time of the announcement of
10 the public inquiry?

11 MR. DEROCHIE: That's correct.

12 MR. ENGELMANN: The fall of 2005?

13 MR. DEROCHIE: Yes.

14 MR. ENGELMANN: And, sir, you have been a
15 staff sergeant now for some time with the Force?

16 MR. DEROCHIE: For some time, yes, since
17 1984.

18 MR. ENGELMANN: All right.

19 And during the course of your career, have
20 you had occasion to be assigned special duties or special
21 reviews ---

22 MR. DEROCHIE: Yes.

23 MR. ENGELMANN: --- by various police
24 chiefs?

25 MR. DEROCHIE: Yes, I have.

1 **MR. ENGELMANN:** And was that because of a
2 particular position you were in at the time or was it just
3 something that police chiefs have tasked you to do?

4 **MR. DEROCHIE:** I never asked for an
5 explanation as to why I was getting the jobs. I just did
6 them.

7 **MR. ENGELMANN:** All right.

8 **MR. DEROCHIE:** I don't know of any
9 particular reason.

10 **MR. ENGELMANN:** But on occasion, you were
11 asked to review other investigations that your Force had
12 done?

13 **MR. DEROCHIE:** That's correct.

14 **MR. ENGELMANN:** All right.

15 And we'll go through some of those as we go
16 through your evidence.

17 I'm wondering, during the course of your
18 career, whether you were ever involved in actually
19 investigating a historical sexual abuse case?

20 **MR. DEROCHIE:** No.

21 **MR. ENGELMANN:** All right.

22 But you have reviewed some investigations of
23 those cases by fellow officers?

24 **MR. DEROCHIE:** I have. Yes, I have.

25 **MR. ENGELMANN:** All right.

1 And when you were working in the CIB Unit,
2 were you in charge of that unit, sir?

3 **MR. DEROCHIE:** At that particular time in --
4 the first term in the eighties, there were two staff
5 sergeants and an inspector, and I was one of the staff
6 sergeants. We worked two shifts, day shift and an
7 afternoon shift, and it was in a supervisory role.

8 **MR. ENGELMANN:** All right.

9 So there would have been an inspector you
10 were reporting to then?

11 **MR. DEROCHIE:** That's correct.

12 **MR. ENGELMANN:** And who would that have
13 been?

14 **MR. DEROCHIE:** Inspector Richard Trew.

15 **MR. ENGELMANN:** All right.

16 And then the second time around when you
17 were in Criminal Investigations as a staff sergeant, can
18 you just explain briefly the structure then?

19 **MR. DEROCHIE:** Yes, at that time, when I
20 first went in there, I was reporting directly to the Deputy
21 Chief, Deputy Chief Daniel -- or Danny Aikman.

22 **MR. ENGELMANN:** Right.

23 **MR. DEROCHIE:** And subsequent to that we
24 changed the org structure and an inspector was placed in
25 charge of Field Operations, which now included both CID and

1 Uniform Patrol Division, and I reported to Inspector Darcy
2 Dupuis.

3 **MR. ENGELMANN:** Okay. But the second time
4 in CIB as opposed to the first, you were the guy running
5 it? You were the man in charge ---

6 **MR. DEROCHIE:** I was one of two staff
7 sergeants answering to an inspector. I had supervisory
8 roles in that -- in CID, yes. I wasn't the officer in
9 charge of the unit.

10 **MR. ENGELMANN:** All right. I understood the
11 first time you were one of two officers ---

12 **MR. DEROCHIE:** That's right.

13 **MR. ENGELMANN:** --- reporting to an
14 inspector; what about the second time?

15 **MR. DEROCHIE:** The second time I was the
16 officer in charge, reporting to the Deputy Chief of Police,
17 at the start.

18 **MR. ENGELMANN:** Okay.

19 **MR. DEROCHIE:** And then we moved on to an
20 inspector.

21 **MR. ENGELMANN:** And sir, on either of these
22 occasions when you were one of the supervisors, if I can
23 use that term, of the CIB, would there have been either a
24 youth branch or a unit known as SACA?

25 **MR. DEROCHIE:** Yes, both occasions, there

1 would have been.

2 **MR. ENGELMANN:** And would you have
3 supervised investigators in those branches?

4 **MR. DEROCHIE:** Yes. Not directly, there was
5 -- well, the first term I would have -- I would have shared
6 the duties of supervision with the other staff sergeant.
7 In my second tour of duty of the CIB there was a sergeant
8 in the SACA Unit and he would be in charge of the day-to-
9 day supervision of the unit.

10 **MR. ENGELMANN:** And he would have reported
11 to you?

12 **MR. DEROCHIE:** He reported to me.

13 **MR. ENGELMANN:** And is that Detective
14 Sergeant Carroll?

15 **MR. DEROCHIE:** At that time, yes,
16 originally, yes, it was.

17 **MR. ENGELMANN:** Yeah, and when you were
18 sharing those responsibilities back in the mid-eighties,
19 who were you sharing them with, who was the other staff
20 sergeant?

21 **MR. DEROCHIE:** Staff Sergeant, retired Staff
22 Sergeant Walter Phillips.

23 **THE COMMISSIONER:** And SACA again is, the
24 acronym for SACA is?

25 **MR. DEROCHIE:** Is Sexual Assault Child Abuse

1 Unit.

2 THE COMMISSIONER: Okay.

3 MR. ENGELMANN: And sir, can you give us a
4 sense then, you would have supervised investigators who
5 were investigating historical sexual abuse cases?

6 MR. DEROCHIE: Not directly but yes,
7 indirectly I was. I was supervising the sergeants which --
8 which makes -- ultimately makes me responsible for the ---

9 MR. ENGELMANN: Okay.

10 MR. DEROCHIE: --- supervision of those
11 cases.

12 MR. ENGELMANN: And can you give us a sense
13 as to some of those cases, that you can recall, sir?

14 MR. DEROCHIE: The numbers are you talking
15 about?

16 MR. ENGELMANN: No. Well, for example, some
17 of the ones that we've had -- have been discussed here at
18 this Inquiry.

19 MR. DEROCHIE: I -- well in supervisory
20 role?

21 MR. ENGELMANN: Well, would you have been
22 involved in a complaint by a fellow by the name of Marc
23 Latour?

24 MR. DEROCHIE: Yes.

25 MR. ENGELMANN: All right. Would you have

1 been involved in a complaint by a fellow by the name of
2 Albert Lalonde?

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** Okay. Would you have been
5 involved in a complaint filed by a woman by the name of
6 Shelley Price?

7 **MR. DEROCHIE:** Not as a super -- yes, I'm
8 sorry, yes.

9 **MR. ENGELMANN:** Are there any others that
10 come to mind, sir, that have been dealt with here by this
11 Inquiry?

12 **MR. DEROCHIE:** Not that come to mind, no.

13 **MR. ENGELMANN:** All right. I don't mean
14 admin review; I know there were some others.

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** Yes, okay.

17 And do you recall, in those cases, who would
18 have been the investigator assigned?

19 **MR. DEROCHIE:** In Shelley Price it was Jeff
20 Carroll.

21 **MR. ENGELMANN:** Yes.

22 **MR. DEROCHIE:** In Marc Latour it would have
23 been Jeff Carroll and the Albert -- the Lalonde one was
24 indeed Sergeant Carroll as well.

25 **MR. ENGELMANN:** All right. We'll come back

1 to those later, I just wanted to know ---

2 MR. DEROCHIE: Sure.

3 MR. ENGELMANN: --- for supervisory
4 purposes.

5 Sir, during the course of your career with
6 the Cornwall Police Service I understand that you've had a
7 number of training courses?

8 MR. DEROCHIE: Yes, I have.

9 MR. ENGELMANN: And if we look at the
10 document that you should still have ---

11 MR. DEROCHIE: I have.

12 MR. ENGELMANN: --- 1289, there are a number
13 of training courses that start on about page 3 of the
14 document.

15 MR. DEROCHIE: That's correct.

16 MR. ENGELMANN: And sir, those courses are
17 in reverse chronological order, going back to courses
18 starting as early as 1979, on page 7 of the document?

19 MR. DEROCHIE: That's right. M'hm.

20 MR. ENGELMANN: And you've reviewed this
21 document, sir?

22 MR. DEROCHIE: I have.

23 MR. ENGELMANN: Does it accurately reflect
24 the training courses that you've taken over the course of
25 your career?

1 **MR. DEROCHIE:** It does, other than the Peel
2 ones or the Mississauga ones and those would have been just
3 the recruit A and B parts.

4 **MR. ENGELMANN:** All right. And sir, this is
5 -- is it without exception, external training, if I can
6 call it that? You might have some in-service training as
7 well.

8 **MR. DEROCHIE:** I did in-service training.
9 These all involved training outside of the Cornwall Police
10 Service and included in there are a number of OMPPAC
11 administrative meetings that I attended as part of that
12 committee.

13 **MR. ENGELMANN:** Yes, I was going to ask you
14 about that; there are a great number of them.

15 **MR. DEROCHIE:** Yeah.

16 **MR. ENGELMANN:** Can you just give us a sense
17 as to why there are so many and what you were doing by way
18 of training?

19 **MR. DEROCHIE:** Well, I was -- I was -- I
20 don't know if it's more -- if it's accurate to say it was
21 training; I was on the administration committee when OMPPAC
22 was first developed and there was police service
23 representation from a number of police services across the
24 province that were involved in the cooperative and our task
25 was to develop the system. And we were there as a user

1 group to inform the developers.

2 MR. ENGELMANN: So you were the
3 representative of the Cornwall Police Service on that ---

4 MR. DEROCHIE: Yes.

5 MR. ENGELMANN: --- on that group?

6 MR. DEROCHIE: Yes.

7 MR. ENGELMANN: And it's been a while since
8 we've talked about OMPPAC, could you remind me as to what
9 the acronym stands for?

10 MR. DEROCHIE: It's the Ontario Municipal
11 and Provincial Police Cooperative -- Automated Cooperative.

12 MR. ENGELMANN: And this was an initiative
13 that was being introduced in Ontario in the mid to late
14 eighties?

15 MR. DEROCHIE: It was. It was a government-
16 sponsored initiative that hoped to bring small and mid-size
17 police forces into the electronic age with regards to
18 reporting and case management.

19 MR. ENGELMANN: And when was it first
20 brought into the Cornwall Police Service?

21 MR. DEROCHIE: It would have been brought in
22 in July of 1989, it went active -- or live, rather.

23 MR. ENGELMANN: Given your background on
24 this committee, would you have had some role in helping
25 bring that into the Service?

1 **MR. DEROCHIE:** Yes, I headed up the
2 implementation team, the implementation of OMPPAC into
3 Cornwall.

4 **MR. ENGELMANN:** And sir, your courses
5 dealing with OMPPAC continued, even after that date?

6 **MR. DEROCHIE:** I was -- I was the service
7 administrator for OMPPAC for a good number of years and I
8 would have attended annual meetings.

9 **MR. ENGELMANN:** And sir, it would appear
10 that your training background has been quite extensive.

11 **MR. DEROCHIE:** Yes, I had a lot of courses,
12 a lot of training.

13 **MR. ENGELMANN:** In a lot of different areas.

14 **MR. DEROCHIE:** In a lot of areas.

15 **MR. ENGELMANN:** Yeah.

16 **MR. DEROCHIE:** Reflected my duties in the
17 Service.

18 **MR. ENGELMANN:** And when you -- how did the
19 training come about? Was it something that you would have
20 asked for at the time or was it something that you were
21 asked to take or would it depend on the circumstance?

22 **MR. DEROCHIE:** I would say more often than
23 not it would be -- it would be training that had been
24 recognized that I should take. In relation to my duties
25 there were from time to time, courses that came up that I

1 suggested I should go on and got them in a variety of a
2 place.

3 **MR. ENGELMANN:** And when you -- when you
4 suggested the courses, were you typically successful in
5 getting them?

6 **MR. DEROCHIE:** Typically I was.

7 **MR. ENGELMANN:** All right. And you worked
8 for a number of different police chief?

9 **MR. DEROCHIE:** I did.

10 **MR. ENGELMANN:** Can you give us a sense as
11 to which chiefs you worked for here in Cornwall?

12 **MR. DEROCHIE:** I worked for Earl Landry, he
13 was my first chief here in Cornwall; Claude Shaver; acting
14 chief Carl Johnston; Chief Anthony Repa, and currently
15 Daniel Parkinson.

16 **MR. ENGELMANN:** And with all of those chiefs
17 you've been able to get training, when and if you've wanted
18 it?

19 **MR. DEROCHIE:** Yes, basically.

