

**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 336

Held at :

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

Friday, January 16, 2009

Tenue à:

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

Vendredi, le 16 janvier 2009

Appearances/Comparutions

Ms. Brigitte Beaulne	Registrar
M ^e Pierre R. Dumais	Commission Counsel
Ms. Mary Simms	
Mr. Jack Briscoe	
Mr. Peter Manderville	Cornwall Community Police Service and Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Ms. Diane Lahaie	
Mr. Darrell Kloeze	Attorney General for Ontario
Mr. Stephen Scharbach	
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
M ^e Gisèle Levesque	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Mr. Lorne McConnery	
Ms. Cosette Chafe	

Table of Contents / Table des matières

	Page
List of Exhibits :	iv
LORNE McCONNERY, Resumed/Sous le même serment	1
Cross-Examination by/Contre-interrogatoire par Ms. Gisèle Lévesque	1
Cross-Examination by/Contre-interrogatoire par Mr. Peter Manderville	5
Cross-Examination by/Contre-interrogatoire par Ms. Diane Lahaie	97
Cross-Examination by/Contre-interrogatoire par Mr. William Carroll	131
Cross-Examination by/Contre-interrogatoire par Mr. Darrell Kloeze	140
Housekeeping Matters by/Matières administratives par M ^e Pierre Dumais	177
COSETTE CHAFE, Affired/Sous affirmation solennelle	178
Examination in-Chief by/Interrogatoire en-chef par M ^e Pierre Dumais	178

LIST OF EXHIBITS/LISTE D'EXHIBITS

NO.	DESCRIPTION	PAGE NO
P-3094	(116241) - Notes of Perry Dunlop re: The Case various dates	18
P-3095	(110816) - Notes of Kevin Phillips dated 01 Mar 02	62
P-3096	(130395) - Notes of Lorne McConnery dated 01 Mar 02	67
P-3097	(109566) - Letter from Kevin Phillips to Robert Selkirk re: R.v. MacDonald dated 25 Apr 01	142
P-3098	(109567) - Letter from Kevin Phillips to Michael Neville re: R.v. Charles MacDonald dated 11 May 01	143
P-3099	(109569) - Letter from Kevin Phillips to Michael Neville re: R.v. Charles MacDonald dated 24 May 01	143
P-3100	(130428) - Notes of Lorne McConnery re: Contacts with Perry Dunlop his travel arrangements undated	145
P-3101	(130427) - Notes of Lorne McConnery dated 24 Apr 02	150
P-3102	(130444-1171185) - Notes of Lorne McConnery dated 29 Apr 02	154
P-3103	(130394) - Notes of Lorne McConnery re: Meeting with David Silmser dated 27 Feb 02	157
P-3104	(130757) - E-mail from James Stewart to Ross Bingley dated 25 Sep 03	178
P-3105	(200346) - Career Profile of Cosette Chafe	180

LIST OF EXHIBITS/LISTE D' EXHIBITS

NO.	DESCRIPTION	PAGE NO
P-3106	(123731) - E-mail from Cosette Chafe to Cathy Finley re: Cornwall Prosecutions dated 04 Jan 00	211
P-3107	(123732) - E-mail from Cosette Chafe to Cathy Finley re: Cornwall Prosecutions dated 10 Feb 00	221
P-3108	(123733) - E-mail from Cosette Chafe to Cathy Finley re: Cornwall dated 14 Feb 00	232
P-3109	(123734) - E-mail from Shelley Hallett to Cosette Chafe re: Project Truth dated 27 Apr 00	235
P-3110	(123735) - Notes of Cosette Chafe re: Meeting with Shelley Hallett and Joe Dupuis dated 10 May 00	242
P-3111	(123737) - E-mail from Cosette Chafe to Cathy Finley re: Project Truth - Status Report dated Summer 00	247
P-3112	(109193) - Letter from Murray Segal to Perry Dunlop dated 12 Jul 00	252

1 --- Upon commencing at 9:04 a.m./

2 L'audience débute à 9h04

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 Mr. McConnery, how are you doing?

12 **MR. McCONNERY:** Good, thank you.

13 **THE COMMISSIONER:** Thank you.

14 You're still under oath?

15 **MR. McCONNERY:** Certainly.

16 **THE COMMISSIONER:** Thank you.

17 Ms. Levesque?

18 **LORNE McCONNERY, Resumed/Sous le même serment:**

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

20 **LEVESQUE:**

21 **MS. LEVESQUE:** Good morning, Mr. McConnery.

22 **MR. McCONNERY:** Good morning.

23 **MS. LEVESQUE:** My name is Giselle Levesque.

24 I'm counsel for the Diocese of Alexandria-Cornwall.

25 You reviewed -- you received six briefs.

1 You received a conspiracy brief and then the five briefs
2 with respect to Bishop LaRocque.

3 MR. McCONNERY: Yes.

4 MS. LEVESQUE: Bernard Cameron, Kevin
5 Maloney, Monsignor Donald McDougald and Gary Ostler?

6 MR. McCONNERY: Correct.

7 MS. LEVESQUE: And when you received those
8 briefs, you reviewed them?

9 MR. McCONNERY: Oh, I certainly did.

10 MS. LEVESQUE: And you decided that you
11 required further information?

12 MR. McCONNERY: Yes, there were requests for
13 further information.

14 MS. LEVESQUE: And as a result, you
15 requested that the officers obtain further information?

16 MR. McCONNERY: Yes.

17 MS. LEVESQUE: And that the Crown briefs be
18 supplemented by will says and notes, the officers' will
19 says and notes?

20 MR. McCONNERY: Yes, that's correct.

21 MS. LEVESQUE: Okay. And you were analysing
22 whether the officers had an objective ground and a
23 subjective belief upon which they lay charges?

24 MR. McCONNERY: Yes.

25 MS. LEVESQUE: And you considered all of the

1 allegations in those briefs which arose from Ron Leroux?

2 **MR. McCONNERY:** Did I consider all of the
3 allegations?

4 **MS. LEVESQUE:** You considered all of the
5 allegations that were contained in those briefs.

6 **MR. McCONNERY:** But primarily what I was
7 doing was focusing on the allegations that would have,
8 could have supported the charges that -- you know what I
9 mean? I wasn't looking in Mr. Leroux's evidence to see if
10 there was another charge way over here.

11 **MS. LEVESQUE:** Yes, I understand.

12 **MR. McCONNERY:** About the individuals that I
13 was -- yes.

14 **MS. LEVESQUE:** Yes.

15 But with regards to Kevin Maloney, there was
16 an additional allegation made by C-15?

17 **MR. McCONNERY:** Yes.

18 **MS. LEVESQUE:** Okay.

19 Once you had received all of your
20 information and you had reviewed everything -- you had
21 everything and you had reviewed everything, you felt, in
22 your professional judgment, that there was no RPG; correct?

23 **MR. McCONNERY:** I agreed with the police
24 assessment, there was no RPG.

25 **MS. LEVESQUE:** Correct. You were satisfied

1 that there was no basis to disagree with the police
2 officers?

3 **MR. McCONNERY:** That's correct.

4 **MS. LEVESQUE:** That there were no RPG upon
5 which to lay a charge?

6 **MR. McCONNERY:** Yes.

7 **MS. LEVESQUE:** And that was reflected in
8 your written opinion of August 15, 2001 which was ---

9 **MR. McCONNERY:** That's correct.

10 **MS. LEVESQUE:** Okay.

11 And Kevin Phillips agreed with your opinion;
12 correct?

13 **MR. McCONNERY:** I don't think there was any
14 disagreement. You know, I'm just wondering whether or not
15 he actually read all of the conspiracy brief. I don't
16 recall that we disagreed in any way at all about the
17 contents of my opinion letter.

18 **MS. LEVESQUE:** Okay. And you're satisfied
19 that you conducted a competent review of those briefs?

20 **MR. McCONNERY:** Are you asking me to judge
21 my own competence?

22 **(LAUGHTER/RIRES)**

23 **MR. McCONNERY:** I felt we did a thorough and
24 a competent review of all we had.

25 **MS. LEVESQUE:** Okay, thank you. Those are

1 all my questions.

2 **THE COMMISSIONER:** Thank you, all right.

3 Thank you.

4 Mr. Manderville?

5 **MR. MANDERVILLE:** Good morning, Mr.

6 Commissioner.

7 **THE COMMISSIONER:** Good morning, sir.

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

9 **MANDERVILLE:**

10 **MR. MANDERVILLE:** Good morning, Mr.

11 McConnery.

12 **MR. McCONNERY:** Good morning.

13 **MR. MANDERVILLE:** I've introduced myself to
14 you before. I'm Peter Manderville and I'm acting for the
15 Cornwall Police Service in this Inquiry.

16 **MR. McCONNERY:** Yes.

17 **MR. MANDERVILLE:** I want to start with
18 perhaps a little bit of a clarification.

19 Ms. Simms, during your examination in-chief,
20 asked you if you felt something akin to a disclosure log
21 would be a good idea in cases and quite properly, in my
22 view, felt it would be.

23 **MR. McCONNERY:** Yes.

24 **MR. MANDERVILLE:** Are you aware that for any
25 case designated "subject to major case management", major

1 case management mandates that a disclosure log be prepared
2 and kept?

3 **MR. McCONNERY:** I have done many cases where
4 major case management protocols are applied and it seems to
5 me that, yes, the officers are mandated to keep a
6 disclosure log. But, on the other hand, it's the Crown who
7 gives disclosure. The Crown is complying with the police
8 requirement for disclosure logs.

9 **MR. MANDERVILLE:** So for cases designated
10 "subject to major case management", the police service
11 involved would keep a disclosure log and you, the Crown,
12 it's your function to provide disclosure to the defence?

13 **MR. McCONNERY:** Right. The disclosure ---

14 **MR. MANDERVILLE:** The officers would keep
15 the log?

16 **MR. McCONNERY:** The major case disclosure
17 log, I would think, would track what the police give the
18 Crown, not necessarily that it gets to the hand of the
19 defence.

20 **MR. MANDERVILLE:** And that's because the
21 Crown makes decisions of relevance?

22 **MR. McCONNERY:** Absolutely.

23 **MR. MANDERVILLE:** And picking up on what you
24 testified to with Ms. Simms, is it your view that the
25 disclosure log idea should be (a) extended to the Crown and

1 (b) extended to all cases?

2 MR. McCONNERY: There should certainly be
3 tracking of disclosure, yes, by the Crown.

4 MR. MANDERVILLE: By the Crown?

5 MR. McCONNERY: Yes.

6 MR. MANDERVILLE: And do you feel it should
7 be extended to all cases?

8 MR. McCONNERY: As a matter of practicality,
9 it would be of great assist even on impaired driving, for
10 instance.

11 You know, there are so many requests for a
12 document now with the recent amendments, et cetera, what
13 gets disclosed, what doesn't get disclosed, when did it get
14 disclosed; those are issues that interrupt trials on a
15 daily basis unfortunately. So a disclosure log by the
16 Crown would certainly assist in that regard.

17 In our own office we don't use a log. We
18 have a disclosure stamp and it's dated. So we always have
19 our copy stamped "Disclosure date of February 1". It's our
20 record that was given to the defence February ---

21 MR. MANDERVILLE: Well, thank you.

22 I'm going to shift gears a little bit and
23 speak to you about the Albert Lalonde investigation and
24 your opinion concerning Jeff's Carroll's views on
25 reasonable and probable grounds with Mr. Lalonde's

1 complaints against Father Charles.

2 MR. McCONNERY: Yes.

3 MR. MANDERVILLE: I'd ask that Mr. McConnery
4 be shown Exhibit 1702, please.

5 Mr. McConnery, this is a letter from Mr.
6 Carroll, that's Detective Sergeant Carroll, addressed to
7 you, dated July 24, 2002.

8 THE COMMISSIONER: One-seven (17)?

9 MR. MANDERVILLE: One-seven-zero-two (1702).
10 It's Document 735701.

11 THE COMMISSIONER: Thank you.

12 MR. MANDERVILLE: Mr. McConnery, you'd agree
13 with me that this letter is the means by which Detective
14 Sergeant Carroll provided you with his package of materials
15 that he wanted you to review to have you render your
16 opinion; correct?

17 MR. McCONNERY: Yes, that's correct.

18 MR. MANDERVILLE: And among other things, he
19 indicates in the letter he enclosed for your review the
20 notes of Dr. Richter?

21 MR. McCONNERY: Yes.

22 MR. MANDERVILLE: Who was the psychiatrist
23 for Albert Lalonde, as well as a summary of an interview
24 from Dr. Luc Clement, Mr. Lalonde's personal physician;
25 correct?

1 **MR. McCONNERY:** Yes.

2 **MR. MANDERVILLE:** And, as is your practice,
3 you reviewed all of the materials Sergeant Carroll provided
4 to you?

5 **MR. McCONNERY:** Yes.

6 **MR. MANDERVILLE:** And I take it you would
7 have seen the entries in Dr. Richter's notes to the effect
8 that Albert Lalonde wasn't sure if his recollections of the
9 sexual abuse were real or if he was imagining them;
10 correct?

11 **MR. McCONNERY:** I'm sorry. Are you
12 referring me to something in this letter?

13 **MR. MANDERVILLE:** I am not.

14 **MR. McCONNERY:** No.

15 **MR. MANDERVILLE:** I'm asking for your
16 recollection.

17 **MR. McCONNERY:** Okay, sorry.

18 **MR. MANDERVILLE:** But if you need it
19 refreshed, and please tell me if you do -- Exhibit 1770
20 would be the notes of Dr. Richter.

21 **MR. LEE:** My only comments are going to be
22 that Dr. Richter's notes are the source of much debate and
23 open to interpretation and I think if the witness is going
24 to be asked about them, he should probably be shown them.

25 **THE COMMISSIONER:** Thank you.

1 So where -- do you want to direct them to
2 the things that ---

3 **MR. MANDERVILLE:** Exhibit 1770.

4 **MR. McCONNERY:** I have that, yes.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **MR. McCONNERY:** Okay.

7 **MR. MANDERVILLE:** Dr. Richter notes:

8 "Patient disturbed by increased
9 memories of sexual abuse by a priest of
10 recollected memories previously
11 unavailable, about age 11, disturbed by
12 the thought that they might not be real
13 but believes they are."

14 **MR. McCONNERY:** Yes.

15 **MR. MANDERVILLE:** And you would have noted
16 that in your review?

17 **MR. McCONNERY:** Yes, I certainly think that
18 would have been very relevant to my review.

19 **MR. MANDERVILLE:** And there's a further note
20 that:

21 "Lalonde felt memories could be real
22 but could not identify priest."

23 Correct?

24 **MR. McCONNERY:** You know what your questions
25 are bringing back to my mind, is that one of the very real

1 issues in this particular brief was identification.

2 **MR. MANDERVILLE:** And obviously if you can't
3 identify your alleged abuser, there is no basis to proceed
4 with a charge; correct?

5 **MR. McCONNERY:** Yes.

6 And yesterday, possibly the day before, Mr.
7 Horn asked me a question about, "These are pretty serious
8 allegations for you not to have laid charges," and what I
9 wasn't really given the opportunity to say was -- and this
10 really brings it back to me now and the letter of the
11 officer was that there really was a significant concern in
12 that brief about the appropriateness of the identification
13 of Father MacDonald. That's part of what I recall.

14 So it wasn't that, well, we're just not
15 going to proceed with a charge that was maybe rape or
16 sodomy or anything of that nature.

17 Was there reasonable and probable grounds to
18 believe the assertion that this gentleman could identify
19 the assailant, if there was one, as being Dr. -- being
20 Father MacDonald.

21 **MR. MANDERVILLE:** And, as well, you had the
22 summary from Dr. Clement which, among other things, noted
23 that in his view, Mr. Lalonde had no credibility.

24 **THE COMMISSIONER:** I should -- for members
25 of the public, no credibility, not in an adverse way, but

1 simply because of his condition that ---

2 MR. MANDERVILLE: Quite right, Mr.

3 Commissioner. I'm not casting any aspersions.

4 THE COMMISSIONER: No, no.

5 MR. MANDERVILLE: You recall that, Mr.

6 McConnery?

7 MR. McCONNERY: I ---

8 MR. MANDERVILLE: We looked at it yesterday

9 ---

10 MR. McCONNERY: Yes, I ---

11 MR. MANDERVILLE: You looked at it

12 yesterday.

13 MR. McCONNERY: Yes. What I recall is the
14 issue of the manner -- the disclosure, the very significant
15 issues of identifying Father MacDonald and how that was
16 done and that the medical evidence really also clouded that
17 ability to identify the "perpetrator".

18 MR. MANDERVILLE: I would ask that Mr.

19 McConnery be shown Exhibit 1703, please.

20 MR. McCONNERY: I have it.

21 MR. MANDERVILLE: And that ---

22 MR. HORN: I asked yesterday regarding -- on
23 this issue.

24 THE COMMISSIONER: Just a second. Just a
25 second. You're objecting?

1 **MR. HORN:** Yes, I'm objecting.

2 **THE COMMISSIONER:** What's your objection?

3 **MR. HORN:** That they're not taking into
4 account the question regarding the recovery memory
5 syndrome, which I understand was discussed not only with
6 the doctors but it was discussed in this situation, and
7 that's a subject that was brought up by myself and I
8 understand it was brought up previously with Mr. Carroll
9 who was on the stand.

10 **THE COMMISSIONER:** Okay.

11 **MR. HORN:** That that whole issue of -- was
12 that canvassed ---

13 **THE COMMISSIONER:** No, you can't ask him
14 questions. You're objecting to Mr. ---

15 **MR. HORN:** Not going into that area because
16 that's an area that was brought up to Constable Carroll.

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

18 **MR. HORN:** And that's an issue that was
19 raised.

20 **MR. MANDERVILLE:** I can't speak for Mr.
21 Horn, but I have no expertise in that area. I don't think
22 anyone in the room does.

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

24 **MR. MANDERVILLE:** I don't have any intention
25 of going into the notion of recovered memory syndrome,

1 whatever that is.

2 **THE COMMISSIONER:** Okay. Thank you.

3 Go ahead.

4 **MR. MANDERVILLE:** I'd ask you, Mr.
5 McConnery, to examine Exhibit 1703, and that is a
6 supplementary occurrence report dated December 11, 2002
7 from Sergeant Carroll; correct?

8 **MR. McCONNERY:** Yes.

9 **MR. MANDERVILLE:** And that indicates that on
10 November 15th he had a telephone conversation with you?

11 **MR. McCONNERY:** Yes.

12 **MR. MANDERVILLE:** And I -- from the
13 supplementary occurrence report, I take it that on that
14 date, November 15th, 2002, you advised him verbally that you
15 had looked at the material and you agreed with his view
16 that he had no reasonable and probable grounds to lay a
17 charge?

18 **MR. McCONNERY:** If that date is correct, I
19 certainly recall that I conveyed that personally to Officer
20 Carroll and that he wished it in writing.

21 I don't recall if I went on to express an
22 opinion about reasonable prospect of conviction because
23 there's no reasonable prospect of conviction if there's no
24 charge.

25 **MR. MANDERVILLE:** Okay. And I asked you

1 about reasonable and probable grounds.

2 MR. McCONNERY: Right.

3 MR. MANDERVILLE: I realize what the
4 occurrence report says, and I'm presuming you would have
5 spoken in terms of reasonable and probable grounds and not
6 reasonable prospect of conviction.

7 MR. McCONNERY: Sure. But, you know, the
8 conversations can be a little -- have more of a flow to
9 them, and whether or not other things are said -- but I was
10 looking at reasonable and probable grounds with respect to
11 the Albert Lalonde allegation and I agreed with him -- with
12 his analysis.

13 MR. MANDERVILLE: And to speak of reasonable
14 prospect of conviction would be putting the cart before the
15 horse a little bit at that point-in-time?

16 MR. McCONNERY: Yes.

17 MR. MANDERVILLE: And as we've seen by
18 Exhibit 1704, your letter of January 8, 2003, that was your
19 letter to Officer Carroll advising him in written form that
20 you agreed with his assessment and that there were no
21 reasonable and probable grounds to lay a charge?

22 MR. McCONNERY: Yes, that's correct.

23 MR. MANDERVILLE: I want to turn your
24 attention to your 2001 review of the OPP materials.

25 And I would ask that Mr. McConnery be

1 provided with Exhibit 1140, being his opinion of August 15,
2 2001.

3 What I'm going to do, Mr. McConnery, is I'm
4 going to talk about this opinion letter with you very
5 briefly and then I'm going to switch to discussing your
6 memo, the lengthy memo of July 26th, 2001, but I want you to
7 keep the opinion letter handy because I will return to it.