20 **MR. ENGELMANN:** Okay.

21 Sir, I'd like to -- I'd like to ask you if
22 during the course of your career you came to know a
23 constable by the name of Perry Dunlop?

24 **MR. DEROCHIE:** Yes, I did.

25 **MR. ENGELMANN:** And can you tell us when you

1 first came to know him and under what circumstances?

2 **MR. DEROCHIE:** Well I would have known him
3 from the moment he started with the Cornwall Police
4 Service. He worked for me for a period of time in 1993; he
5 was transferred to my team and I worked for -- he worked
6 for me for that period of time.

7 **MR. ENGELMANN:** Had you ever been in a --
8 this was -- you were in a supervisory role with Constable
9 Dunlop at that time?

10 **MR. DEROCHIE:** That's correct.

11 **MR. ENGELMANN:** And do you know for
12 approximately how long?

13 **MR. DEROCHIE:** It would have been until --
14 well, until the facts in issue of this Inquiry came about
15 in originally -- or initially from October -- or from
16 January of 1993 'til October of 1993. He was absent for a
17 few -- for a little -- a short period of time and then came
18 back until he went off in January of 1994.

19 **MR. ENGELMANN:** All right.

20 **MR. DEROCHIE:** He would have been under my -
21 - on my team.

22 **MR. ENGELMANN:** So for approximately one
23 year?

24 **MR. DEROCHIE:** For a year.

25 **MR. ENGELMANN:** What about before then, had

1 you ever been in a supervisory role with Mr. Dunlop before
2 then?

3 **MR. DEROCHIE:** I don't believe so.

4 **MR. ENGELMANN:** All right.

5 And how would you describe your relationship
6 with Constable Dunlop, as he then was, before you were his
7 supervisor?

8 **MR. DEROCHIE:** It was a very good
9 relationship. He was a member of the Cornwall Police Band;
10 I was a big supporter of the Cornwall Police Band, it did a
11 lot of good community work, so I was -- I knew Perry and I
12 would have had those types of contacts with him. It was a
13 small force; I would have run into him from time to time.

14 **MR. ENGELMANN:** Did you socialise with him
15 outside of the workplace at all?

16 **MR. DEROCHIE:** No, I did not.

17 **MR. ENGELMANN:** And how would you describe
18 the year or so when you were his supervisor?

19 **MR. DEROCHIE:** Very good. The personal
20 relationship was very good.

21 **THE COMMISSIONER:** How was he as a police
22 officer?

23 **MR. DEROCHIE:** I thought he was a good
24 police officer.

25 **MR. ENGELMANN:** Sir, I was just going to ask

1 you about whether or not you had occasion to evaluate Mr.
2 Dunlop?

3 **MR. DEROCHIE:** Yes, I did, at least one --
4 that one occasion I can think of.

5 **MR. ENGELMANN:** I was just going to ask you,
6 was it only the one time, sir?

7 **MR. DEROCHIE:** As far as I know, it was only
8 the one time.

9 **MR. ENGELMANN:** I'm just going to find the
10 document. I'll just be a moment.

11 **MR. DEROCHIE:** M'hm.

12 **MR. ENGELMANN:** If the witness could be
13 shown Document Number 719496.

14 **THE COMMISSIONER:** Thank you. Exhibit
15 Number 1290 is a -- what -- a performance evaluation and
16 it's dated 01/01/92 to 26/07/92.

17 --- **EXHIBIT NO./PIÈCE NO. P-1290**

18 (719496) Performance evaluation

19 **MR. ENGELMANN:** Sir, I just want to clear
20 something up, if I can, with respect to this document. It
21 appears -- it says "Observation Period" on the first page.

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** I believe that's January 1st,
24 '92 to July '92. And you've just told us that you
25 supervised Mr. Dunlop for about a year starting in January

1 of '93. Is that correct?

2 **MR. DEROCHIE:** That's correct. I'm going to
3 have to evaluate Sergeant Leroux now.

4 **THE COMMISSIONER:** Why, have we got the
5 wrong ---

6 **MR. ENGELMANN:** I just want to make sure --
7 it's a long time ago, so I just want to make sure we ---

8 **MR. DEROCHIE:** It is a long time ago.

9 **MR. ENGELMANN:** --- get our dates right.

10 **MR. DEROCHIE:** Yeah.

11 **MR. ENGELMANN:** If we look at, I guess, the
12 last page.

13 **MR. DEROCHIE:** There may be an explanation
14 in that Leroux was transferred onto my team. I'm not
15 really sure when, but it could have been that he was
16 previously Dunlop's sergeant.

17 **MR. ENGELMANN:** I know we're not talking
18 about Ron Leroux. Who are we talking about?

19 **MR. DEROCHIE:** Oh, I'm sorry, Sergeant Gay
20 Leroux.

21 **MR. ENGELMANN:** Gay Leroux. Fair enough.
22 And there's a signature on the second page
23 near the bottom and a date of July 27th, '92.

24 **MR. DEROCHIE:** M'hm. Yes.

25 **MR. ENGELMANN:** Whose signature is that,

1 sir?

2 MR. DEROCHIE: That's Sergeant Leroux'
3 signature.

4 MR. ENGELMANN: Okay. And then on the
5 following page, is that Mr. Dunlop's signature?

6 MR. DEROCHIE: That's Mr. Dunlop's
7 signature.

8 MR. ENGELMANN: And then on the last page we
9 have your signature?

10 MR. DEROCHIE: On the second-to-last page,
11 yes.

12 MR. ENGELMANN: Sorry, yes, the next page.

13 MR. DEROCHIE: Yes, that's my signature.

14 MR. ENGELMANN: And then we have signatures
15 from even more senior officers at the time?

16 MR. DEROCHIE: That's correct, Staff ---

17 MR. ENGELMANN: On the final page?

18 MR. DEROCHIE: Sorry. I'm sorry, I just --

19 -

20 MR. ENGELMANN: On the final page?

21 MR. DEROCHIE: On the final page, the first
22 signature is that of Staff Sergeant Brian Kirkey, who was
23 the coordinator for Uniform Patrol at that time, and then
24 you have Deputy Chief Joseph St. Denis and, finally, Chief
25 Claude Shaver.

1 **MR. ENGELMANN:** All right.

2 So let's just try -- I just want to try and
3 get our timing right. This appears to be an evaluation
4 from '92.

5 **MR. DEROCHIE:** Yes, it does.

6 **MR. ENGELMANN:** And I think in your
7 statement on the fourth page you say:

8 "In a very short period of time,
9 Constable Dunlop has become a valued
10 member of the "D" Team."

11 Would he have only been on the team for a
12 portion of the evaluation period perhaps? I'm just trying
13 to get our time then.

14 **MR. DEROCHIE:** Yeah. I'm at a loss too.
15 I'm sorry for the confusion. I'm at a loss to explain the
16 '92. It seems consistent on every document, everybody that
17 signs it, and I'm just trying to think of what the answer
18 to that is. It may well be that I'm missing a year. I
19 know that he was transferred to my team at the beginning of
20 the year. I was thinking it was 1993. It may well have
21 been 1992.

22 **MR. ENGELMANN:** The third page may be
23 helpful to us. I thank Mr. Callaghan. On the third page,
24 you'll see under section 6(b) ---

25 **MR. DEROCHIE:** M'hm.

1 **MR. ENGELMANN:** --- it says:
2 "Although Constable Dunlop was
3 transferred to "D" Team on January 20th,
4 '92, he actually did not report for
5 duty until March 11th, '92."

6 Do you see that?

7 **MR. DEROCHIE:** M'hm.

8 **MR. ENGELMANN:** And so would it be fair to
9 say that he would have been on your team as early as early
10 '92?

11 **MR. DEROCHIE:** I would have to concede that,
12 yes.

13 **MR. ENGELMANN:** Okay. And would he have
14 also been there throughout the calendar year '93?

15 **MR. DEROCHIE:** Yes, he was.

16 **MR. ENGELMANN:** All right.
17 So instead of one year, you may have been
18 his supervisor for almost two years?

19 **MR. DEROCHIE:** Almost two years, yes.

20 **MR. ENGELMANN:** Okay. All right.
21 But as far as you know, is this the only
22 evaluation that you would have done for Mr. Dunlop?

23 **MR. DEROCHIE:** As far as I know, it is.

24 **MR. ENGELMANN:** All right.

25 It's the only one we can find in the

1 database.

2 **MR. DEROCHIE:** And I would suggest it's the
3 only one I could find.

4 **MR. ENGELMANN:** All right.

5 And, sir, I don't know about in the Police
6 Service, but are there sort of ratings in the sense of
7 fully satisfactory, satisfactory, superior, excellent,
8 those types of ratings in the Cornwall Police Service or --
9 -

10 **MR. DEROCHIE:** Yes. Well, they are, and the
11 evaluation form does provide for that.

12 **THE COMMISSIONER:** Madam Clerk, could you
13 put it up? I can't read the ---

14 **MR. ENGELMANN:** It is difficult to read.

15 **THE COMMISSIONER:** Let's see if we can
16 expand on that a little bit.

17 Can you bring it up, Madam Clerk?

18 **MR. ENGELMANN:** This is what I mean by
19 sometimes the screen is a bit better than the paper --
20 sometimes.

21 **THE COMMISSIONER:** No, I can't read it.

22 **MR. ENGELMANN:** If I'm reading correctly,
23 sir, the X's are in a column that says "Easily meets
24 requirement"?

25 **MR. DEROCHIE:** That's right. And "Exceeds

1 requirement".

2 MR. ENGELMANN: And then some are in
3 "Exceeds requirement"?

4 MR. DEROCHIE: Yes.

5 MR. ENGELMANN: And it goes from a scale of
6 "Below requirement" up to "Outstanding"?

7 MR. DEROCHIE: Yes, it does.

8 MR. ENGELMANN: Is that fair?

9 MR. DEROCHIE: That's right.

10 MR. ENGELMANN: All right.

11 So it would appear that the majority of the
12 X's are in "Easily meets requirements" or "Exceeds
13 requirements"?

14 MR. DEROCHIE: Yes.

15 MR. ENGELMANN: So it's a positive
16 evaluation?

17 MR. DEROCHIE: It's very positive, yes.

18 MR. ENGELMANN: Yes. And in fact, at the
19 time, your comments are, as you said, on the fourth page?
20 Is that correct?

21 MR. DEROCHIE: That's correct. Those are my
22 comments.

23 MR. ENGELMANN: And you're complimenting him
24 both on his work with the Force and his community service
25 work?

1 **MR. DEROCHIE:** That's correct.

2 **MR. ENGELMANN:** And it would appear, at
3 least at this time, for this evaluation period, the Chief
4 also thought very highly of him as far as his performance?

5 **MR. DEROCHIE:** Oh, yes. Oh, yes.

6 **MR. ENGELMANN:** Because he seems to be
7 making the comment "An excellent evaluation. Well done,
8 Perry."

9 **MR. DEROCHIE:** Yeah.

10 **MR. ENGELMANN:** And, sir, the comments under
11 section 4(c) on the second page -- 4(b) and 4(c), areas
12 deserving of commendation and areas identified which
13 require development?

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** Are those -- and again, I'm
16 sorry, it's Sergeant ---

17 **MR. DEROCHIE:** Gay Leroux, yes.

18 **MR. ENGELMANN:** --- Gay Leroux. Okay.
19 Those are his comments?

20 **MR. DEROCHIE:** They are.

21 **MR. ENGELMANN:** All right.

22 And, sir, I assume from time to time
23 officers you supervise receive letters, which could be
24 known as letters of commendation?

25 **MR. DEROCHIE:** They go both ways, yes,

1 letters of commendation ---

2 MR. ENGELMANN: I bet they do. Sometimes
3 they're nice letters and some days they're not so nice
4 letters?

5 MR. DEROCHIE: That's correct.

6 MR. ENGELMANN: And would they come to your
7 attention as the officer supervisor typically?

8 MR. DEROCHIE: They may come directly to my
9 attention or they may come in through the Chief's office.

10 MR. ENGELMANN: All right.

11 And I believe while you supervised Mr.
12 Dunlop, you did get a letter or two of commendation?

13 MR. DEROCHIE: Yes.

14 MR. ENGELMANN: And I just want to show you
15 one or two, if I may.

16 MR. DEROCHIE: M'hm.

17 MR. ENGELMANN: Document Number 718210, it's
18 a letter from Guy Simard, Assistant Crown Attorney to Staff
19 Sergeant or Sergeant G. Derochie dated November 5, 1993.