8 **MR. McCONNERY:** Yes.

9 **MR. MANDERVILLE:** So you have Exhibit 1140
10 in front of you, sir?

11 **MR. McCONNERY:** I have the letter, yes.
12 Excuse me, I do.

13 **MR. MANDERVILLE:** If you could turn to page
14 2. At the bottom of page 1, the top of page 2, you're
15 indicating in numerical form the various investigations
16 that -- the materials for which you are reviewing; correct?

17 **MR. McCONNERY:** Yes.

18 **MR. MANDERVILLE:** And Item Number 6, you
19 indicate:

20 "Investigation of several parties
21 regarding an allegation of conspiracy
22 to obstruct justice, nine volumes."

23 Those nine volumes, were those the Dunlop
24 materials?

25 **MR. McCONNERY:** No.

1 **MR. MANDERVILLE:** Separate materials
2 prepared by the OPP which incorporated a number of the
3 Dunlop materials?

4 **MR. McCONNERY:** This was a brief prepared by
5 the Ontario Provincial Police, was the Fantino material.
6 Is that what you're referring to? That's one of the
7 monikers that applied to it ---

8 **MR. MANDERVILLE:** Okay.

9 **MR. McCONNERY:** --- contained within the
10 nine volumes. I certainly reviewed that material. I don't
11 know if it was one of the volumes or not. It may well have
12 been.

13 **MR. MANDERVILLE:** And you indicate:
14 "Included with the brief was the will
15 state and four volumes of appendices
16 and copy of the notes of former
17 Cornwall Police Constable Perry
18 Dunlop."

19 Correct?

20 **MR. McCONNERY:** Yes.

21 **MR. MANDERVILLE:** And those notes, Mr.
22 Commissioner, are at Document 116241.
23 You reviewed those notes in their entirety,
24 Mr. McConnery?

25 **MR. McCONNERY:** I believe I did, yes.

1 **MR. MANDERVILLE:** I would ask that they be
2 entered as an exhibit, Mr. Commissioner, Document 116241.
3 And there will need to be a publication ban, Mr.
4 Commissioner.

5 **THE COMMISSIONER:** Thank you.
6 Exhibit Number 3094 is a document -- in
7 whose handwriting is this first document?

8 **MR. MANDERVILLE:** I believe it's Mr.
9 Dunlop's, sir.

10 **THE COMMISSIONER:** All right.
11 So it will be a document entitled, "The
12 Case", and the first date is June -- Sunday, June 9th, 1996.

13 --- **EXHIBIT NO./PIÈCE NO. P-3094:**
14 (116241) - Notes of Perry Dunlop re: The
15 Case, various dates

16 **MR. MANDERVILLE:** Now, for the moment,
17 Mr. McConnery, I want to leave your opinion letter and
18 focus on your July 26th, 2001 memo, which is Exhibit 2651.

19 **MR. McCONNERY:** Okay. I don't have that
20 one.

21 **MR. MANDERVILLE:** Okay.

22 **(SHORT PAUSE/COURTE PAUSE)**

23 **MR. MANDERVILLE:** Maybe, Mr. Connery, you
24 could just agree with everything I say about this letter.

25 **MR. McCONNERY:** Is that a question?

1 Is that the factual analysis?

2 **THE COMMISSIONER:** Yes.

3 **MR. MANDERVILLE:** Yes. Yes.

4 **THE COMMISSIONER:** It was bound to happen.

5 Oh, okay -- oh, no, I know, but are we falling apart here?

6 We are. Thank you.

7 **MR. MANDERVILLE:** For counsel in the room,
8 this is Document 103411.

9 **THE COMMISSIONER:** Thank you.

10 **MR. MANDERVILLE:** Do you have that in front
11 of you, Mr. McConnery?

12 **MR. McCONNERY:** I do. I do.

13 **MR. MANDERVILLE:** Would you turn to page 24
14 of the memo, which is Bates page 1018643, please?

15 **MR. McCONNERY:** Yes.

16 **MR. MANDERVILLE:** And under your heading of
17 October 31, 1996, you set out potential, alleged
18 conspirators, according to the Leroux allegations; correct?

19 **MR. McCONNERY:** Yes.

20 **MR. MANDERVILLE:** And among them, you
21 indicate Staff Sergeant Luc Brunet of the Cornwall Police
22 or a judge named "Brunet"; correct?

23 **MR. McCONNERY:** Yes.

24 **MR. MANDERVILLE:** And I take it, it was
25 never clear whether Mr. Leroux was alleging any involvement

1 at all of Staff Sergeant Brunet; correct?

2 Certainly, your memo, it's not clear in your
3 mind at the time.

4 **MR. McCONNERY:** It's quite clear that in the
5 materials I read, that there was some controversy about
6 whether or not he was referring to an officer or a judge,
7 but it was someone named apparently "Brunet," in his
8 statements.

9 **MR. MANDERVILLE:** So to repeat what I asked
10 you, it was not clear from Mr. Leroux's allegations as to
11 whether he was alleging Staff Sergeant Luc Brunet was a
12 conspirator or a judge named "Brunet" was the conspirator;
13 correct?

14 **MR. McCONNERY:** I don't remember.

15 **MR. MANDERVILLE:** And I take it you came to
16 understand that while Mr. Leroux may have not had any
17 motive to falsely malign Staff Sergeant Brunet, Officer
18 Dunlop did have such a motive; correct?

19 And you've noted that at page 4 of this
20 memo, which would be Bates 1018623. You see towards the
21 bottom of page 4 under heading "7(a)", sir?

22 **MR. McCONNERY:** Yes.

23 **MR. MANDERVILLE:** And, I suggest to you that
24 what you've set out there would give Officer Dunlop -- or,
25 Mr. Dunlop, as he now is -- a motive to malign Staff

1 Sergeant Brunet?

2 MR. McCONNERY: In fairness, Mr.
3 Manderville, I -- I don't remember all of the details to
4 that extent.

5 Brunet may have been an officer who had
6 indicated to -- you know, I'm speculating. I see what I
7 say here, and could that have given Mr. Dunlop motivation
8 to name him in some fashion? That's a possibility. I
9 really don't remember the particulars.

10 MR. MANDERVILLE: And to return to my
11 previous point, it was never clear in your mind whether
12 Leroux was alleging Staff Sergeant Brunet or a judge named
13 "Brunet" was an alleged conspirator; correct?

14 MR. McCONNERY: Well, that paragraph you
15 referred to me, certainly that can be interpreted that way,
16 but I don't remember the particulars as to why there was an
17 issue of identification by Leroux of the person named
18 "Brunet".

19 MR. MANDERVILLE: Okay, thank you.

20 And I turn your focus to page 25 of your
21 memo, Bates ending 8644.

22 MR. McCONNERY: Yes, I have that.

23 MR. MANDERVILLE: At the top of page 26.

24 MR. McCONNERY: Top of -- yes.

25 MR. MANDERVILLE: And is it fair for me to

1 summarize that what you're setting out there is that,
2 essentially, the only new evidence that had come forward
3 since the OPP investigation in 1994 were the allegations
4 made by Mr. Leroux and put forward by Mr. Dunlop in his
5 lawsuit?

6 (SHORT PAUSE/COURTE PAUSE)

7 MR. McCONNERY: Okay, I'm just reading over
8 Part C ---

9 MR. MANDERVILLE: Certainly.

10 MR. McCONNERY: --- The Allegations of
11 Ron Leroux, and can you tell me -- can you repeat your
12 question?

13 MR. MANDERVILLE: You indicate on page 25,
14 I'm quoting:

15 "Clearly no significant new information
16 as of 1997. Was that contained in the
17 statements of Leroux?"

18 That's about two-thirds down page 25.

19 MR. McCONNERY: Yes. I see it, yes. Sorry
20 -- I see that.

21 MR. MANDERVILLE: And, I'm suggesting to you
22 that from the time the OPP carried out their investigation
23 in 1994 and obtained the opinion of Mr. Griffiths, from
24 that time the only new source of evidence that you were to
25 look at were the allegations made by Mr. Leroux; correct?

1 **MR. McCONNERY:** Well, that's not what I say
2 though.

3 **MR. MANDERVILLE:** Was there other ---

4 **MR. McCONNERY:** No, no. What I say is that
5 it's the most significant new information. It doesn't say
6 it's the only information.

7 **MR. MANDERVILLE:** Was there other new
8 evidence you could recall, sir?

9 **MR. McCONNERY:** I'm ---

10 **MS. SIMMS:** Just to be fair, I think we
11 discussed some other new evidence in-chief, such as
12 interviews of assistance and I can't recall what else, but,
13 to be fair, there were some other things already put to.

14 **MR. MANDERVILLE:** Be that as it may, sir,
15 your view, and the OPP view as well, was that Mr. Leroux is
16 simply not credible; correct?

17 **MR. McCONNERY:** Yes.

18 **MR. MANDERVILLE:** Now, if you turn to
19 page 38 of the memo, Bates page ending 8657, you express
20 some concerns about Mr. Leroux's identification of clan
21 members by means of individual photos; correct?

22 **MR. McCONNERY:** I'm sorry? You've referred
23 me to ---

24 **MR. MANDERVILLE:** Page 38 of the memo.

25 **MR. McCONNERY:** Page 38. Page 38, and is

1 there something on that page that talks about ---

2 **MR. MANDERVILLE:** Well, it begins ---

3 **MR. McCONNERY:** --- the photographs?

4 **MR. MANDERVILLE:** --- with you, sort of,
5 quoting an interview by Officer Genier of Leroux, and then
6 you state:

7 "At law, Ron Leroux's identification of
8 clan 'members' not substantially
9 possibly fatally flawed by Dunlop
10 showing him single photographs."

11 Correct?

12 **MR. McCONNERY:** Okay, then -- yes, and I
13 wasn't seeing that at first. Yes, that is there. That was
14 an issue.

15 **MR. MANDERVILLE:** A very live issue for you;
16 correct?

17 **MR. McCONNERY:** Oh, a very problematic
18 issue, yes.

19 **MR. MANDERVILLE:** I take it, you would have
20 expected an experienced police officer like Mr. Dunlop to
21 know to put together a proper photo line-up?

22 **MR. McCONNERY:** The whole issue of
23 photographic line-ups changes maybe not yearly, but if you
24 look at that issue in the development in maybe the last 15
25 years, police are criticized for photographic line-ups, and

1 it's become very clear there's a preferred method to do it.
2 And that preferred method is probably different today than
3 it was four years ago, but I would say that as early as the
4 1990s, when this was going on, the thought that an officer
5 would attempt to prove identification by production of a
6 single photograph was clearly wrong and accepted generally
7 in the courts as being clearly an inappropriate manner of
8 attempting identification.

9 **MR. MANDERVILLE:** Thank you.

10 And if we presume, as we do, that Leroux's
11 allegations surface in 1996 ---

12 **MR. McCONNERY:** Yes.

13 **MR. MANDERVILLE:** --- and that he is shown
14 these individual photos in or about 1996, I take it you
15 would have expected an officer with 13 years experience to
16 know better than to use individual photos as a means of
17 demonstrating identification; correct?

18 **MR. McCONNERY:** In a criminal investigation,
19 I would have found that conduct by a police officer very
20 questionable -- very questionable, and I'll go further than
21 that; it was totally inappropriate.

22 **MR. MANDERVILLE:** Thank you, sir.

23 At page 50 of your memo under Scenario No.
24 3, you consider whether there may have been any other
25 conspiracy beyond that set out in Item No. 6 of your

1 opinion that we looked at about 10 minutes ago; correct?

2 MR. McCONNERY: Yes. Yes.

3 MR. MANDERVILLE: I take it that for any
4 alleged conspiracy for which there was any evidence in the
5 materials provided to you, you would have considered it and
6 opined on it; correct?

7 MR. McCONNERY: Well, I suppose that's what
8 I did here.

9 MR. MANDERVILLE: I quite agree. I agree
10 with you.

11 THE COMMISSIONER: Well ---

12 MR. McCONNERY: I was -- sorry.

13 THE COMMISSIONER: No, go ahead.

14 MR. McCONNERY: I was just throwing out a
15 possibility but, I mean, I wasn't so stuck on the word
16 "conspiracy" if what I may be expressing by Scenario 3 is
17 that Mr. Leduc may have been equally as guilty of an
18 obstruct, potentially, as ---

19 THE COMMISSIONER: Malcolm MacDonald?

20 MR. McCONNERY: --- Malcolm MacDonald.

21 THE COMMISSIONER: Did you ever think of
22 Father MacDonald in all of this? He's the one who, if this
23 had gone, would benefit the most and directly from it, and
24 there's a lot of facts in my head here. I don't -- did
25 anybody ever ask MacDonald, Father MacDonald? And did

1 Malcolm MacDonald ever say, "No, no, no, I did this all by
2 myself and my client didn't know"?

3 Did you ever think of it in that aspect?

4 **MR. McCONNERY:** My recollection is that
5 Malcolm MacDonald had said no, he was the author and the
6 architect of the agreement.

7 **THE COMMISSIONER:** Oh, of course.

8 **MR. McCONNERY:** Yes.

9 **THE COMMISSIONER:** Of course, but what about
10 towards his client? Did his client know anything of this
11 and, if he did, would he not be part of a ---

12 **MR. McCONNERY:** Well, he could have been,
13 but did I have any evidence that he did anything to ensure
14 this agreement incorporated a clause that he not continue
15 the criminal complaint? I didn't.

16 Was he the beneficiary of that?

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

18 **MR. McCONNERY:** He was.

19 I don't think I ever saw any evidence. Did
20 I ask the question? Did I ask for any assistance in that
21 regard by the police? What I feel I can fairly say to you,
22 Mr. Commissioner, is I don't recall seeing anything that
23 made me think that Father MacDonald had input into the
24 contents of the agreement and I wouldn't have included him
25 in a conspiracy suggestion to the police without something

1 in that regard. There's no doubt he was the major
2 beneficiary possibly of that agreement, obviously.

3 **THE COMMISSIONER:** Obviously, yeah.

4 **MR. McCONNERY:** But what I'm suggesting here
5 in Scenario 3, I think, is that there were other people who
6 were going to benefit from that.

7 **THE COMMISSIONER:** Oh, no, I understand
8 that.

9 **MR. McCONNERY:** Yes.

10 **THE COMMISSIONER:** I'm just trying to sit
11 back and look at the big picture and it comes to me as,
12 well, wait a minute now; does that mean that Father Charlie
13 MacDonald was sitting there, contributing money and not
14 knowing? And for example, and I'm looking at this as an
15 investigation, not as a persecution or anything like that
16 but at people who, as investigators, have to be curious.

17 Wouldn't it be the same kind of alert that
18 would say well, what did Father MacDonald know in all of
19 this?

20 **MR. McCONNERY:** I can advise that I
21 certainly went through that thought process with respect to
22 the Bishop.

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

24 **MR. McCONNERY:** And I looked at what I
25 understood to be the actions of the Bishop contained within

1 statements, his actions in calling press conferences, the
2 actions of the police, I think it was, in going then and
3 getting that original copy.

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

5 **MR. McCONNERY:** And I felt that Bishop
6 LaRocque's position that he was not aware of that, that
7 there was significant evidence supporting his position.

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

9 **MR. McCONNERY:** So I didn't say "Leduc's
10 your lawyer. If Leduc was a party to putting this clause
11 in there, then that brings in the client -- the Bishop as a
12 party to a conspiracy."

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

14 **MR. McCONNERY:** And I recall very clearly
15 ruminating, musing about that, Father MacDonald. I mean it
16 seems like such a natural person to consider.

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

18 **MR. McCONNERY:** What I can say is I never
19 saw anything that led me to believe I had any
20 communication, anything in writing to believe that he had
21 actively expressed any intention that found its way into
22 that agreement. It seemed to be it was "my lawyer is going
23 to protect me" and that was it. That's what I had. That's
24 what I felt. I don't know if that answers that. It's my
25 attempt at an answer, in any event.

1 **MR. MANDERVILLE:** Thank you, sir.

2 I would ask that Mr. McConnery be shown
3 transcript Volume 322. This is a transcript of a portion
4 of the examination of Inspector Pat Hall.

5 **MR. McCONNERY:** On the 11(b) application?

6 **MR. MANDERVILLE:** Sorry?

7 **MR. McCONNERY:** On the 11(b)?

8 **MR. MANDERVILLE:** No, no, here at this
9 Inquiry.

10 **MR. McCONNERY:** Oh, I'm sorry.

11 **THE COMMISSIONER:** What page please?

12 **MR. MANDERVILLE:** Beginning at page 106.
13 This is Mr. Callaghan's examination of Officer Hall on
14 December 10th, 2008.

15 **MR. McCONNERY:** Okay. Do you wish me to
16 read this?

17 **MR. MANDERVILLE:** At the bottom of page 106,
18 Mr. Callaghan asks Officer Hall:

19 "Right. And is it fair to say that
20 this is an extensive investigation, in
21 your opinion?

22 **MR. HALL:** In my opinion, it was."

23 Mr. McConnery, do you share that opinion?

24 **MR. McCONNERY:** I felt it was an intensive,
25 quite a complete investigation, yes.

1 **MR. MANDERVILLE:** Mr. Callaghan goes on at
2 the top of page 107:

3 "And you felt it was complete for the
4 purpose of an opinion?"

5 MR. HALL: Yes.

6 MR. CALLAGHAN: And not only did you
7 actually give him the documents, you
8 actually met with both Mr. McConnery
9 and fellow Crown Kevin Phillips;
10 correct?"

11 Answer:

12 "Several times."

13 Mr. McConnery, do you recall meeting with
14 Officer Hall and other OPP officers several times prior to
15 you rendering your opinion?

16 **MR. McCONNERY:** I think that's well
17 documented in my notes. I think that's accurate.

18 **MR. MANDERVILLE:** Mr. Hall -- picking up:
19 "Several times.

20 MR. CALLAGHAN: To go over the
21 documents?"

22 Answer:

23 "Yes.

24 MR. CALLAGHAN: All right. And to make
25 sure they understood the nature of the

1 allegations and the information that
2 you did -- covered?"

3 Answer:

4 "Yes. Yes."

5 And Mr. Callaghan refers to an entry in
6 Officer Hall's notes from Exhibit 2758, Bates page ending
7 977.

8 It's an entry in Officer Hall's notes from
9 July 17, 2001 and he quotes what is written by Officer Hall
10 at page 108 for the entry at 12:45 on July 17, 2001.

11 I'm going to ask Mr. Hall (sic) to read it
12 in. It's a page by Lorne McConnery:

13 "Returned call, updated on
14 investigation, said he received my
15 memos. He was concerned and forwarded
16 the memo to the Ministry of the
17 Attorney General for action. Believes
18 the matter has to be investigated.
19 Said meeting with judge took place last
20 Thursday. Judge will do a review of
21 each brief and a chronology. McConnery
22 asked me to check date Malcolm
23 MacDonald plead guilty."

24 Now, Mr. McConnery, you may or may not know
25 that the AG's office has claimed privilege over the opinion

1 that was obtained or the information that was obtained from
2 retired W.D. Griffiths. I take it you knew W.D. Griffiths
3 was involved in this and provided a second opinion, so to
4 speak?

5 **MR. McCONNERY:** Yes, I did.

6 **MR. MANDERVILLE:** And, obviously, if the
7 claim for privilege recently asserted is valid, we can't
8 know what the opinion was or see it.

9 I'd ask that Officer -- Officer -- Mr.
10 McConnery be shown Document 130317. And I apologize, Mr.
11 Commissioner. I wasn't here for the first day of Mr.
12 McConnery's evidence so I don't know if that was made an
13 exhibit or not -- 130317.

14 **THE COMMISSIONER:** What is it, Mr. -- Mr.
15 Manderville, what is it? Maybe I can remember.

16 **MR. MANDERVILLE:** It's among the handwritten
17 notes of Mr. McConnery ---

18 **THE COMMISSIONER:** Okay, I don't know.

19 **MR. MANDERVILLE:** --- provided to the
20 Commission by the AG's office last week.

21 Okay. I'm told it's Exhibit 3051, Mr.
22 Commissioner.

23 **THE COMMISSIONER:** Thank you.

24 **MR. MANDERVILLE:** Thank you, Ms. Simms.

25 **(SHORT PAUSE/COURTE PAUSE)**

1 **MR. McCONNERY:** I have 3051.

2 **MR. MANDERVILLE:** And these are your notes
3 of July 17, 2001, sir? Mr. McConnery, these are your notes
4 of July 17, 2001?