20 THE COMMISSIONER: Thank you. Exhibit
21 Number 1291.

22 MR. ENGELMANN: Okay.

23 --- EXHIBIT NO./PIÈCE NO. P-1291:

24 (718210) Letter from Guy Simard to Garry
25 Derochie - November 5, 1993

1 **MR. ENGELMANN:** Would this have been, sir, a
2 letter you would have received that you would call a letter
3 of commendation?

4 **MR. DEROCHIE:** That's certainly a letter of
5 commendation.

6 **MR. ENGELMANN:** Okay. And letters like
7 this, what would you do with them when they came in
8 directly to you? Where would they go?

9 **MR. DEROCHIE:** If they -- if they went -- if
10 they came in directly to me, I would forward them through
11 the chain of command up to the Chief's office so that they
12 can be added -- could be added to his personnel file.

13 **MR. ENGELMANN:** And if it was a letter of
14 complaint, would it -- would you do the same thing?

15 **MR. DEROCHIE:** I would certainly advise the
16 Divisional Commander, whoever that might be at the time,
17 but I would -- I would -- there would be some onus on me to
18 try to resolve it at my level.

19 **MR. ENGELMANN:** Right.

20 And in any event, whether it's a positive or
21 negative letter, is it something that you would share with
22 the officer as well?

23 **MR. DEROCHIE:** Oh, yes.

24 **MR. ENGELMANN:** Okay.

25 **MR. DEROCHIE:** Oh, yes. The letter would

1 come back through the chain of command with -- a lot of
2 times with comments on them ---

3 **MR. ENGELMANN:** All right.

4 **MR. DEROCHIE:** --- for the officer.

5 **MR. ENGELMANN:** So would it be fair to say
6 that -- we don't have an evaluation for 1993, but from your
7 recollections, sir, at least until issues arise at the end
8 of '93 or early '94, that your views on Constable Dunlop's
9 performance would be fairly similar to the evaluation from
10 1992?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** Okay.

13 **MR. DEROCHIE:** His performance as a police
14 officer under -- on my team; definitely.

15 **MR. ENGELMANN:** All right.

16 **THE COMMISSIONER:** Can you tell me, during
17 this period of time, how his general reputation in the
18 Force was?

19 **MR. DEROCHIE:** I believe it was good.

20 **THE COMMISSIONER:** Okay.

21 **MR. ENGELMANN:** How -- how did he come to
22 get assigned to the "D" team; do you know?

23 **MR. DEROCHIE:** I wouldn't know. He would be
24 assigned with regards to -- taking into consideration the
25 needs of the department overall, whether I was short a man

1 or something. It may have been that situation.

2 **MR. ENGELMANN:** Okay. Now, sir, I'm
3 wondering if you can recall -- and this obviously deals to
4 some extent with your involvement with Constable Dunlop ---

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** --- if you can recall when
7 you first would have become aware of a complaint by an
8 individual by the name of David Silmser?

9 **MR. DEROCHIE:** I became aware of that on the
10 7th of October 1993.

11 **MR. ENGELMANN:** And how did you become aware
12 of it?

13 **MR. DEROCHIE:** I found a package -- a file
14 in my pigeonhole or my mailbox when I reported for duty one
15 night on the 7th of October with instructions to do an
16 internal review of what had occurred.

17 **MR. ENGELMANN:** All right.

18 Is this one of these special assignments
19 that you've had during the course of your career?

20 **MR. DEROCHIE:** This is a special one, for
21 sure.

22 **MR. ENGELMANN:** Now, do you know -- well --
23 I mean, let's go to the document first and then I'll ask
24 you a couple of questions, and I am going to take you to
25 your notes as well, sir, so if there are questions that you

1 need to refresh your memory from, but the Document Number
2 730961 ---

3 **THE COMMISSIONER:** Thank you. Exhibit
4 number 1292 is a document called "Confidential" dated the
5 7th of October 1993 Re: Constable Perry Dunlop.

6 --- **EXHIBIT NO./PIÈCE NO. P-1292:**

7 (730961) Note from Deputy Chief to Garry
8 Derochie - October 7, 1993

9 **MR. ENGELMANN:** Staff Sergeant Derochie, was
10 this note in the envelope that you received that evening?

11 **MR. DEROCHIE:** Yes, this was the internal
12 correspondence from the Deputy Chief that serves as a
13 covering letter for the other documents.

14 **MR. ENGELMANN:** So this was in your
15 pigeonhole or your mailbox?

16 **MR. DEROCHIE:** Secured within an envelope;
17 it was, you know, yes.

18 **MR. ENGELMANN:** So you had an envelope and
19 this cover note with some documents attached?

20 **MR. DEROCHIE:** Some documents inside, yes.

21 **THE COMMISSIONER:** I'm sorry; and who was
22 this note from?

23 **MR. DEROCHIE:** Deputy Chief Joseph St.
24 Denis, the DC.

25 **THE COMMISSIONER:** Okay.

1 **MR. ENGELMANN:** All right.

2 So can you just give us a sense -- and you
3 don't have to read it out loud, but paraphrase it -- as to
4 what he's asking you to do with this note? What's the
5 issue?

6 **MR. DEROCHIE:** The issue that I'm to look
7 into is how -- how the -- a letter given by a sexual
8 assault victim was given to CAS.

9 **MR. ENGELMANN:** And there's a contemplation,
10 at least by the Deputy Chief at that time, that Constable
11 Dunlop could be charged with a breach of trust?

12 **MR. DEROCHIE:** That's correct.

13 **MR. ENGELMANN:** And a couple of times on
14 that first page there's a reference to him having no
15 authority or no permission to release a particular document
16 to the Children's Aid Society.

17 **MR. DEROCHIE:** That's correct.

18 **MR. ENGELMANN:** And was it clear to you what
19 document was being referred to at that time?

20 **MR. DEROCHIE:** Well, it was included. There
21 was a copy of it, as I recall, included in the file. So it
22 became apparent very quickly to me.

23 **MR. ENGELMANN:** And at least it would appear
24 from the note that the Deputy Chief was quite concerned
25 about this?

1 **MR. DEROCHIE:** That's the language he used,
2 yes.

3 **MR. ENGELMANN:** He says:
4 "There is a very serious violation of
5 trust here which must be dealt with in
6 a timely manner."

7 **MR. DEROCHIE:** That's correct.

8 **MR. ENGELMANN:** It seems that he's decided
9 that there's been a violation of trust?

10 **MR. DEROCHIE:** That was his opinion when he
11 gave it to me, certainly.

12 **MR. ENGELMANN:** Right.
13 He's not saying, "Find out if there was."
14 He's saying, "I think there is and I want you to look at
15 it."

16 **MR. DEROCHIE:** That's exactly what he's
17 saying, yes.

18 **MR. ENGELMANN:** All right.
19 And he's telling you to "see Luc for all the
20 facts"?

21 **MR. DEROCHIE:** To see Staff Sergeant Luc
22 Brunet to be briefed on all the details, yes.

23 **MR. ENGELMANN:** All right.
24 And these extra documents, these 13 or so
25 documents, they were in the package from the Deputy Chief?

1 **MR. DEROCHIE:** They were.

2 **MR. ENGELMANN:** Now, upon getting this
3 assignment, would you have taken some dedicated notes about
4 your work on this matter? And what I mean by dedicated is
5 would you have had a notebook just for this particular
6 assignment or would you have taken notes in a general
7 notebook?

8 **MR. DEROCHIE:** No, I had a duty notebook
9 going, but I started another book specifically dedicated to
10 this matter.

11 **MR. ENGELMANN:** And would those have been
12 notes you would have made close to the time in question?

13 **MR. DEROCHIE:** Not on the dates in question,
14 but very close to the times, yes.

15 **MR. ENGELMANN:** And if the notes were made
16 more than 24 hours or so after something occurred, would
17 you note the day that you made the notes?

18 **MR. DEROCHIE:** I would note, yes, the day
19 that the notes were being made.

20 **MR. ENGELMANN:** All right.

21 And these notes would be in your
22 handwriting, sir.

23 **MR. DEROCHIE:** They would.

24 **MR. ENGELMANN:** All right.

25 **THE COMMISSIONER:** Would they have been the

1 originals? What we're going to see, are they the originals
2 or would -- would you draft something up in a draft form,
3 change it around and then put it in your book?

4 **MR. DEROCHIE:** Oh no, I would have -- I may
5 have had dates or quick notes, but I wouldn't have
6 redrafted the -- I may have transferred information from
7 rough notes into my notebook, but those would -- those
8 would be kept and those would be produced.

9 **THE COMMISSIONER:** Oh, so you kept your
10 rough notes?

11 **MR. DEROCHIE:** Yes, some of them. Yes, the
12 rough notes are here, as far as I know. I've seen them ---

13 **THE COMMISSIONER:** I don't know. Okay.

14 **MR. DEROCHIE:** --- in reviewing for this.

15 **THE COMMISSIONER:** All right.

16 **MR. ENGELMANN:** They're -- yes. I'm going
17 to take you to the notes that are in a general notebook.

18 **MR. DEROCHIE:** M'hm.

19 **MR. ENGELMANN:** There are also some loose
20 notes as well, sir.

21 So if the witness could be shown -- and this
22 document -- these notes, unfortunately, have several
23 document numbers. They're repeated a few times, Staff
24 Sergeant Derochie. I'm going to take you to 728438. It's
25 a document number and it is a steno notebook that has on

1 the front "Silmser" and a file number and it says "from
2 October 7th, '93, G. Derochie. These have also been --
3 notice has been given on these notes, part of the section
4 38 process, a different document number.

5 So what I may do as I go through it is
6 actually give a page number that's in the notes because
7 that'll be common.

8 **THE COMMISSIONER:** All right. And do we
9 have any publication ban?

10 **MR. ENGELMANN:** We do have a publication ban
11 issue, sir. Pages 63 through 66, you'll see the name of a
12 C-3 ---

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

14 **MR. ENGELMANN:** --- will be listed.

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

16 **MR. ENGELMANN:** There's also another name
17 there; it does not have a moniker, but it's come up before
18 with respect to a publication ban -- I can just show you
19 the name, perhaps -- and it will have to be dealt with.

20 **THE COMMISSIONER:** All right. What page?

21 **MR. ENGELMANN:** Page 65.

22 **THE COMMISSIONER:** Yes.

23 **MR. ENGELMANN:** Just about two-thirds of the
24 way down the page, "on April 3rd, Sebalj also took a
25 written statement from".

1 **THE COMMISSIONER:** All right. So what do we
2 have for this gentleman or ---

3 **MR. ENGELMANN:** And that name appears on the
4 following page, as well.

5 **THE COMMISSIONER:** Right.

6 **MR. ENGELMANN:** If I could just have a
7 moment?

8 **THE COMMISSIONER:** Yes.

9 **(SHORT PAUSE/COURTE PAUSE)**

10 **MR. ENGELMANN:** Sir, I'm advised by my
11 colleague, Ms. Larocque, that there was an attempt to
12 contact this individual some time ago and no -- no success.

13 We have an interim publication ban involving
14 him. That may well be a "moniker" situation.

15 I know we're not trying to add to that list,
16 but at least for the time being I'll certainly make every
17 effort to avoid using the name and I'll ask that the
18 witness does that, as well.

19 **THE COMMISSIONER:** All right. So in any
20 event, there's an interim publication ban on his name so
21 the press and media are aware of it, so all we have to do,
22 really, is indicate with the red stamp that there is a
23 publication ban issue with respect to this document and
24 that will leave it up to the media to make sure that ---

25 **MR. ENGELMANN:** But there are the two

1 individuals; there's C-3 and the other one that I
2 mentioned.

3 **THE COMMISSIONER:** That's fine, thank you.

4 **MR. DEROCHIE:** That was on page 60, you say,
5 Mr. Engelmann?

6 **MR. ENGELMANN:** Oh, I'm sorry, 65.

7 **MR. DEROCHIE:** Would you look at page 60,
8 please, as well, and tell me I'm -- if there's a problem
9 there?

10 **MR. ENGELMANN:** There may also be the name
11 of ---

12 **THE COMMISSIONER:** Yes, yes, yes. Thank
13 you.

14 But those names have already been dealt
15 with, so what we do is we just put the red stamp on the
16 exhibits.

17 **MR. ENGELMANN:** Yes. The same names. The
18 same names, sir.

19 **MR. DEROCHIE:** Okay, thank you.

20 **MR. ENGELMANN:** Thank you.

21 **THE COMMISSIONER:** It's only as aide mémoire
22 to the media, because it's their responsibility to ensure
23 that my orders are complied with, but we try, as much as
24 possible, as to highlight with the stamp so that they use
25 proper precautions.

1 **MR. DEROCHIE:** Thank you, sir.

2 **THE COMMISSIONER:** All right.