5 **MR. McCONNERY:** Yes, it appears so, yeah.

6 **MR. MANDERVILLE:** Partway down the page it
7 indicates, "Telephone conversation to M. Segal". I take it
8 that's Murray Segal?

9 **MR. McCONNERY:** Yes. This appears to be
10 part of my notes of July 17th.

11 **MR. MANDERVILLE:** And you see there is a
12 blacked-out portion.

13 **MR. McCONNERY:** Yes.

14 **MR. MANDERVILLE:** And is that a privileged
15 communication concerning the involvement of W.D. Griffiths?

16 **MR. McCONNERY:** I take it, it is.

17 **MR. KLOEZE:** Mr. Commissioner, I'm just not
18 sure whether Mr. McConnery recalls what was under that
19 blacked-out portion, but I can advise that that relates to
20 the privileged communications with Mr. Griffiths.

21 **MR. MANDERVILLE:** Not Peter Griffiths, but
22 retired Court of Appeal Judge David Griffiths; correct?

23 **MR. KLOEZE:** Yes.

24 **MR. MANDERVILLE:** I'd ask that Mr. McConnery
25 be provided with Document 130319 which would be Mr.

1 McConnery's notes, apparently from July 18th. And it's
2 Exhibit 3052, Mr. Commissioner.

3 Thank you, Ms. Simms.

4 **MR. McCONNERY:** I have that, yes.

5 **MR. MANDERVILLE:** Do you have that in front
6 of you, Mr. McConnery?

7 **MR. McCONNERY:** Three-zero-five-two (3052),
8 I have it.

9 **MR. MANDERVILLE:** Yes.

10 And you have an entry for July 18th at 11:25
11 and then below that there are a number of notes blacked
12 out. And to the best of your recollection, the blacked-out
13 portion, is that a privileged communication concerning the
14 involvement of retired Judge David Griffiths?

15 **MR. McCONNERY:** I did none of the blacking
16 out. I turned in my notes as they were. I was directed to
17 do that. I advised Mr. Kloeze that I felt there was an
18 issue of solicitor-client privilege. He asked, as I
19 recall, that I give him my original notes and he would take
20 a position on it, that he would advance here or not advance
21 here and they would be edited.

22 So I wasn't involved in the editing.

23 **MR. MANDERVILLE:** Okay.

24 **MR. McCONNERY:** But I can only presume the
25 only thing that was taken out was those things that Mr.

1 Kloeze felt were covered by ---

2 **MR. MANDERVILLE:** Well, I'm not questioning
3 that at all, Mr. McConnery.

4 My only concern is clearly it's blacked out
5 because an assertion of privilege is being made. I'm
6 curious as to whether the assertion of privilege concerns
7 the involvement of retired Judge David Griffiths or some
8 other privileged communication?

9 **MR. KLOEZE:** I can advise again that all the
10 portions that are blacked out are blacked out because they
11 contain privileged communications, and the only
12 communications we are asserting privilege on in Mr.
13 McConnery's notes involves the involvement of retired Mr.
14 Justice David Griffiths.

15 **THE COMMISSIONER:** Thank you.

16 **MR. MANDERVILLE:** And one further note --
17 document that I'd like to refer to, sir, is 130322, which
18 is Exhibit 3092, Mr. Commissioner.

19 **MR. McCONNERY:** I don't have ---

20 **THE COMMISSIONER:** Neither do I.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MR. MANDERVILLE:** It's Document 130322.

23 **MR. McCONNERY:** Yes.

24 **MR. MANDERVILLE:** And that is a page of
25 notes beginning July 19, 2001 ending July 27th, 2001 where

1 you luckily get to return home.

2 **MR. McCONNERY:** Yes.

3 **MR. MANDERVILLE:** The entry for July 26 is
4 blocked out. July 26, I would note, is one day before your
5 lengthy memo we've been looking at. It's been blocked out
6 presumably because of a privileged communication.

7 Does that concern the involvement of retired
8 Judge David Griffiths?

9 **MR. McCONNERY:** I believe it does.

10 **MR. KLOEZE:** The witness has answered.
11 That's correct.

12 **MR. MANDERVILLE:** Now, according to Officer
13 Hall in the transcript we looked at ---

14 **MR. McCONNERY:** Yes.

15 **MR. MANDERVILLE:** --- it was understood that
16 retired Judge Griffiths was to carry out a review of each
17 brief and a chronology. Did he in fact do that, to your
18 knowledge?

19 **MR. KLOEZE:** I think this is touching on the
20 substance of the privilege itself. We are claiming
21 privilege over communications between Mr. McConnery and Mr.
22 Justice Griffiths and obviously the content of the advice
23 itself.

24 **MR. MANDERVILLE:** I don't think I can make
25 any sort of request to know the content of the advice. I

1 think it's within the scope of proper questioning, and not
2 touching on a matter of privilege, to determine whether or
3 not the retired Justice Griffiths did, in fact, do what
4 Officer Hall was under the impression he was doing without
5 knowing what the opinion was or seeing it.

6 **THE COMMISSIONER:** Mr. Kloeze?

7 **MR. KLOEZE:** Mr. Commissioner, we are
8 claiming privilege over, I guess, the nature of the
9 retainer or not the circumstances of the retainer itself
10 though. The question that was asked, the material's
11 provided and the advice given.

12 **MR. MANDERVILLE:** Well, I think the genie is
13 out of the bottle, sir. I mean, Officer Hall was permitted
14 to say and note that obviously it was communicated to
15 Officer Hall by Mr. McConnery.

16 He noted that a retired judge or a judge was
17 going to review each brief and prepare a chronology. And
18 that is the fact that Officer Hall was told that, is in
19 evidence here.

20 I think I'm entitled to explore whether
21 indeed the judge, the retired judge, did review each brief
22 and prepare a chronology without seeing it or knowing what
23 the review opinion was.

24 **MR. KLOEZE:** I think that the only way that
25 this witness could answer -- well, this witness obviously

1 doesn't know the steps that the retired judge may have
2 taken in coming to his opinion, and if he does know that
3 answer, it's only through communications he had with his
4 solicitor and that ---

5 **THE COMMISSIONER:** With his solicitor?

6 **MR. KLOEZE:** With his solicitor, the retired
7 judge in the context of solicitor-client privilege.

8 **THE COMMISSIONER:** Well, it's the Ministry.
9 I mean, was Mr. McConnery the instructing client?

10 **MR. KLOEZE:** No, sir, it would be Mr. Segal
11 who would be the instructing client.

12 **THE COMMISSIONER:** All right.

13 So query, what knowledge does the gentleman
14 even have as to the intricacies of what the second opinion
15 person received and what he did?

16 **MR. MANDERVILLE:** I think that question was
17 for Mr. ---

18 **THE COMMISSIONER:** So does this gentleman
19 know anything about that, to start off with?

20 **MR. KLOEZE:** Well, I think, as I said, Mr.
21 Segal would be the instructing client. Mr. Segal was the
22 one who arranged the retainer. Obviously there were
23 communications between this gentleman and retired Justice
24 Mr. Griffiths.

25 **THE COMMISSIONER:** Right.

1 No, I know, but the process involved, was
2 this gentleman involved in the process of sending material
3 to him and that kind of thing?

4 **MR. KLOEZE:** I believe he was, yes, sir.

5 **THE COMMISSIONER:** Okay. I'll permit some
6 very limited questions -- first of all, what's the aim?
7 What's the goal of asking these questions?

8 **MR. MANDERVILLE:** Simply, Mr. Commissioner,
9 I want to determine whether a) Mr. McConnery is aware of
10 whether or not retired Justice Griffiths carried out a
11 review and reviewed the briefs; b) if Mr. McConnery liaised
12 with Justice Griffiths and had the benefit of his opinion
13 at the time he prepared his in August 2001 without knowing
14 the contents of it, simply that he did liaise with him and
15 in fact had materials from him or had information from him.

16 **THE COMMISSIONER:** Well, I think the ---

17 **MR. MANDERVILLE:** I guess one thing I would
18 add, Mr. Commissioner -- sorry to interrupt you -- Mr.
19 Kloeze has now indicated that Mr. McConnery was not the
20 client.

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

22 **MR. MANDERVILLE:** If the retired judge is
23 providing opinions to someone who is not the client, query
24 whether the privilege has been waived.

25 **THE COMMISSIONER:** Well, no, I mean, this is

1 part of the Ministry. I mean, he is part of -- Mr.
2 McConnery is part of the Attorney General's Office, and I
3 think there's no question that privilege would continue
4 there.

5 So I'm going to rule on that part. I think
6 that the relevant question you've asked so far that I'm
7 prepared to permit is did you, sir, have any fruit of Mr.
8 Griffiths -- Mr. Justice Griffiths' opinion before you
9 finalized yours?

10 And I'll permit you to object, if you wish,
11 at this point, but I think that is relevant and it might
12 attach some validity or non validity or affect what I
13 decide on with respect to his opinion.

14 **MR. MANDERVILLE:** And I can tell you that's
15 my primary aim in this line of questioning.

16 **MR. KLOEZE:** I would object to that, Mr.
17 Commissioner. I think it does go to -- I think the timing
18 of communications ---

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

20 **MR. KLOEZE:** --- would be privileged as
21 well. That would be my objection.

22 **THE COMMISSIONER:** Why is that?

23 **MR. KLOEZE:** Because it goes to -- I guess
24 it goes to instructions given and advice received.

25 **THE COMMISSIONER:** Right.

1 But if we're just saying what effect did
2 this have on this gentleman, I think ---

3 **MR. KLOEZE:** I mean, I think a proper
4 question would be, "Did you receive advice from Mr. Justice
5 Griffiths and did you act on that advice?"

6 **THE COMMISSIONER:** Well, we could start with
7 that. We can start with that, certainly.

8 Mr. Lee?

9 **MR. LEE:** Were Mr. Manderville to eventually
10 take the position that this is not privileged and to
11 challenge it in some way, I presume we would be on the same
12 side of that issue.

13 But what's happening now, sir, appears to me
14 to be an attempt by Mr. Manderville to indirectly, I
15 suppose, bolster the opinion on the -- this witness'
16 opinion on the conspiracy investigation by suggesting in
17 some way, I presume, if he had Justice Griffiths' opinion,
18 even though we can't ask the question, we'll all just
19 presume that it must have been in accord with his own.