3 **MR. ENGELMANN:** So Document Number 728438,
4 these, sir, would be your handwritten notes from the fall
5 of 1993?

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** Might that be the next
8 exhibit, sir?

9 **THE COMMISSIONER:** One two nine three
10 (1293), officer's notes of G. Derochie, dated October 7th,
11 1993.

12 **--- EXHIBIT NO./PIÈCE No. P-1293:**

13 (728438) Handwritten notes of Garry Derochie
14 - 07 Oct, 93

15 **MR. ENGELMANN:** Now, sir, if we could turn
16 to the first full page of the notes, you reference
17 October 7th, but you say that you made these notes on the 2nd
18 of November?

19 **MR. DEROCHIE:** That's correct.

20 **MR. ENGELMANN:** Is that fair?

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** And you talk about the note
23 from the Deputy Chief?

24 **MR. DEROCHIE:** I do.

25 **MR. ENGELMANN:** And you set out what's in

1 the envelope on the second, third and fourth pages?

2 MR. DEROCHIE: That's correct. I
3 inventoried what was in the package right away and
4 identified it.

5 MR. ENGELMANN: And perhaps, sir, we can
6 just identify those documents right now.

7 I'm sorry?

8 THE COMMISSIONER: Just a second.
9 This is October 7th and you're making these
10 notes ---

11 MR. DEROCHIE: On ---

12 THE COMMISSIONER: --- a month later?

13 MR. DEROCHIE: A month later, yes.

14 THE COMMISSIONER: Is that normal?

15 MR. DEROCHIE: That's -- that's not normal
16 and it -- it wouldn't be certainly normal in my duties as a
17 police officer, ---

18 THE COMMISSIONER: No, right, right.

19 MR. DEROCHIE: --- certainly.

20 But in this -- in this case, I wasn't going
21 to immediately take this on; I had -- my primary duties
22 were the -- that of my shift and my sergeant was away, so I
23 had to concentrate fully on -- on my supervision of my --
24 my shift.

25 But I did do some preliminary stuff and I --

1 and I recapped everything on November 2nd what I had done.

2 Of course, obviously, the package remained
3 in my custody and it -- its integrity was secure, so I was
4 able to inventory it on the 2nd. Nothing was added to it.

5 **MR. ENGELMANN:** That was a -- was that a
6 particularly busy time for you, sir, the fall of '93?

7 **MR. DEROCHIE:** Well, particularly busy in no
8 other sense than I -- I did have the primary
9 responsibilities of -- of supervising a uniform patrol team
10 on -- on shift work, 12-hour shifts. So this -- this was
11 above and beyond that and would -- when it originally
12 appeared that I'd be able to deal with it very -- very
13 quickly, that never materialized, so...

14 **MR. ENGELMANN:** All right.

15 So perhaps we can just talk then, about the
16 documents that you received in the -- together with the
17 note from the Deputy Chief, and you've listed them there.

18 The second document -- and I'll just be a
19 moment, sir.

20 (SHORT PAUSE/COURTE PAUSE)

21 **MR. ENGELMANN:** --- is document number
22 729185; if that could be shown to the witness.

23 This document will have to be subject to a
24 publication ban, again, sir, there are names of monikers.

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

1 Thank you. Exhibit Number 1294 is a copy of
2 the OMPPAC report, printed October 4th, 1993.

3 --- EXHIBIT NO./PIÈCE No. P-1294:

4 (729185) Copy of OMPPAC report - 04 Oct,93

5 MR. ENGELMANN: Now, sir, is it printed on
6 October 4th, 1993 or is that when it's entered into OMPPAC;
7 are you able to tell us?

8 MR. DEROCHIE: I wouldn't be able to tell
9 you with a degree of certainty. I -- it's been a long --
10 OMPPAC has changed considerably.

11 Actually, we're not even using OMPPAC
12 anymore, it's -- I don't recall the -- if that's the print
13 date or if that's the date ---

14 THE COMMISSIONER: Well, your notes show
15 that it says "printed October 4th, '93" and on the Document
16 1294, there is a date of the 4th of October, 1993.

17 MR. DEROCHIE: M'hm, yeah.

18 THE COMMISSIONER: Does that help you at
19 all?

20 MR. DEROCHIE: Okay. That would certainly
21 -- then my recollection or my information back then would
22 be certainly better than it is right now, yes.

23 MR. ENGELMANN: All right. And, sir, do you
24 know when this information would have been entered onto the
25 OMPPAC system?

1 **MR. DEROCHIE:** I can't tell from this
2 document, because this is a -- the Crown brief that's
3 produced from OMPPAC; it's automatically generated from
4 OMPPAC on command from reports that are inputted.

5 So I -- I couldn't tell you -- there's no --
6 there's nothing on this document that would identify when
7 it was actually put into OMPPAC.

8 **MR. ENGELMANN:** But do you have a
9 recollection now as to approximately when the OMPPAC report
10 would have been entered, in relation to when the complaint
11 was first ---

12 **MR. DEROCHIE:** It's my understanding it was
13 -- it was after -- it was during either September -- or
14 August or -- I would think August, September, of 1993.

15 **MR. ENGELMANN:** And were you able to tell
16 which officer would have entered it, by looking at the
17 document?

18 **MR. DEROCHIE:** Well, not by -- not by this
19 document, no.

20 **MR. ENGELMANN:** Okay.

21 **MR. DEROCHIE:** Other OMPPAC documents, if
22 you had them, would -- would be -- we'd be able -- we'd be
23 able to determine that.

24 **MR. ENGELMANN:** All right. So when it says
25 "investigating officer Sebalj", that's ---

1 **MR. DEROCHIE:** That's system-generated as -
2 that's who was -- that's who's -- the system's been --
3 that's the officer that's been identified to the system ---

4 **MR. ENGELMANN:** All right.

5 **MR. DEROCHIE:** --- as being the
6 investigating officer.

7 **MR. ENGELMANN:** So we can't tell from
8 looking at this who prepared it?

9 **MR. DEROCHIE:** No.

10 **MR. ENGELMANN:** Sir, do you know who did?

11 **MR. DEROCHIE:** It's my understanding that
12 Heidi Sebalj did it.

13 **MR. ENGELMANN:** All right. And the document
14 references 17 witnesses; am I correct?

15 **MR. DEROCHIE:** That's correct.

16 **MR. ENGELMANN:** And, sir, it has a number of
17 will says or statements attached?

18 **MR. DEROCHIE:** It does.

19 **MR. ENGELMANN:** By my count, about 10.

20 **MR. DEROCHIE:** Did you want me to count them
21 out or?

22 **MR. ENGELMANN:** You don't have to.

23 It appears there are -- there are many less
24 will says or statements than there actually are witnesses
25 identified?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** Do you know why that would
3 be? Is that typical?

4 **MR. DEROCHIE:** Well, normally if you were
5 preparing a brief for court you -- you would only include
6 the names of those -- of those people that actually were --
7 who had evidence to offer and -- and who you intended to
8 suggest to the Crown should be called.

9 **MR. ENGELMANN:** Okay. But this -- this does
10 go -- and excuse my ignorance; I'm not a criminal lawyer,
11 but this does go for disclosure purposes, as well, to
12 defence counsel?

13 **MR. DEROCHIE:** Oh, yes. Yes.

14 **MR. ENGELMANN:** So if there are statements?

15 **MR. DEROCHIE:** If there are -- if there is a
16 name on this witness list, there should be a statement for
17 the person that's on this witness list, but I've just had a
18 quick look at it, and there's obviously people that I know
19 did not provide statements.

20 **MR. ENGELMANN:** All right.

21 **MR. DEROCHIE:** I should offer as a comment,
22 Mr. Engelmann, it might help things out a little bit; is
23 that this incident is in projects and it's not -- I
24 wouldn't expect that this document would go to the Crown.
25 It would have been in regular OMPPAC. You would go to the

1 Crown with it.

2 **MR. ENGELMANN:** All right. Can you explain
3 the distinction, sir, when you say, "in project"?

4 **MR. DEROCHIE:** Yes. OMPPAC is -- and I'm
5 going to comment on Inspector Skinner's or Staff
6 Superintendent Skinner's talk about projects, if I may, Mr.
7 Commissioner.

8 OMPPAC does have a feature where it mirrors
9 OMPPAC in all of its functionalities. However, it's called
10 a project's feature and that allows police services, at
11 their discretion, to investigate incidents, whether they be
12 crimes or internal investigations or, for that matter,
13 complaints against police, strictly at the discretion of
14 the police service, so that they can shield the information
15 while it is being investigated for any number of reasons.

16 **MR. ENGELMANN:** All right. So if an OMPPAC
17 file is put into projects, it's shielded, if I can use your
18 term?

19 **MR. DEROCHIE:** It's shielded from anyone
20 other than who has been specifically given access to that
21 particular project.

22 **THE COMMISSIONER:** And how do you know that
23 this one here is a special project?

24 **MR. DEROCHIE:** I see by the incident number
25 that is 00001-1 ---

1 **THE COMMISSIONER:** Right.

2 **MR. DEROCHIE:** --- that there was -- and my
3 notes, I knew that a Silmsler, Silmsler 11, is how we were
4 investigating this. This is how the Chief of the day
5 requested that this information be recorded so that he
6 could view it.

7 **MR. ENGELMANN:** All right. So in that case,
8 there would be very few officers that would have access to
9 this information?

10 **MR. DEROCHIE:** Yes. I don't want to confuse
11 you, so I better tell you as well that when Heidi Sebalj
12 got this investigation in January 13th, of 1993, she opened
13 an OMPPAC incident. She created an OMPPAC incident. She
14 didn't add any reports to it, but created the incident.

15 **MR. ENGELMANN:** All right. And that wasn't
16 in the package of 13 documents that you received?

17 **MR. DEROCHIE:** No. No.

18 **MR. ENGELMANN:** Do you know why?

19 **MR. DEROCHIE:** Well, there wasn't anything
20 there to include.

21 **MR. ENGELMANN:** All right. All right. It
22 hadn't been -- it had been opened, but it really hadn't ---

23 **MR. DEROCHIE:** It hadn't been opened and all
24 that did was mark it in time as to when she got the
25 investigation.

1 **MR. ENGELMANN:** All right. So there wasn't
2 information that was put on at the time or ---

3 **MR. DEROCHIE:** Very, very little
4 information.

5 **MR. ENGELMANN:** All right. And then, sir,
6 the next document -- I'll just be a moment.

7 The third document in the package; if you
8 could look at document number 727784. It appears to be,
9 sir, another OMPPAC report. That's how it's described in
10 your notes as well; that it's an OMPPAC report that, I
11 guess, is printed on October 6th, 1993?

12 **THE COMMISSIONER:** It is Exhibit 1295, in
13 any event.

14 --- **EXHIBIT NO./PIÈCE No. P-1295:**

15 (727784) OMPPAC report - 06 Oct 93

16 **MR. DEROCHIE:** Yes, that's when it's
17 printed, yes.

18 **MR. ENGELMANN:** And again, sir, we have
19 publication ban issues?

20 **MR. DEROCHIE:** M'hm, yes.

21 **MR. ENGELMANN:** And when I look at this
22 document, Staff Sergeant Derochie, this document appears to
23 have more names on it as possible witnesses or witnesses?

24 **MR. DEROCHIE:** It appears; oh, yes, the ---

25 **MR. ENGELMANN:** We now have 24 names?

1 **MR. DEROCHIE:** Yes, but I see there are some
2 of the same names that are over here.

3 **MR. ENGELMANN:** Yes. No, no.

4 **MR. DEROCHIE:** Yeah.

5 **MR. ENGELMANN:** The list has grown from 17
6 to 24, if my math is right.

7 **MR. DEROCHIE:** Yes, you're quite right.

8 **MR. ENGELMANN:** All right. And I'm just a
9 little confused; October 4th on one; October 6th on another.
10 Does this mean that seven names were added between October
11 4th and October 6th or are you able to help us there?

12 **MR. DEROCHIE:** I don't know what was -- I
13 don't know what was her -- what the intent of Constable
14 Sebalj was at that particular time. I can tell you that
15 these documents were inputted by her.

16 **MR. ENGELMANN:** All right, but if there are
17 only 17 names on October 4th, does it go without saying that
18 names must have been added between the fourth and the sixth
19 because we have 24 names on October 6th?

20 **MR. DEROCHIE:** Certainly, I can't dispute
21 that.

22 **MR. ENGELMANN:** And that doesn't mean that
23 seven more people were interviewed ---

24 **MR. DEROCHIE:** No.

25 **MR. ENGELMANN:** --- between those dates. It

1 may just mean that she is adding information to the file.