20 We can't go behind it at this point because
21 they're claiming privilege, and until we get a decision on
22 whether or not there's privilege, I don't see any value to
23 this. I don't see the relevance of knowing when this
24 witness got the opinion if we can't then ask the question,
25 "Well, what was the opinion? Did you rely on it? Was it

1 the same opinion as Justice Griffiths?"

2 As an example, I wouldn't have been
3 permitted, given the privilege claim, in cross-examination,
4 to ask this witness about the opinion itself, to learn that
5 Justice Griffiths found something entirely different in
6 this witness and he disregarded Justice Griffiths' opinion
7 entirely and came to his own. We can't go behind it at
8 all.

9 **THE COMMISSIONER:** No, but I ---

10 **MR. LEE:** So I think we've got a real
11 problem with relevance here.

12 If we accept for the moment, as we must
13 given the process we have here, that the privilege claim is
14 valid, because as I understand it that's not going to be
15 adjudicated here, so we're left in a position where we
16 must, for the purposes of this cross-examination, accept
17 the privilege claim as valid, there's no relevance to
18 attempting to dance around the issue when we can't get to
19 the opinion itself.

20 **THE COMMISSIONER:** Well, I thought the
21 relevance was going to be whether or not -- you see, this
22 gentleman gave an opinion upon which police officers
23 responded one way or another.

24 **MR. LEE:** Yes.

25 **THE COMMISSIONER:** All right?

1 And so I thought it would be important for
2 me to know whether it came from this gentleman's head
3 entirely or from somebody else and, to me, it would be the
4 opposite. If he says that "I was influenced by a second
5 opinion," which I don't think a second opinion is -- a
6 second opinion is really, you have your opinion and then
7 down comes the second opinion which is independent.

8 Because we don't know what Mr. Justice
9 Griffiths got as material, and so I would think that it
10 would hurt his opinion. Some people might argue that it
11 would hurt Mr. McConnery's opinion if I found out that he
12 relied on or got advice from a third party.

13 **MR. LEE:** My position is that ---

14 **THE COMMISSIONER:** You're saying it would be
15 ---

16 **MR. LEE:** --- without being able to go into
17 the opinion and follow up on that in any way and ask this
18 witness, well, in what way did you rely on it? Did it
19 corroborate your opinion? Did it hurt your opinion? I
20 mean, I just -- I don't think it's relevant is my position.

21 **THE COMMISSIONER:** M'hm. Well, I think it
22 is.

23 **MR. LEE:** I suspected, sir.

24 **THE COMMISSIONER:** And it's ---

25 **MR. MANDERVILLE:** I think you're right, Mr.

1 Commissioner.

2 **THE COMMISSIONER:** Well, thank you.

3 Anybody else?

4 **MR. MANDERVILLE:** As usual.

5 And I also disagree with my friend that the
6 dates are privileged. I don't agree with that. Without
7 knowing the opinion -- let's accept for the moment the
8 validity of the privilege claimed.

9 So we're not entitled to know what the
10 opinion was or see it. I submit we are entitled to know
11 whether retired Justice Griffiths received materials and,
12 to the best of this witness' ability to answer, when, and
13 whether Justice Griffiths rendered an opinion and who did
14 he provide it to and when.

15 For example, if Mr. McConnery says, "It was
16 for Segal -- Mr. Segal and I never actually saw it," that's
17 relevant and that's not privileged.

18 If he says, "I had it in hand on July 25th,"
19 then my next question would be, "You considered it, did you
20 not, in the course of writing this lengthy memo of July
21 26th?" If he says, "I had it in hand only on August the
22 17th," then obviously it played no part in his August 15th
23 opinion.

24 I submit those are relevant considerations
25 and they're not privileged.

1 **THE COMMISSIONER:** Ms. Simms?

2 **MS. SIMMS:** I'm just a bit concerned that
3 Mr. Manderville's arguments are getting into an argument
4 over whether or not certain things are privileged.

5 Mr. Kloeze has advanced what he has
6 considered to be coverage by the privilege claim and what
7 he's asserted, and I think Mr. Lee is right that we have to
8 deal with the privilege issue here right now as the
9 privilege that Mr. Kloeze has asserted.

10 And maybe he has not been clear enough on
11 what their position is because, frankly, I agree with
12 respect to timing, we've already gone through dates. Mr.
13 Kloeze stood up and told us that they relate to these
14 communications.

15 So I can't understand how the timing could
16 possibly be part of the privilege claim, but I'm a little
17 concerned about some of the other areas that Mr.
18 Manderville is getting into.

19 **THE COMMISSIONER:** Okay. So my ruling is
20 that you're going to be able to ask him some very limited
21 questions with respect to whether his -- on July 26th he
22 received -- what he received and whether or not -- how that
23 fits in with when he completed his report and whether or
24 not his report was completed before he got whatever he got.

25 So just keep it to that.

1 **MR. MANDERVILLE:** Yes, sir.

2 **THE COMMISSIONER:** And we'll -- just wait
3 before you answer any questions. There may be somebody
4 jumping up.

5 **MR. McCONNERY:** Certainly.

6 **MR. MANDERVILLE:** Mr. McConnery, did you
7 ever receive an opinion from retired Justice Griffiths?

8 **MR. McCONNERY:** I was copied on an opinion
9 letter, yes.

10 **MR. MANDERVILLE:** At the time you prepared
11 your memo of July 26th, 2001, did you have that review in
12 hand?

13 **MR. McCONNERY:** I need to look at my notes.

14 **THE COMMISSIONER:** Okay. Good.

15 Well, you see, at 3092 ---

16 **MR. McCONNERY:** At 3092, yes ---

17 **THE COMMISSIONER:** Exhibit 3092, you've got
18 July 25th, 2001. You've got, four lines down:

19 "Reviewed my factual analysis with
20 Inspector Hall and agreed to send him a
21 copy."

22 Then you've got:

23 "Writing and [providing]..."

24 I don't know what that is, but:

25 "...until 10:45 p.m."

1 **MR. McCONNERY:** "Writing and proofing..."

2 **THE COMMISSIONER:** "Proofing", all right.

3 **MR. MANDERVILLE:** Ms. Daley has suggested
4 that perhaps Mr. McConnery could look at his original note
5 ---

6 **THE COMMISSIONER:** Yes. Well, I thought
7 that ---

8 **MR. MANDERVILLE:** --- to determine what the
9 July 26th entry is about.

10 **THE COMMISSIONER:** Sure.

11 **MR. MANDERVILLE:** Without any of the rest of
12 us seeing it, of course.

13 **THE COMMISSIONER:** Of course.

14 **MR. KLOEZE:** I think that would be helpful.
15 I am not sure. I actually don't have a copy of the
16 original notes here. Mr. McConnery may have them himself,
17 but maybe we can break.

18 **THE COMMISSIONER:** Okay. Let's take a short
19 break and you can figure out what it was that was said.

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

22 This hearing will resume at 10:15 a.m.

23 --- Upon recessing at 10:04 a.m./

24 L'audience est suspendue à 10h04

25 --- Upon resuming at 10:23 a.m./

1 L'audience est reprise à 10h23

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

4 This hearing is now resumed. Please be
5 seated. Veuillez vous asseoir.

6 **THE COMMISSIONER:** All right.

7 **LORNE McCONNERY, Resumed/Sous le même serment:**

8 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
9 **MANDERVILLE (cont'd/suite):**

10 **MR. MANDERVILLE:** Mr. McConnery, have you
11 examined your original notes, document -- the July 26th,
12 2001 entry?

13 **MR. McCONNERY:** You know something, I'm not
14 specific that I did look at that.

15 **MR. MANDERVILLE:** It would be Document
16 130322, Exhibit 3092.

17 **MR. McCONNERY:** The date of the note is what
18 again?

19 **THE COMMISSIONER:** July 26th, 2001.

20 **MR. MANDERVILLE:** The top of that page would
21 begin July 19.

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

23 **MR. McCONNERY:** I had that page from my
24 photocopy of my original notes?

25 **MR. MANDERVILLE:** Yes.

1 **MR. McCONNERY:** Okay.

2 **MR. MANDERVILLE:** And my question to you
3 before we broke was, at the time you wrote your lengthy
4 memo of July 26, 2001, did you have in hand the opinion of
5 retired Justice Griffiths?

6 **MR. McCONNERY:** Is July 26th -- is that not
7 the date I finished the outline?

8 **MR. MANDERVILLE:** Right. I refer to it as a
9 memo.

10 **MR. McCONNERY:** Okay.

11 **MR. MANDERVILLE:** My choice of terms.

12 **THE COMMISSIONER:** Your analysis, I think.

13 **MR. MANDERVILLE:** Your analysis.

14 **THE COMMISSIONER:** You reviewed your
15 factual -- let's call it the "factual analysis".

16 **MR. MANDERVILLE:** Yes.

17 **MR. McCONNERY:** Okay.

18 **MR. MANDERVILLE:** At the time you completed
19 your factual analysis, which is dated July 26, 2001, did
20 you have in hand the opinion of retired Justice Griffiths?

21 **MR. McCONNERY:** No, I didn't.

22 **THE COMMISSIONER:** No, it's July 25th, to be
23 absolutely certain there. You said 26th, but it's 25th.

24 **MR. MANDERVILLE:** The factual analysis, sir?

25 **THE COMMISSIONER:** Yes, m'hm.

1 **MR. MANDERVILLE:** Doesn't it say at the
2 bottom of each page 07/26/01?

3 **THE COMMISSIONER:** I'm sorry?

4 **MR. MANDERVILLE:** We are talking about
5 Exhibit 2651?

6 **THE COMMISSIONER:** No, I'm talking about
7 Exhibit 3092. Which exhibit are you talking about?

8 **MR. MANDERVILLE:** I'm referring to the
9 factual analysis, being the 50-page memo.

10 **THE COMMISSIONER:** Okay. That's 25 or 26 --
11 -

12 **MR. MANDERVILLE:** That's Exhibit 2651.

13 **THE COMMISSIONER:** Right. Okay.

14 I was looking at his notes, okay, so 2651,
15 yeah.

16 **MR. MANDERVILLE:** At the bottom of each page
17 is 07/26/01.

18 **THE COMMISSIONER:** Right, okay.

19 Okay, but in his notes, you see that was --
20 was that the day it was typed, the 26th?

21 **MR. McCONNERY:** I think so.

22 **THE COMMISSIONER:** Okay. So on the 26th,
23 you're saying you did not have the second opinion from Mr.
24 Justice Griffiths?