2 **MR. DEROCHIE:** That's right.

3 **MR. ENGELMANN:** About work that may have
4 been done earlier?

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** Because I understood that
7 the vast majority of this -- well, that this information
8 was only put into OMPPAC at or around this time, in the
9 fall of 1993.

10 **MR. DEROCHIE:** That's right.

11 **MR. ENGELMANN:** Because there had been no
12 information put in during the course of her investigation.

13 **MR. DEROCHIE:** Again, this is in projects.
14 This report is in projects.

15 **MR. ENGELMANN:** Right?

16 **MR. DEROCHIE:** Okay.

17 **MR. ENGELMANN:** Well, I guess what I am
18 saying is my understanding was -- maybe I'm mistaken -- is
19 that during the course of the active investigation ---

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** --- until sometime in late
22 September, this information hadn't been put into OMPPAC,
23 whether we are talking projects or more generally. It
24 wasn't entered into OMPPAC?

25 **MR. DEROCHIE:** That's correct.

1 **MR. ENGELMANN:** And it's only being entered
2 in, in the fall of 1993, in October, at the direction of
3 the Chief?

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** Is that fair?

6 **MR. DEROCHIE:** That's fair.

7 **MR. ENGELMANN:** All right. So we now have
8 24 people identified as witnesses. Does that typically
9 mean that ---

10 **MR. DEROCHIE:** I would notice that the
11 suspect is also identified in the second document. I just
12 -- I didn't -- I haven't looked at each name, but that one
13 jumped out at me.

14 **MR. ENGELMANN:** Yes, number 16.

15 **MR. DEROCHIE:** M'hm.

16 **MR. ENGELMANN:** Yes, one of the suspects
17 from the original complaint?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** Correct?

20 **MR. DEROCHIE:** That's correct.

21 **MR. ENGELMANN:** And then the -- 19 through
22 24. Those names are all added; 16 and 19 through 24. So
23 when it says, "Witnesses," does that suggest that the
24 officer would have interviewed these people?

25 **MR. DEROCHIE:** No, not necessarily at all.

1 I don't know, I don't know why she's -- I don't know why
2 she put them in as witnesses, quite frankly.

3 **MR. ENGELMANN:** All right. So that doesn't
4 mean that she has actually spoken to these people?

5 **MR. DEROCHIE:** No, normally, you would get a
6 list of involved persons and when you are printing the
7 Crown Brief, you would get witnesses; it identifies that
8 person as a witness. You might have a number of other
9 involved person that would have nothing to do with the
10 investigation ultimately that you've produced to the Crown.

11 **MR. ENGELMANN:** Yes, so my understanding was
12 if they were potential witnesses or people you might want
13 to interview, they'd be involved persons, but when you
14 actually say "witnesses" I thought that they were
15 individuals that you'd actually spoken to. Am I mistaken?

16 **MR. DEROCHIE:** Well, that would -- that
17 makes sense.

18 **MR. ENGELMANN:** Okay.

19 **MR. DEROCHIE:** What you are saying is --
20 that makes sense, exactly, but I don't know why she would
21 include the suspect, for example, as a witness.

22 **MR. ENGELMANN:** Well, unless she had
23 interviewed him?

24 **MR. DEROCHIE:** Yes, and if she did interview
25 him, the suspect would not be a witness, though. He'd be

1 down as a suspect.

2 MR. ENGELMANN: Fair enough.

3 MR. DEROCHIE: He would be identified as a
4 suspect.

5 MR. ENGELMANN: And it is my understanding
6 that he had not been interviewed?

7 MR. DEROCHIE: That's my understanding as
8 well.

9 MR. ENGELMANN: All right.

10 THE COMMISSIONER: Tell me this; is there a
11 way of finding out when the other names were put in?

12 MR. DEROCHIE: At this date, Mr.
13 Commissioner, I don't believe so.

14 THE COMMISSIONER: No, no, okay, but back
15 then, in 1993, when you were looking at this, would you be
16 able to tell when new things went on?

17 MR. DEROCHIE: I would have been able to do
18 that, yes, by doing an offline search of the databank in
19 Toronto, by requesting that. I did not do that.

20 THE COMMISSIONER: Okay.

21 MR. ENGELMANN: And so in this case, we
22 don't have will says or statements attached. We have what
23 are known as supplementary reports?

24 MR. DEROCHIE: Yes, and I look at that and I
25 see what she's done here is -- is done an overview of the

1 results of her interviews of those people. That -- it
2 appears exactly what it is.

3 MR. ENGELMANN: And we have 12 people noted
4 out of the 24?

5 MR. DEROCHIE: That's correct.

6 MR. ENGELMANN: All right.

7 Sir, the next document, the fourth document
8 in the series, which I believe is already an exhibit, and I
9 think it's Exhibit 293, Mr. Commissioner. It's document
10 number -- well, actually, the document I have is 706139.

11 THE COMMISSIONER: Two, nine, three (293),
12 and that's an internal correspondence?

13 MR. ENGELMANN: Yes.

14 THE COMMISSIONER: To Inspector MacDonald
15 from Sergeant Nakic?

16 MR. ENGELMANN: That's correct.

17 THE COMMISSIONER: All right.

18 MR. ENGELMANN: Just a second, sir. The
19 clerk will bring you that exhibit in a minute.

20 MR. DEROCHIE: Yes.

21 MR. ENGELMANN: The document numbers may be
22 different, sir, but it's Exhibit 293.

23 MR. DEROCHIE: Yes. I get -- okay.

24 MR. ENGELMANN: It should be dated December
25 9, '92, yes. Sir, in a couple of these documents there's

1 slight differences because of some notations. So perhaps
2 we could just pull this one up on the screen. I don't
3 think anything turns on it.

4 **MR. DEROCHIE:** I have that document, yes.

5 **MR. ENGELMANN:** We're just going to pull it
6 up on the screen as well.

7 **MR. DEROCHIE:** I'm sorry.

8 **MR. ENGELMANN:** While it's happening, this
9 is a -- it's a document entitled "Internal Correspondence."

10 **MR. DEROCHIE:** That's correct.

11 **MR. ENGELMANN:** Does that have a special
12 meaning, sir, or is that just a memo?

13 **MR. DEROCHIE:** Just a memo, an interoffice
14 memo.

15 **MR. ENGELMANN:** All right.

16 And this is something that's written by
17 Sergeant Nakic?

18 **MR. DEROCHIE:** Sergeant Slavko Nakic, yes.

19 **MR. ENGELMANN:** And it's written to an
20 Inspector Stuart McDonald?

21 **MR. DEROCHIE:** Staff Inspector Stuart
22 McDonald.

23 **MR. ENGELMANN:** All right.

24 And I note there's some initials on the
25 page. Noted:

1 "Chief assigned Sergeant Lortie to
2 investigate."

3 That's a note from the Deputy Chief, is it,
4 sir?

5 **MR. DEROCHIE:** Deputy Chief Joseph St-Denis.

6 **MR. ENGELMANN:** On December 9th, '92?

7 **MR. DEROCHIE:** That's correct.

8 **MR. ENGELMANN:** And at the top of the page,
9 there was a notation, I believe, as well. Do you know what
10 that is?

11 **MR. DEROCHIE:** That's "LB." I would --
12 that's Luc Brunet.

13 **MR. ENGELMANN:** All right.
14 January 24th, is that 2000?

15 **MR. DEROCHIE:** It's '00.

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

17 So it was probably looked at at some point
18 later. But, sir, just -- there may be some different
19 notations on this. This internal correspondence would have
20 been the fourth document or fourth item in your package?

21 **MR. DEROCHIE:** Yes.

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

23 It may not have had that notation. It
24 probably didn't.

25 **MR. DEROCHIE:** It would not have, no.

1 **MR. ENGELMANN:** Yes, okay. All right.

2 And just about the document for a moment,
3 can you just tell us, thinking back to that time, was it a
4 common practice at that time to start a complaint coming in
5 through a memo?

6 **MR. DEROCHIE:** I wouldn't say it was common.
7 It wasn't uncommon either. You would get 99 percent of the
8 investigations were started -- were commenced by a
9 complaint which went through our comm. centre. Either
10 someone would call the comm. centre and request -- report a
11 -- report an incident and we would dispatch a uniformed car
12 to go and investigate it.

13 However, it also occurred at times when, for
14 example, when CAS would call one of the SACA investigators
15 and give them information, and that would also start an
16 investigation. This was a telephone call that probably
17 went to the comm. Centre, and I'm speculating now because I
18 don't recall the chain of events and because the
19 complainant was from out of town and didn't want an officer
20 to respond, it was passed off to the -- at that time, the
21 shift supervisor to deal with and that ---

22 **MR. ENGELMANN:** The shift supervisor being
23 Sergeant Nakic?

24 **MR. DEROCHIE:** Yes, it's my understanding
25 that he was in relieving the staff sergeant for lunch and

1 he took the call from Mr. Silmser.

2 MR. ENGELMANN: All right.

3 And, sir, at that time you had the OMPPAC
4 system in place for about three years?

5 MR. DEROCHIE: That's correct.

6 MR. ENGELMANN: And who first enters,
7 typically enters the doc -- enters the complaint into
8 OMPPAC? Would it have been someone like Sergeant Nakic
9 receiving ---

10 MR. DEROCHIE: No, I would -- I would
11 suggest to you that Sergeant Nakic would not have done
12 that.

13 MR. ENGELMANN: All right.

14 MR. DEROCHIE: He wouldn't have been trained
15 to do that ---

16 MR. ENGELMANN: All right.

17 MR. DEROCHIE: --- because there's more
18 specialized functions that you have to ---

19 MR. ENGELMANN: All right.

20 But it appears that the Deputy Chief at
21 least is assigning this matter to Sergeant Lortie the
22 following day?

23 MR. DEROCHIE: That's correct.

24 MR. ENGELMANN: Or the same day?

25 MR. DEROCHIE: The same day, yes.

1 **MR. ENGELMANN:** And would it typically then
2 be that officer who's assigned that would be tasked with
3 entering the document into OMPPAC?

4 **MR. DEROCHIE:** Typically, that officer
5 should have that done, yes.

6 **MR. ENGELMANN:** All right.

7 **MR. DEROCHIE:** But it wasn't uncommon that
8 it wouldn't be done right at the moment. It did happen.

9 **MR. ENGELMANN:** All right.

10 And, sir, the note says:

11 "Chief assigned Sergeant Lortie to
12 investigate."

13 Was that common practice at the time, that
14 the Chief would make the assignments?

15 **MR. DEROCHIE:** No.

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

17 Who typically would?

18 **MR. DEROCHIE:** Well, typically I would've.
19 This went to Staff Inspector McDonald who was responsible
20 for -- for CID at the time, Criminal Investigations
21 Division at the time. Typically, he would have made the
22 assignment.

23 **MR. ENGELMANN:** And if he didn't make it,
24 would it have gone up through the chain of command to the
25 Deputy Chief?

1 **MR. DEROCHIE:** It could have. It wouldn't
2 be ---

3 **MR. ENGELMANN:** All right.

4 **MR. DEROCHIE:** It wouldn't be -- it wouldn't
5 be normal, but it could happen that way. Anyone could make
6 the assignment, really, in the chain of command.

7 **MR. ENGELMANN:** But it was unusual, was it
8 not, that the Chief would make an assignment?

9 **MR. DEROCHIE:** It was, yes.

10 **THE COMMISSIONER:** Did you ever receive an
11 explanation from the Chief as to why he would have done it
12 this way?

13 **MR. DEROCHIE:** Well, it's my understanding,
14 Mr. Commissioner, that the Staff Inspector went to the
15 Deputy Chief and indicated that, "You know, we're stuck. I
16 don't have anybody to handle this right now. Could Lortie
17 do it?" Lortie was the intelligence officer and reported
18 directly to the Chief of Police. The Chief had -- he
19 reported to the Chief of Police, so the Chief had -- had
20 him under his supervision. You wouldn't -- you wouldn't
21 deploy Sergeant Lortie or assign him to something without
22 the Chief's authorization.

23 **MR. ENGELMANN:** I'm sorry, and I think you
24 might have misstated something. Did you say that Staff
25 Inspector McDonald went to the Deputy Chief to have Lortie

1 assigned, or he would have gone to the Chief?

2 **MR. DEROCHIE:** Well, the chain of command
3 would have been for him to go to the Deputy Chief and they
4 may well have together gone to the Chief. Their offices
5 were side by side. It may have been a three-way
6 conversation. I never -- if I did establish that, I don't
7 recall.

8 **MR. ENGELMANN:** All right.

9 **MR. DEROCHIE:** I didn't note it as being of
10 any significance.