25 **MR. McCONNERY:** That's correct.

1 **THE COMMISSIONER:** Okay.

2 **MR. MANDERVILLE:** Had you received any form
3 of a verbal opinion at that time?

4 **MR. McCONNERY:** No. My quick review of my
5 entries, I may have misled yesterday. I said everything
6 was going on at the same time. My notes tell me now that I
7 had done much of my review before material was sent the ADR
8 chambers.

9 **MR. MANDERVILLE:** Okay.

10 **MR. McCONNERY:** Okay. So it wasn't going on
11 at the same ---

12 **MR. MANDERVILLE:** And just let me interrupt
13 you very briefly.

14 When you say "ADR chambers", that's where
15 Justice Griffiths was ---

16 **MR. McCONNERY:** Yes.

17 **MR. MANDERVILLE:** --- located?

18 **MR. McCONNERY:** Yes. Yes.

19 **MR. MANDERVILLE:** Okay.

20 **THE COMMISSIONER:** And let's make it very
21 clear. It's retired Judge Griffiths ---

22 **MR. McCONNERY:** Judge Griffiths, that's
23 correct.

24 **THE COMMISSIONER:** --- who was in private
25 practice now.

1 **MR. McCONNERY:** Yes.

2 **THE COMMISSIONER:** And while he retains "His
3 Honourable", he was in private practice as a lawyer?

4 **MR. McCONNERY:** Yes, he was.

5 **THE COMMISSIONER:** All right. So I think
6 that pretty well ends it there, sir.

7 **MR. MANDERVILLE:** One additional question.

8 At the time you wrote your opinion of August
9 15, 2001, did you have in hand the opinion of retired
10 Justice Griffiths?

11 **MR. McCONNERY:** No, I didn't. No, I didn't.

12 **MR. MANDERVILLE:** And had you received a
13 verbal opinion at that time?

14 **MR. McCONNERY:** I don't believe so. I had
15 attended meetings. I felt we were being asked to do
16 something completely independent.

17 **MR. MANDERVILLE:** Of each other?

18 **MR. McCONNERY:** Yes. And, you know,
19 something I may have dealt with it that way even more than
20 had been intended originally. I did my own review and I
21 did not rely upon anything from the law chambers, but I did
22 have discussions with them. But no, I do not believe I had
23 any opinion from them.

24 My view was they were picking my brain more
25 than I was picking their brain.

1 **MR. MANDERVILLE:** Now, at the time you wrote
2 your opinion of August 15, 2001, which if you don't have it
3 in front of you is Exhibit 1140, I take it you incorporated
4 into that opinion all of the information you had at your
5 disposal that you felt was relevant?

6 **MR. McCONNERY:** Yeah, I think the letter
7 actually sets out a lot of the significant briefs that I
8 had, aside from the very particular briefs I was asked to
9 give an opinion on. I also indicated in it that it wasn't
10 possible to give an exhaustive list of everything.

11 Now, this is one thing my notes are a little
12 bit lacking on. Every time I looked at something, I didn't
13 add it to my list of "this is another thing I reviewed".
14 And when I wrote that opinion, I went back. I tried to
15 capture the main things I looked at and then I said, you
16 know, this is what I've looked at, but there was other
17 material and my opinion is based upon the material I've
18 looked at.

19 **MR. MANDERVILLE:** At page 3 of your opinion

20 ---

21 **MR. McCONNERY:** What number is the opinion?

22 **MR. MANDERVILLE:** Exhibit 1140, one-one-
23 four-zero, Document 732711.

24 **MR. McCONNERY:** Okay. I remember the
25 opinion but I don't think I have it.

1 Yes, sir?

2 **MR. MANDERVILLE:** Page 3 of your opinion,
3 you note that the OPP officers were not personally
4 satisfied that reasonable and probable grounds exist to lay
5 charges in the six briefs provided to you. Absent such
6 subjective belief that the grounds exist, criminal charges
7 cannot be laid.

8 **MR. McCONNERY:** Yes.

9 **MR. MANDERVILLE:** And I take it, and I
10 believe you've mentioned this previously in your testimony,
11 that it's not for you or anyone else to go behind the
12 officer's subjective belief; correct?

13 **MR. McCONNERY:** I think it's open to me to
14 say why don't you believe, and to explore that, if that's
15 what you mean by "go behind" -- to go behind.

16 Certainly, if an officer presents to me that
17 he doesn't believe in the complaint but he wants an opinion
18 from me, he's not going to get an opinion from me "you
19 should believe", but I could discuss with him why he has
20 difficulties with believing certain aspects of the evidence
21 that might have resulted in a charge.

22 **MR. MANDERVILLE:** And that, I'm suggesting,
23 goes to the reasonableness of things, perhaps the objective
24 component. Is that fair?

25 **MR. McCONNERY:** No, I would say both.

1 **MR. MANDERVILLE:** It's only the
2 investigating officer who is going to, sort of, swear the
3 information indicating they personally believed they have
4 reasonable and probable grounds to lay a charge; correct?

5 **MR. McCONNERY:** Right. Correct.

6 **MR. MANDERVILLE:** And as you've mentioned
7 before, it's not for you or another Crown to say, you know,
8 "You go swear that information because I think you have
9 it"?

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

11 **MR. MANDERVILLE:** It's only for the officer
12 to make that determination?

13 **MR. McCONNERY:** Right. Your question was,
14 do I ever go behind, and I'm saying is, I can discuss with
15 him the fact that he's struggling with the subjective
16 belief ---

17 **MR. MANDERVILLE:** And provide him with
18 guidance ---

19 **MR. McCONNERY:** --- but I can't give him the
20 subjective belief.

21 **MR. MANDERVILLE:** And provide him with some
22 guidance in certain ---

23 **MR. McCONNERY:** Sure.

24 **MR. MANDERVILLE:** --- limited circumstances?

25 **MR. McCONNERY:** Yes. You know, "Maybe, look

1 at this. This might give you the confirmation you need to
2 feel comfortable about proceeding", that kind of thing.

3 **MR. MANDERVILLE:** And you also note at page
4 3 of your opinion, immediately below the passage I just
5 read, that:

6 "Upon our review of all the above-noted
7 material, I find that your concerns and
8 conclusions about the lack of
9 reasonable and probable grounds are
10 appropriate and justified"?

11 **MR. McCONNERY:** Yes.

12 **MR. MANDERVILLE:** And that is you coming to
13 the view that their view that they lack reasonable and
14 probable grounds is a reasonable view; correct?

15 **MR. McCONNERY:** Yes.

16 **MR. MANDERVILLE:** Okay.

17 I want to change focus a little bit, Mr.
18 McConnery. I'd refer you to Document 102622.

19 I don't believe it's been made an exhibit
20 yet, Mr. Commissioner.

21 **THE COMMISSIONER:** M'hm?

22 **THE REGISTRAR:** It's 3038.

23 **MR. MANDERVILLE:** Okay, thank you very much.

24 **THE COMMISSIONER:** I'm sorry?

25 **THE REGISTRAR:** It's 3038.

1 **THE COMMISSIONER:** So 3038.

2 **MR. MANDERVILLE:** Exhibit 3038,
3 Mr. McConnery, should be an email from Terrance Cooper,
4 dated April 20, 2001, addressed to a number of people,
5 including yourself?

6 **MR. McCONNERY:** Yes.

7 **MR. MANDERVILLE:** The email outlines special
8 measures -- and that's my terminology -- some special
9 measures to be taken to deal with the nine Dunlop boxes?

10 **MR. McCONNERY:** Excuse me -- yes.

11 **MR. MANDERVILLE:** And was this, sort of, an
12 extraordinary step or is it done in any number of, what
13 I'll call, "big document" cases?

14 **MR. McCONNERY:** I don't think it was an
15 extraordinary step. I think what was being discussed was,
16 you know, how do we ensure that when we give out copies of
17 the contents of those boxes, that everybody gets
18 everything?

19 Cooper says -- well, it's a number of -- so
20 now we know what pages 1 to 10,000 -- that if everyone
21 could call me and say, "I don't have page 9162" then we
22 could -- we would be able to know there was a problem.

23 **MR. MANDERVILLE:** So to ---

24 **MR. McCONNERY:** It wasn't a -- was it a
25 special -- maybe, but I wasn't ---

1 **MR. MANDERVILLE:** And in your experience --
2 that's really what I asked you -- in your experience, would
3 this sort of measure be commonly taken in a case involving
4 many, many documents?

5 **MR. McCONNERY:** I would say likely, yes.

6 **MR. MANDERVILLE:** I have asked that you turn
7 to Exhibit 3068 which is Document 130412. It's your notes
8 of your interview with C-8 of March 12, 2002.

9 **MR. McCONNERY:** Yes.

10 **MR. MANDERVILLE:** Do you have those notes in
11 front of you, sir?

12 **MR. McCONNERY:** I do, yes.

13 **MR. MANDERVILLE:** Now, Mr. Neville talked
14 with you a bit about this yesterday and I don't propose to
15 rehash what he covered.

16 In a nutshell, C-8, who had already
17 acknowledged lying about some of his allegations against
18 Marcel Lalonde, revealed to you, as recorded in your notes,
19 that he was lying about having been assaulted by Father
20 Charles MacDonald at his father's funeral; correct?

21 **MR. McCONNERY:** Yes.

22 **MR. MANDERVILLE:** And he was also lying
23 about sort of anything to do with candles; correct?

24 **MR. McCONNERY:** Yes.

25 **MR. MANDERVILLE:** And he told you that he

1 was pressured to do so by Mr. Dunlop?

2 MR. McCONNERY: Correct.

3 MR. MANDERVILLE: And he told you, and
4 you've noted, that he had gone to Mr. Dunlop having a main
5 focus of Ron Leroux and allegations of abuse C-8
6 experienced at the hands of Ron Leroux; correct?

7 MR. McCONNERY: That was his position in
8 this interview, yes.

9 MR. MANDERVILLE: Yes. And he indicated to
10 you that he'd provided Mr. Dunlop with a three- or four-
11 page statement concerning Mr. Leroux and that had gone
12 missing?

13 MR. McCONNERY: I think he was saying he had
14 never seen it.

15 MR. MANDERVILLE: From his perspective,
16 that ---

17 MR. McCONNERY: Yes.

18 MR. MANDERVILLE: --- he had never seen it
19 again?

20 MR. McCONNERY: Yes.

21 MR. MANDERVILLE: And as you indicate in
22 these notes, one of the things he told you about Mr. Dunlop
23 was that Mr. Dunlop was continually advising him, "More is
24 better, more is better"?