11 **MR. ENGELMANN:** Okay. So it's my
12 understanding in this case that it was the Chief, not the
13 Deputy Chief who made the assignment?

14 **MR. DEROCHIE:** Exactly. The Chief -- the
15 Deputy Chief would not assign Sergeant Lortie without the
16 go-ahead from the Chief.

17 **MR. ENGELMANN:** And then, sir, the next
18 package in your -- the next item in your package, number
19 five, was a copy of a criminal record, a CPIC printout. Am
20 I correct?

21 **MR. DEROCHIE:** That's correct.

22 **MR. ENGELMANN:** And that was a CPIC printout
23 for Mr. Silmser?

24 **MR. DEROCHIE:** That's right.

25 **THE COMMISSIONER:** Is it usual to have a

1 criminal records check done on the complainant?

2 MR. DEROCHIE: Yes.

3 THE COMMISSIONER: Okay.

4 MR. DEROCHIE: I wouldn't say that was
5 unusual.

6 THE COMMISSIONER: I'm just asking.

7 MR. DEROCHIE: Yes. Oh, I'm sorry.

8 MR. ENGELMANN: Would it be -- was that
9 standard practice at the time?

10 MR. DEROCHIE: Yes, you'd want to know who
11 you're dealing with.

12 MR. ENGELMANN: All right.

13 And would you as well have done -- would the
14 standard practice be as well to check for a criminal record
15 for the alleged perpetrator?

16 MR. DEROCHIE: Oh, yes. Yes.

17 MR. ENGELMANN: Or the alleged offender?

18 MR. DEROCHIE: I'm sorry?

19 MR. ENGELMANN: Alleged perpetrator or
20 offender?

21 MR. DEROCHIE: Oh, yes. Yes.

22 MR. ENGELMANN: All right.

23 So if you're starting an investigation,
24 you'd be looking at both?

25 MR. DEROCHIE: That's correct.

1 **MR. ENGELMANN:** All right.

2 I'm almost positive this is already an
3 exhibit.

4 **THE COMMISSIONER:** What is it? Tell us what
5 it is.

6 **MR. ENGELMANN:** I just can't remember the
7 exhibit number, sir.

8 **THE COMMISSIONER:** Okay, that's ---

9 **MR. ENGELMANN:** It's Document Number 728449.

10 **THE COMMISSIONER:** And what is it, just to
11 help me?

12 **MR. ENGELMANN:** It's a copy of a CPIC
13 printout of a criminal record. And this particular one
14 has, I believe, has Mr. Derochie's initials on it. I'm
15 advised it actually may not be an exhibit, sir.

16 **THE COMMISSIONER:** All right.

17 Well, then let's ---

18 **MR. ENGELMANN:** If that could be marked as
19 the next exhibit?

20 **THE COMMISSIONER:** Certainly.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **THE COMMISSIONER:** Thank you.

23 Exhibit Number 1296 is a criminal record of
24 David John Silmser.

25 --- **EXHIBIT NO./PIÈCE No. P-1296:**

1 (728449) Criminal Record of David Silmser
2 dated 12 Mar, 93

3 **MR. ENGELMANN:** Sir, I'm looking at the
4 second page, would that be indicating to us that this
5 record check was done on the 12th of March of 1993?

6 **MR. DEROCHIE:** That's correct.

7 **MR. ENGELMANN:** All right.

8 And again, just to repeat, it is your
9 evidence that that was fairly standard practice at the
10 time, to order a CPIC check on an alleged victim of crime?

11 **MR. DEROCHIE:** Yes.

12 Well, let me -- let me just go a little bit
13 beyond that.

14 **MR. ENGELMANN:** Sure.

15 **MR. DEROCHIE:** It may not be routine in
16 every case but it would not be unusual in certain cases to
17 do that.

18 **MR. ENGELMANN:** All right. Well when you're
19 dealing with alleged victims of historical sexual abuse?

20 **MR. DEROCHIE:** Would it be common in those
21 circumstances?

22 **MR. ENGELMANN:** Yes.

23 **MR. DEROCHIE:** I wouldn't -- I can't say.

24 **MR. ENGELMANN:** All right. You told us
25 earlier you didn't investigate that yourself.

1 **MR. DEROCHIE:** No. No. But speaking from
2 my own experience I would want to know who I'm dealing
3 with; I'd want all the facts about who I was dealing with.
4 So I wouldn't think it's unusual that this was done.

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

6 **MR. DEROCHIE:** It wouldn't flag anything or
7 suggest anything to me.

8 **MR. ENGELMANN:** All right. And then the
9 next item in your package, Document Number 728450.

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **THE COMMISSIONER:** Thank you.

12 Exhibit Number 1297 is a query not on file.
13 It looks like a request for a criminal record check?

14 **MR. DEROCHIE:** No, but it's a -- you query
15 CPIC and this comes back and tells you there's no --
16 there's no record on CPIC for this individual.

17 **THE COMMISSIONER:** All right.

18 **--- EXHIBIT NO. /PIÈCE No. P-1297:**

19 (728450) Criminal record query re Charles
20 MacDonald dated 18 Feb, 93

21 **MR. ENGELMANN:** And would this tell us that
22 on or about February 18th of 1993 that someone would have
23 made an inquiry about a criminal record check for Charles
24 MacDonald?

25 **MR. DEROCHIE:** That's correct.

1 **MR. ENGELMANN:** Now in this package there
2 was no reference to a CPIC check for a Mr. Ken Seguin?

3 **MR. DEROCHIE:** That's correct.

4 **MR. ENGELMANN:** To your knowledge, was one
5 ever asked for?

6 **MR. DEROCHIE:** To my knowledge -- I have no
7 knowledge that one was, no.

8 **MR. ENGELMANN:** All right.

9 **THE COMMISSIONER:** So, sir, it would
10 interest me then, I'm looking at this document it says
11 "Male, white, born", so you've got his age, you've got his
12 eye colour, you've got his height and you've got something
13 about a finger and first knuckle. Where would they have
14 gotten that?

15 **MR. DEROCHIE:** They would have -- this
16 information -- the system checks the information you've
17 provided. It's whatever -- the more information you
18 provide the better score you get. You can see that this
19 query had a score value of 25.

20 **THE COMMISSIONER:** Yes.

21 **MR. DEROCHIE:** The response value is 10. We
22 don't have exactly -- the system is telling us we don't
23 have exactly this guy, but here's the closest we have to
24 this person you're asking about.

25 **THE COMMISSIONER:** Okay, and so when they

1 tell you this male and all of that, that's what ---

2 **MR. DEROCHIE:** There is, on the system, a
3 record for this -- this particular Mr. MacDonald that have
4 all of these descriptors appended to him.

5 **THE COMMISSIONER:** Okay. Okay, all right, I
6 understand. Thank you.

7 **MR. ENGELMANN:** Sir, the seventh item in
8 your package, Document 724203, and from your note it
9 indicates this is a copy of a transmittal slip from the
10 Deputy Chief to Staff Sergeant Brunet, dated January 8th,
11 '93.

12 **MR. DEROCHIE:** That's correct.

13 **THE COMMISSIONER:** Thank you.

14 Exhibit 1298.

15 --- **EXHIBIT NO./PIÈCE No. P-1298:**

16 (724203) Note from Deputy Chief to S/Sgt.
17 Brunet dated 08 Jan, 93

18 **MR. ENGELMANN:** Now the copy is not very
19 good, Staff Sergeant Derochie, but if I'm correct the
20 handwritten note is printed underneath, so that what's
21 handwritten on the transmittal slip is actually printed
22 below?

23 **MR. DEROCHIE:** That's right.

24 **MR. ENGELMANN:** Am I correct -- there's some
25 boxes there that, I guess, don't get captured.

1 MR. DEROCHIE: Right at the top you mean?

2 Oh, below, I see.

3 MR. ENGELMANN: Yes.

4 Do you know what those ---

5 MR. DEROCHIE: Those are action boxes; you
6 know, get back to me, follow-up, or you know, those types
7 of things.

8 MR. ENGELMANN: All right.

9 MR. DEROCHIE: Like you would get in a --
10 it's probably like a -- similar to a telephone message --
11 action, a list of actions that you could ---

12 MR. ENGELMANN: And there's something, I
13 think it says "NB, one month already went by on this."

14 MR. DEROCHIE: Yeah.

15 MR. ENGELMANN: It's just at the bottom in
16 the shaded area.

17 MR. DEROCHIE: Yeah.

18 MR. ENGELMANN: So that would be a comment
19 from, presumably the Deputy Chief to the officer in charge
20 of CIB, Staff Sergeant Brunet?

21 MR. DEROCHIE: Yeah.

22 MR. ENGELMANN: So on January 8 he's re-
23 assigning the file?

24 MR. DEROCHIE: That is correct.

25 MR. ENGELMANN: And he seems to be quite

1 concerned about -- at least from the note in any event --
2 someone getting on this right away.

3 MR. DEROCHIE: That was my impression, yes.

4 MR. ENGELMANN: Because it says:

5 "This could possibly turn into an
6 alpha-type situation, therefore, please
7 assign ASAP. The new investigator
8 should see and discuss this with
9 Sergeant Lortie."

10 MR. DEROCHIE: Yes.

11 MR. ENGELMANN: Well, I'm a little confused
12 by that. Sergeant Lortie is away; correct?

13 MR. DEROCHIE: Yes, he is.

14 MR. ENGELMANN: And that's why it's being
15 re-assigned?

16 MR. DEROCHIE: That's right.

17 MR. ENGELMANN: So how would it save time to
18 have a new investigator see Sergeant Lortie?

19 Perhaps that's a question better asked for
20 the Deputy Chief.

21 Do you understand my point?

22 MR. DEROCHIE: Yes, I understand your point.

23 MR. ENGELMANN: Presumably he wants to get
24 someone working on it because Sergeant Lortie is not there?

25 MR. DEROCHIE: That's correct. He had post

1 Sergeant Lortie sometime between Christmas and New Years
2 and asked for an update on the investigation. Staff
3 Sergeant Lortie informed him of what action he had taken,
4 which was to contact the complainant and arrange a meeting
5 with the complainant in the New Year; to take a statement
6 and start the investigation.

7 MR. ENGELMANN: All right, this is all
8 information you would have received from one of them?

9 MR. DEROCHIE: That's correct.

10 MR. ENGELMANN: But it just seems unusual to
11 re-assign, get someone on it but then have them go back and
12 talk to Lortie.

13 MR. DEROCHIE: Yeah, I commented on that.

14 MR. ENGELMANN: Why not just keep them on
15 it?

16 MR. DEROCHIE: I made that notation that,
17 what was the point of this.

18 MR. ENGELMANN: All right. Now, you had
19 nothing to do with this until October 7 of 1993?

20 MR. DEROCHIE: That's correct.

21 MR. ENGELMANN: In fact, did you know -- had
22 you ever heard the name David Silmsler before October 7,
23 1993?

24 MR. DEROCHIE: No I had not.

25 MR. ENGELMANN: All right. So you weren't

1 one of the people that needed to know that project's file?

2 MR. DEROCHIE: That's correct.

3 MR. ENGELMANN: All right. Let's then look
4 at the next document, document -- Item Number 8.

5 Mr. Commissioner, I believe it's Exhibit 311
6 already.

7 THE COMMISSIONER: What is it?

8 MR. ENGELMANN: It is a letter from
9 Monsignor Schonenbach ---

10 THE COMMISSIONER: Yes.

11 MR. ENGELMANN: --- to Monsignor McDougald.

12 THE COMMISSIONER: And it's dated December
13 11th, 1992?

14 MR. ENGELMANN: That's correct. Exhibit
15 311.

16 Staff Sergeant Derochie, I understand
17 though, the actual copies that you received you initialled?

18 MR. DEROCHIE: I initial -- I initial ---

19 MR. ENGELMANN: I have another document
20 number of the same letter with your initials on it.

21 MR. DEROCHIE: I understood that's what you
22 were -- you said at the start, yes.

23 MR. ENGELMANN: Okay. Fair enough.

24 But the letter is the same letter, so I'm
25 just referring you to this one.

1 **MR. DEROCHIE:** I -- I have no question about
2 that.

3 **MR. ENGELMANN:** All right.

4 So this was the -- this was the eighth item
5 in this package you received?

6 **MR. DEROCHIE:** That's correct.

7 **MR. ENGELMANN:** And, sir, I'm wondering,
8 were you surprised to find a letter from ---

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** --- one church official to
11 another, in your police file?

12 **MR. DEROCHIE:** Yes, I was.

13 **MR. ENGELMANN:** All right. Did you know, at
14 that time, how it came to get there?

15 **MR. DEROCHIE:** Not at this time, no.

16 **MR. ENGELMANN:** Did you later find out?

17 **MR. DEROCHIE:** I did.

18 **MR. ENGELMANN:** And what -- what did you
19 find out about how this came into the possession of the
20 Cornwall Police Service?

21 **MR. DEROCHIE:** It was my understanding that
22 this was turned over by Mr. Malcolm MacDonald.

23 **MR. ENGELMANN:** Okay. And turned over by
24 him to who?

25 **MR. DEROCHIE:** To Heidi Sebalj.

1 **MR. ENGELMANN:** And was that fairly early on
2 in the investigation in this matter, to your understanding?

3 **MR. DEROCHIE:** I would think it was fairly
4 early on, yes.

5 **MR. ENGELMANN:** Sir, the next document, item
6 number 9, I believe is the actual next exhibit, 312, and
7 this -- this would be a letter from Angus Malcolm
8 MacDonald, Q.C., to Monseigneur Donald McDougald, dated
9 December 21st, 1992. Would this have been the ninth item in
10 the package, sir?

11 **MR. DEROCHIE:** That's correct.

12 **MR. ENGELMANN:** Again, would this be rather
13 unusual to find, as well, a letter from the defence lawyer
14 to a representative of the church?

15 **MR. DEROCHIE:** I thought it was.

16 **MR. ENGELMANN:** And again, at the time you
17 didn't know how it got there?

18 **MR. DEROCHIE:** That's correct.

19 **MR. ENGELMANN:** Did you later find out?

20 **MR. DEROCHIE:** The same way, yes.

21 **MR. ENGELMANN:** All right.

22 **MR. DEROCHIE:** It was given by Malcolm
23 MacDonald to Heidi Sebalj.

24 **MR. ENGELMANN:** Did you -- did you find out
25 during the course of looking into this, just how many times

1 Malcolm MacDonald would have been in touch with either
2 Constable Sebalj or Luc Brunet?

3 **MR. DEROCHIE:** I would -- I -- I can't -- I
4 would say it was three or four times; I wouldn't be able to
5 say without going back to my notes or looking into it
6 really deep, I wouldn't be able to say specifically how
7 many times, but yes.

8 **MR. ENGELMANN:** And, sir, it just strikes me
9 as being somewhat unusual that an officer investigating the
10 case would have several contacts with a defence lawyer; is
11 that common, to your knowledge?

12 **MR. DEROCHIE:** Pre-charge, it's -- I would
13 think it was unusual.

14 **MR. ENGELMANN:** And is it -- aren't there
15 risks for police officers engaging in conversations with
16 defence counsel? "Risks", in the sense of everything you
17 say, you may be called as a witness?

18 **MR. DEROCHIE:** Absolutely, yeah. There's
19 risks involved inherent with doing that, yes.

20 **MR. ENGELMANN:** And would it -- would it be
21 -- I mean, was that your experience, to take calls and have
22 interactions with defence counsel, as you're investigating
23 ---

24 **MR. DEROCHIE:** No, but I -- I've heard of it
25 happening. I've heard of it happening before and I've had

1 lawyers call about investigations that -- that someone
2 under my -- my supervision was -- was having; they would
3 call me for a various number of reasons and it -- and it
4 did happen from time-to-time.

5 But, as you say, it's unusual and there's
6 some inherent risks with that.

7 **MR. ENGELMANN:** And was there a protocol
8 about how to deal with those and was there someone in
9 particular on the Force that was supposed to deal with the
10 lawyers?

11 **MR. DEROCHIE:** No.

12 **MR. ENGELMANN:** All right.

13 **MR. DEROCHIE:** Not to my knowledge.

14 **MR. ENGELMANN:** Was there at least a
15 practice at the time, that perhaps this was not a good
16 practice to engage in?

17 **MR. DEROCHIE:** I would say no there wasn't a
18 practice, there wasn't a standard, there wasn't a protocol.

19 **MR. ENGELMANN:** But it just wasn't something
20 you would do?

21 **MR. DEROCHIE:** Well, I would do it and I
22 have done it under -- under circumstances. It does happen,
23 but it's unusual to happen.

24 **MR. ENGELMANN:** All right. So you wouldn't
25 agree with me that it's something that police officers who

1 are investigating complaints should avoid?

2 **MR. DEROCHIE:** Yeah, I would agree with
3 that. I would agree that they shouldn't do that.

4 I agree with that now, now that's I've, you
5 know, had this experience over these years over this thing,
6 but I can remember it happening to -- to other
7 investigators and it happening to me, so...

8 **MR. ENGELMANN:** All right. But if you were
9 instructing investigators, as a supervisor, it might be
10 something that you would suggest was not a good practice?

11 **MR. DEROCHIE:** Yeah, I would want it under
12 -- under controlled circumstances and I would want it ---

13 **MR. ENGELMANN:** Yes.

14 Sir, the tenth item, this is, I believe,
15 Exhibit 299; it's a letter from Angus Malcolm MacDonald to
16 Detective Sergeant Luc Brunet?

17 **MR. DEROCHIE:** M'hm, yes.

18 I'm sorry, the exhibit number, again, was?

19 **THE COMMISSIONER:** Two ninety-nine (299).

20 **MR. ENGELMANN:** Two nine nine (2-9-9), sir.

21 It should be that same book that you have.

22 **MR. DEROCHIE:** Yes, it is.

23 **MR. ENGELMANN:** It's a letter dated
24 September 3rd, 1993.

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** Was this the tenth item in
2 the package you received?

3 **MR. DEROCHIE:** Yes, it was.

4 **MR. ENGELMANN:** Sir, when you saw this,
5 again, is this something that you would expect to find in a
6 police file?

7 **MR. DEROCHIE:** I wouldn't expect to find it.

8 **MR. ENGELMANN:** Would you -- would you agree
9 with me that it's unusual to -- to have a letter like this
10 in a police file?

11 **MR. DEROCHIE:** Well, only in that it's from
12 the -- from the defence lawyer.

13 I would suggest to you that anything we
14 receive with regards to the file would be found in the --
15 in this particular file.

16 **MR. ENGELMANN:** Fair enough. But you've got
17 a letter from a defence lawyer, writing -- enclosing a
18 statement signed by the alleged victim.

19 **MR. DEROCHIE:** Yeah, very unusual.

20 **MR. ENGELMANN:** Very unusual.

21 **MR. DEROCHIE:** M'hm.

22 **MR. ENGELMANN:** Ever see anything like that
23 before?

24 **MR. DEROCHIE:** No.

25 **MR. ENGELMANN:** Doesn't it make you stop and

1 think for a minute, "I've never seen it before. It's very
2 unusual". Make you stop and think about why the defence
3 counsel's writing to you about the alleged victim?

4 **MR. DEROCHIE:** I don't recall -- I don't
5 recall giving it any consideration ---

6 **MR. ENGELMANN:** All right.

7 **MR. DEROCHIE:** --- at the time.

8 **MR. ENGELMANN:** All right. If you were
9 investigating that though, sir, you would agree with me
10 that was unusual?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** All right.

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** Item number 11, I believe
15 it's Exhibit 300; a letter dated September 9th, 1993, from
16 Staff Sergeant Brunet to Murray MacDonald?

17 **MR. DEROCHIE:** Yes, I have it.

18 **MR. ENGELMANN:** This was the eleventh item
19 in the package, sir?

20 **MR. DEROCHIE:** It was the eleventh, yes.

21 **MR. ENGELMANN:** All right. This letter
22 refers to a civil settlement; do you see that?

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** And it mentions that the
25 previous letter that we looked at had a statement attached

1 to it saying that the alleged victim had received a civil
2 settlement.

3 MR. DEROCHIE: Yes.

4 MR. ENGELMANN: Was the civil settlement in
5 the package that you received?

6 MR. DEROCHIE: No.

7 MR. ENGELMANN: Was it on the file, at all,
8 sir, to your knowledge?

9 MR. DEROCHIE: No.

10 MR. ENGELMANN: Was it something you ever
11 saw?

12 MR. DEROCHIE: No.

13 MR. ENGELMANN: Do you know, sir, if either
14 you or anyone else ever asked to see it?

15 MR. DEROCHIE: I didn't ask to see it.

16 MR. ENGELMANN: All right.

17 Item number 12, I believe, is Exhibit 301
18 and it's a letter from Crown Attorney Murray MacDonald to
19 Staff Sergeant Lucien Brunet?

20 MR. DEROCHIE: Yes, I have it.

21 MR. ENGELMANN: Sir, the letter refers to
22 information -- now, I know you had no knowledge of this
23 until October 7th, when you -- either that day or later,
24 when you opened this package and -- and you read what's in
25 it.

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** Did you have some sense then
3 or shortly thereafter who would have provided the
4 information to Murray MacDonald to make the comments he
5 does here?

6 **MR. DEROCHIE:** With regards to the protocol
7 of not investigating or forcing ---

8 **MR. ENGELMANN:** For example, in the first
9 full paragraph, the "officer was tentative" -- this would
10 be a reference to Constable Sebalj?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** And I am just wondering what
13 officers he may have received information from. I know you
14 had a couple of meetings.

15 **MR. DEROCHIE:** Oh, yeah, it was Constable
16 Sebalj. He got this impression from speaking to Constable
17 Sebalj.

18 **MR. ENGELMANN:** All right. And do you know
19 if he was also speaking to Staff Sergeant Brunet as well
20 for information?

21 **MR. DEROCHIE:** Oh, yes, he was. Yes, he
22 was.

23 **MR. ENGELMANN:** All right. And do you know
24 if there were other officers from the Force he was speaking
25 to?

1 **MR. DEROCHIE:** I know that he spoke to
2 Sergeant Lortie and to Perry Dunlop.

3 **MR. ENGELMANN:** All right. Do you know if
4 there were others?

5 **THE COMMISSIONER:** Who did? Mr. Murray
6 MacDonald did?

7 **MR. ENGELMANN:** Yes.

8 **MR. DEROCHIE:** Yes.

9 **THE COMMISSIONER:** Okay.

10 **MR. ENGELMANN:** Deputy Chief, Chief, others?
11 We'll come to it. We'll come to it in your notes.

12 **MR. DEROCHIE:** Yeah.

13 **MR. ENGELMANN:** Yes. And, as I said, you
14 later spoke to Murray MacDonald ---

15 **MR. DEROCHIE:** I did.

16 **MR. ENGELMANN:** --- on at least a couple of
17 occasions ---

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** --- about this matter?

20 **MR. DEROCHIE:** That's correct.

21 **MR. ENGELMANN:** All right. And sir, the
22 thirteenth item, I believe is Exhibit 269. It's a
23 handwritten note dated September 29th, 1993.

24 **THE COMMISSIONER:** It's another book, sir.
25 Hang on.

1 MR. DEROCHIE: Thank you.

2 MR. ENGELMANN: Sir, would this have been
3 the last item in the package that you would have received?

4 MR. DEROCHIE: Yes.

5 MR. ENGELMANN: And was this a note that was
6 actually written on a notebook of some sort or can you
7 recall?

8 MR. DEROCHIE: I'm sorry, I can't recall.

9 MR. ENGELMANN: That's fine.

10 And again, this refers to a settlement
11 again, this time, from the Cornwall Catholic Diocese;
12 correct?

13 MR. DEROCHIE: Yes.

14 MR. ENGELMANN: Again, there was never any
15 settlement documents, court documents or anything else that
16 you saw?

17 MR. DEROCHIE: No.

18 MR. ENGELMANN: And sir, it is my
19 understanding that the Deputy Chief didn't brief you on the
20 facts that you went to Luc Brunet to get a briefing on the
21 facts?

22 MR. DEROCHIE: I'm sorry; could you repeat
23 that?

24 MR. ENGELMANN: The Deputy Chief didn't
25 brief you on any of these facts at the beginning. He

1 suggested to you in that note that you go see Luc Brunet?

2 MR. DEROCHIE: That's correct.

3 MR. ENGELMANN: And you, in fact, did that?

4 MR. DEROCHIE: I did.

5 MR. ENGELMANN: And I understand that you
6 did that on or about the 12th of October 1993? And I
7 believe that's referenced in your notes.

8 MR. DEROCHIE: Yes, that's correct.

9 MR. ENGELMANN: Sir, if you look at the
10 bottom of the fourth page of your notes, you have a
11 reference to October 12th?

12 MR. DEROCHIE: Yes.

13 MR. ENGELMANN: And again the notes are made
14 on the 2nd of November?

15 MR. DEROCHIE: That's correct.

16 MR. ENGELMANN: About three weeks later.

17 MR. DEROCHIE: Yes.

18 MR. ENGELMANN: All right. And so this is
19 when you would have first started -- in fact, I don't know
20 what I should call this. Is it an investigation?

21 THE COMMISSIONER: An internal review?

22 MR. DEROCHIE: It's -- originally, when I
23 first got it, it was my understanding that it was a Police
24 Act type of an investigation.

25 THE COMMISSIONER: Okay.

1 **MR. DEROCHIE:** But that thought lasted very
2 -- for a very short period of time in my mind, and it
3 became something else altogether; it became more of an
4 internal review of what -- how this came to be in Mr.
5 Dunlop's possession and subsequently in Mr. -- or in CAS'
6 possession.

7 **MR. ENGELMANN:** Okay, well, it started as --
8 -

9 **MR. DEROCHIE:** I can tell you what my
10 thinking was when I approached Perry about it, I told him,
11 "Perry I've been asked to do a Police Act investigation
12 into it." So ---

13 **MR. ENGELMANN:** Yes.

14 **MR. DEROCHIE:** That was in -- just to make
15 sure that he understood, you know.

16 **MR. ENGELMANN:** And that's how it at least
17 was initially set out by the Deputy Chief?

18 **MR. DEROCHIE:** Yes. It was my understanding
19 he never said this is -- I don't recall that he ever said
20 this is a Police Act investigation, but ---

21 **MR. ENGELMANN:** No, but he said it was a
22 serious violation of trust.

23 **MR. DEROCHIE:** It was a serious -- yes, yes.

24 **MR. ENGELMANN:** And so you were at least
25 perhaps initially investigating it as a *Police Services Act*

1 charge?

2 MR. DEROCHIE: That's fair.

3 MR. ENGELMANN: And you would have told Mr.
4 Dunlop about that?

5 MR. DEROCHIE: That's correct.

6 MR. ENGELMANN: But soon into your
7 investigation, you determined that it wasn't going to be a
8 *Police Services Act* charge.

9 MR. DEROCHIE: Yes.

10 MR. ENGELMANN: Is that fair?

11 MR. DEROCHIE: That's fair, yes.

12 MR. ENGELMANN: All right. We'll go through
13 that.

14 MR. DEROCHIE: M'hm.

15 MR. ENGELMANN: But this really seems to
16 start, at least from an investigation or a review point,
17 with your meeting with Staff Sergeant Brunet.

18 MR. DEROCHIE: Yes.

19 MR. ENGELMANN: I'm not saying you haven't
20 read documents and things, but he's the first person you
21 interview?

22 MR. DEROCHIE: That's correct.

23 MR. ENGELMANN: All right.

24 THE COMMISSIONER: Before we get away from
25 the documents that you received ---

1 **MR. ENGELMANN:** Yes?

2 **THE COMMISSIONER:** --- I am looking at
3 Exhibit 1294, which is the first document that you would
4 have -- actually it's document -- I don't know what
5 document it is.

6 **MR. ENGELMANN:** The first OMPPAC report,
7 sir?

8 **THE COMMISSIONER:** The first OMPPAC report.
9 Thank you.

10 And you are saying that this is a special
11 project, and you look at the 0011. Does that tell you as
12 well that this is the first project on OMPPAC for the year?

13 **MR. DEROCHIE:** When you create an OMPPAC
14 project, you have to give it a name.

15 **THE COMMISSIONER:** Right.

16 **MR. DEROCHIE:** And you can create as many
17 OMPPAC policies -- or projects as you want.

18 **THE COMMISSIONER:** Right.

19 **MR. DEROCHIE:** So this would have -- the
20 OMPPAC project that was created on this particular incident
21 was entitled "Silmsers."

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

23 **MR. DEROCHIE:** And the first incident they
24 created under the Silmsers Project was incident 11 and
25 typically, you don't go beyond the first. It's normally

1 one project, one investigation type of thing. So it's
2 always -- in any given project, you're normally dealing
3 with incident number 11.

4 **THE COMMISSIONER:** I guess I'm trying to get
5 some idea of how many projects would there be a year in
6 this type of -- in 1993?

7 **MR. DEROCHIE:** Oh, there would be a handful,
8 if that.

9 **THE COMMISSIONER:** Not very many.

10 **MR. DEROCHIE:** Not very many.

11 **THE COMMISSIONER:** Okay.

12 **MR. ENGELMANN:** Just to follow up on that,
13 if I can then; you told us that when you're entering into
14 projects, it's going to be need-to-know only?

15 **MR. DEROCHIE:** That's right.

16 **MR. ENGELMANN:** And we know that you didn't
17 know ---

18 **MR. DEROCHIE:** I didn't know.

19 **MR. ENGELMANN:** --- about this
20 investigation, and that project files aren't opened often.

21 **MR. DEROCHIE:** No.

22 **MR. ENGELMANN:** What are reasons for why a
23 project file would be opened?

24 **MR. DEROCHIE:** When you want to keep
25 information confidential within -- from people who are not

1 involved or don't have a reason to know about information
2 and typically it's dealing with high profile cases where
3 there would be an unusual amount of interest because of the
4 status of the person that's being investigated or who is
5 the victim or because if the information gets out, it might
6 alert the person you are investigating and it might hinder
7 the investigation, small communities, you know, people
8 being what they are. Police officers being people from the
9 community, everybody -- you know, you might -- something
10 might slip, and you want to protect the integrity of your
11 investigation.

12 **MR. ENGELMANN:** Okay, but in this case, for
13 example, we saw these letters from the two church officials
14 and from the defense counsel church officials, so they
15 would have known at least in the case of the one alleged
16 suspect ---

17 **MR. DEROCHIE:** Oh, I think in this
18 particular case, Mr. Engelmann, if that's what you're
19 getting to, was to protect the integrity of the information
20 from other members of the Police Service in this case,
21 because we'd already had a breach of the security or what
22 we would hold to be the officers' and every officer's
23 responsibility to keep documents private. We had
24 information that Mr. Dunlop at least made one copy of this
25 document, took it outside the Police Service and, at a

1 minimum, shared it with his wife and then provided a copy
2 with CAS. Under those circumstances, it would have been
3 irresponsible not to ---

4 **MR. ENGELMANN:** Okay, I'm confused then. I
5 thought a decision to enter this as a projects file was
6 made much earlier. Are you saying that decision would have
7 only been made in October, after the release to the CAS?

8 **MR. DEROCHIE:** Well, that's -- that's what
9 motivated Chief Shaver, in my mind, to create the project
10 at this time. Originally, when he assigned it to Lortie, I
11 would assume -- I heard also about the -- about that Shaver
12 wanted it in projects, but I don't think Shaver wanted it
13 in projects in December of -- on December 9th of 2002.

14 **MR. ENGELMANN:** So we'll ask him then.

15 **THE COMMISSIONER:** Nineteen ninety-two
16 (1992).

17 **MR. DEROCHIE:** I'm sorry; 1992, yes.

18 **MR. ENGELMANN:** Okay, but you're saying that
19 by October, because of the breach or the ---

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** --- the turning over of the
22 document ---

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** --- I'll call it, to the
25 CAS, there would have been then reasons to open it as a

1 project file?

2 MR. DEROCHIE: Oh yes. Oh yes. In my
3 opinion yes, it was very -- it was incumbent upon the Chief
4 to do it that way at that time.

5 MR. ENGELMANN: Okay. But back in January
6 of '93 certainly there would be no reason to do that if
7 you're concerned about the alleged suspect not knowing.

8 MR. DEROCHIE: Oh no, not for that reason,
9 no. You're right.

10 MR. ENGELMANN: Unless the alleged suspect
11 was Mr. Seguin and there may not have been as much
12 knowledge about him at the time.

13 In any event ---

14 MR. DEROCHIE: I can't speculate.

15 MR. ENGELMANN: Yes, fair enough.

16 THE COMMISSIONER: I'm sorry; maybe because
17 it's late in the day, Sibalj opened an OMPPAC file ---

18 MR. DEROCHIE: Yes, she does.

19 THE COMMISSIONER: --- in early January of
20 1993.

21 MR. DEROCHIE: January 13th.

22 THE COMMISSIONER: January 13th. When does
23 it become a project file?

24 MR. DEROCHIE: In October of 1993.

25 THE COMMISSIONER: Of 1993, okay.

1 **MR. ENGELMANN:** And sir, to your knowledge,
2 is there anything put on OMPPAC between January 13th, '93
3 and early October when Constable Sebalj enters it into a
4 project file?

5 **MR. DEROCHIE:** No.

6 **MR. ENGELMANN:** All right.

7 **THE COMMISSIONER:** And is that unusual?

8 **MR. DEROCHIE:** Yes. Not unheard of but yes,
9 it's unusual.

10 Maybe I should go back and explain that a
11 little bit, just a little bit.

12 It was quite common pre-OMPPAC for officers
13 to do virtually the whole investigation in their notebook
14 and then -- because they had to handwrite reports they
15 would write out their synopsis at the very end to avoid
16 duplication.

17 There was somewhat of a carryover to that
18 and that, plus the fact that I came to learn that the staff
19 sergeant in charge of CIB, because of the workload in
20 there, was not requiring written updates on a regular
21 basis, he was satisfied with verbal updates.

22 Creating the incident in OMPPAC in January
23 resulted in a situation that every time Staff Sergeant
24 Brunet opened up OMPPAC and his workload list, this
25 incident would stare him in the face. So he knew it was

1 there.

2 Any time Heidi Sebalj opened up her case
3 assignments this thing was there staring her in the face.
4 So to that regard this case was -- there was constant
5 reminder to both Brunet and to Sebalj that this case was on
6 the books and active.

7 **MR. ENGELMANN:** But presumably by not adding
8 anything to the OMPPAC file about what people are doing,
9 the advantages of using it are lost?

10 **MR. DEROCHIE:** Yes, true.

11 **MR. ENGELMANN:** And if it was introduced in
12 1989, at least Constable Sebalj would have been a junior
13 officer at that time.

14 **MR. DEROCHIE:** Constable Sebalj was quite
15 competent with OMPPAC; she's a very competent officer.

16 **MR. ENGELMANN:** Yes, I would have thought
17 that ---

18 **MR. DEROCHIE:** She knew how to do data
19 entry, everything.

20 **MR. ENGELMANN:** Yeah, I would have thought
21 all of your junior officers would have come in, at or
22 around the time of OMPPAC would be well trained in it?

23 **MR. DEROCHIE:** Yes, some of them were --
24 some of them had high degrees of skill, high levels of
25 skill.

1 **THE COMMISSIONER:** Mr. Engelmann ---

2 **MR. DEROCHIE:** They didn't ---

3 **THE COMMISSIONER:** Sorry, if you can pick a
4 spot to complete for the day.

5 **MR. DEROCHIE:** Just to finish on that point,
6 Mr. Commissioner.

7 We didn't -- we didn't provide the training
8 for all of our officers, whether they were competent or not
9 to do their own data entry. There was a certain amount of
10 control we wanted over the quality of the data going in
11 there, and that's just strictly a philosophy that we
12 adopted as our police service.

13 We had hired data entry clerks to do that.
14 So our officers at this time, to get data entry going, were
15 doing handwritten reports, submit it for data entry.

16 Constable Sebalj was a very competent typist
17 and she -- there wasn't a loss of efficiency by having her
18 do her own data entry.

19 We would have some police officers doing a
20 report, it would take them all day to do it.

21 **THE COMMISSIONER:** Well, I know but in
22 retrospect, notwithstanding her competency in typing, she
23 didn't put anything in.

24 **MR. DEROCHIE:** She didn't, no.

25 **MR. ENGELMANN:** Maybe we should end it

1 there, sir.

2 **THE COMMISSIONER:** All right.

3 **MR. ENGELMANN:** I was going to get into the
4 interview with Staff Sergeant Brunet but ---

5 **THE COMMISSIONER:** No.

6 **MR. ENGELMANN:** --- let's leave it there, if
7 I can.

8 **THE COMMISSIONER:** Thank you.

9 We'll come back tomorrow morning at 9:30.

10 So a reminder that we'll go to 1:30, because
11 tomorrow is Friday. So bring an apple or a fruit because
12 lunch will be on the run. All right?

13 **MR. DEROCHIE:** Thank you.

14 **THE COMMISSIONER:** Thank you.

15 **THE REGISTRAR:** Order. All rise. À
16 l'ordre, veuillez vous lever.

17 This hearing is adjourned until tomorrow
18 morning at 9:30 a.m.

19 --- Upon adjourning at 4:33 p.m./

20 L'audience est ajournée à 16h33

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C E R T I F I C A T I O N

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.



Sean Prouse, CVR-CM