25 MR. McCONNERY: That's correct.

1 **MR. MANDERVILLE:** And he alleged to you and
2 to those present in the room, that at Mr. Dunlop's urging
3 of "more is better" he had been induced to expand, falsely,
4 his allegations concerning Marcel Lalonde and Father
5 Charles MacDonald; correct?

6 **MR. McCONNERY:** That is what he was telling
7 me.

8 **MR. MANDERVILLE:** Right.

9 **MR. McCONNERY:** Yes.

10 **MR. MANDERVILLE:** No, I accept what you say
11 there, some of your views about C-8.

12 **MR. McCONNERY:** Yes.

13 **MR. MANDERVILLE:** Can I ask that Mr.
14 McConnery be provided with Document 110816?

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

16 **MR. MANDERVILLE:** It's 110816, Madam Clerk.

17 **THE COMMISSIONER:** Thank you.

18 And what are these? Are these your notes,
19 sir?

20 **MR. MANDERVILLE:** I believe, Mr.
21 Commissioner, it's three pages of notes from Kevin Phillips
22 ---

23 **THE COMMISSIONER:** All right.

24 **MR. MANDERVILLE:** --- of a meeting of
25 March 1, 2002 with Mr. Robert Renshaw, involving

1 Mr. McConnery and Mr. Phillips, Joe Dupuis and Robert
2 Renshaw.

3 **THE COMMISSIONER:** Exhibit 3095.

4 --- EXHIBIT NO./PIÈCE NO. P-3095:

5 (110816) - Notes of Kevin Phillips dated
6 March 1, 2002

7 **MR. MANDERVILLE:** Do you have those notes in
8 front of you, Mr. McConnery?

9 **MR. McCONNERY:** I do.

10 **MR. MANDERVILLE:** Are you able to read them?
11 I don't mean to read them aloud, I just -- are they legible
12 to you?

13 **MR. McCONNERY:** For the most part, yes.

14 **MR. MANDERVILLE:** Yes? You're familiar with
15 Mr Phillips' writing?

16 **MR. McCONNERY:** No.

17 **MR. MANDERVILLE:** Would you agree with me
18 that fairly early on in the first page, just below
19 "Interview at C. Bourgeois office", Mr. Renshaw is noted as
20 indicating;

21 "I just want to be left out of it.
22 Dunlop wanted me to add the stuff I
23 wasn't wanting to talk about. I didn't
24 really have a problem with
25 C. MacDonald. I left Cornwall."

1 **MR. McCONNERY:** Yes, I read that that way --

2 -

3 **MR. MANDERVILLE:** Further ---

4 **MR. McCONNERY:** --- I see that note.

5 **MR. MANDERVILLE:** Further down that same
6 page, two entries below, it would appear that Mr. Renshaw
7 is asked:

8 "What impact do you think incident with
9 MacDonald"?

10 Do you see that?

11 **MR. McCONNERY:** Yes.

12 **MR. MANDERVILLE:** And, below that, with an
13 arrow:

14 "For the longest time, truthfully, I
15 didn't think there was anything wrong
16 with them guys; I thought there was
17 something wrong with me."

18 **MR. McCONNERY:** Yes.

19 **MR. MANDERVILLE:** If you'd turn to page 2 of
20 the notes, the last entry, the line beginning, "Gerry",
21 which I'm going to suggest is a reference to his brother --
22 Robert Renshaw's brother, Gerry Renshaw:

23 "Gerry approached him because he knew
24 other guys, not necessarily because he
25 knew he had been abused."

1 Do you see that?

2 **MR. McCONNERY:** Yes, I do.

3 **MR. MANDERVILLE:** If you turn to the top of
4 page 3, there is a reference, the first entry:

5 "Thought affidavit was police
6 statement."

7 Do you see that?

8 **MR. McCONNERY:** Yes, I do.

9 **MR. MANDERVILLE:** And we've heard from
10 Robert Renshaw that he thought the information he was
11 giving Mr. Dunlop was for the purpose of laying a charge,
12 and that an affidavit he swore bearing the style of cause
13 of Mr. MacDonald's civil lawsuit was, according -- by Mr.
14 Renshaw's understanding, the document by which he would lay
15 criminal charges. I take it you were not aware of that?

16 **MR. McCONNERY:** What is it you're saying I
17 was not aware of?

18 **MR. MANDERVILLE:** Mr. Robert Renshaw's
19 testimony here that he was of the understanding that an
20 affidavit he swore bearing the style of cause of Mr.
21 Dunlop's civil suit was, to his understanding, the document
22 he needed to swear to lay a charge.

23 **MR. McCONNERY:** I believe yesterday I
24 reviewed an affidavit of -- he's not a numbered person
25 obviously?

1 **MR. MANDERVILLE:** No, he's not.

2 **MR. McCONNERY:** Something that was an
3 affidavit by him that I presumed was given to Dunlop and-or
4 Bourgeois and I certainly have a recollection that he
5 thought this was his formally complaining to the police.

6 **MR. MANDERVILLE:** And that would accord with
7 this note entry, wouldn't it:

8 "Thought affidavit was police
9 statement."

10 **MR. McCONNERY:** Yes, it does.

11 **MR. MANDERVILLE:** And the entry below that:
12 "He never went running to the police."

13 **MR. McCONNERY:** Correct.

14 **MR. MANDERVILLE:** And then two entries below
15 that:

16 "If I really had known what this was
17 all about, I wouldn't have come
18 forward."

19 **THE COMMISSIONER:** Are we down there, Madam
20 Clerk? Is that what -- yeah, okay, middle of the page,
21 yes.

22 **MR. McCONNERY:** Yes. Correct.

23 **MR. MANDERVILLE:** So I'm going to suggest to
24 you, Mr. McConnery, that the entries we just looked at in
25 these notes suggest that Mr. Dunlop was pressing Robert

1 Renshaw to talk about things that he didn't really wish to
2 address. Is that fair?

3 **MR. McCONNERY:** I think that's the thrust of
4 this interview, yes.

5 Could I just correct -- on the first page it
6 says "interview at C. Bourgeois' office"?

7 **THE COMMISSIONER:** Yeah.

8 **MR. McCONNERY:** That wasn't the interview we
9 conducted.

10 **MR. MANDERVILLE:** No, I quite agree with
11 you, sir.

12 **MR. McCONNERY:** Yeah.

13 **MR. MANDERVILLE:** That that's him
14 referencing an interview he had attended.

15 **THE COMMISSIONER:** All right.

16 Ms. Simms?

17 **MS. SIMMS:** I wanted to point out that I
18 think Mr. McConnery has his own notes from the meeting with
19 Robert Renshaw. I'm not sure if it's the same date. Was
20 it March 1st, 2003?

21 **THE COMMISSIONER:** Scroll it, Madam Clerk.

22 **MR. MANDERVILLE:** That was March 1st, 2002.

23 **MS. SIMMS:** I don't believe notice has been
24 given -- I could be wrong -- on those notes, but perhaps it
25 would help him to see those as well in answering the

1 question.

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

3 **MS. SIMMS:** It's Document Number 130395,
4 just one page; 130395.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **MR. MANDERVILLE:** Do you have that on your
7 screen, Mr. McConnery?

8 **MR. McCONNERY:** Yes, I do.

9 **MR. MANDERVILLE:** And, clearly, that's your
10 notes of the same meeting; correct?

11 **MR. McCONNERY:** Yes, it appears to reflect
12 the same meeting. Yes.

13 **MR. MANDERVILLE:** I don't have any questions
14 for you on the document. I had actually not seen it before
15 but, Mr. Commissioner, do you wish to enter that?

16 **THE COMMISSIONER:** Oh, I'm sorry, yes, yes.

17 It is Exhibit 3096 -- 95 -- well, what's
18 this -- 3096 is notes from Mr. McConnery dated -- do we
19 have the date March 1st '02? Thank you.

20 **--- EXHIBIT NO./PIÈCE NO. P-3096:**

21 (130395) - Notes of Lorne McConnery dated
22 March 1, 2002

23 **MR. MANDERVILLE:** So picking up where I left
24 off, Mr. McConnery, we've heard Mr. Leroux testify here
25 that (1) that the so-called VIP meeting never occurred; and

1 (2) that much of what he swore to in his affidavits and
2 police statements was false and he was pressured to make
3 these statements and plied with alcohol in some cases by
4 Mr. Dunlop to make the allegations he made.

5 Ms. Daley asked you on Wednesday if you felt
6 that Mr. Dunlop was manipulating C-8 and your answer -- I
7 think I have recorded it accurately:

8 "I couldn't say. I only have C-8's
9 word and C-8's a proven liar."

10 Correct?

11 **MR. McCONNERY:** Correct.

12 **MR. MANDERVILLE:** So you didn't want to rely
13 on just his word; correct?

14 **MR. McCONNERY:** Yes.

15 **MR. MANDERVILLE:** You would want to have
16 other evidence about Mr. Dunlop perhaps manipulating other
17 people, like Robert Renshaw or Ron Leroux, and telling them
18 what to say before you could conclude that Mr. Dunlop may
19 have been manipulating witnesses or suborning perjury;
20 correct?

21 **THE COMMISSIONER:** Just a minute.

22 Mr. Lee?

23 **MR. LEE:** Mr. Commissioner, I'm just
24 concerned that we're -- Mr. Manderville took the witness to
25 notes of a meeting with Robert Renshaw, Mr. Phillips' notes

1 and his own notes, and took him through various things.

2 Mr. Renshaw, on the face of the document,
3 what it says is that he didn't want to talk about things
4 and that Perry Dunlop -- I suppose you can infer --
5 pressured him to talk about things. There's no evidence
6 here or anywhere else that Mr. Renshaw alleged that those
7 things were fabricated.

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

9 **MR. LEE:** Just so we're clear here. This is
10 not a Ron Leroux situation or a C-8 situation where these
11 people come forward and say that "I made things up because
12 of Mr. Dunlop's pressure".

13 Mr. Renshaw says, "I spoke of things that I
14 believe to be true that I didn't wish to speak of"
15 presumably because they were painful or whatever.

16 It's a distinction there and I think that
17 needs to be important, and that's not the evidence we have
18 from Mr. Renshaw here either. He maintains the allegation
19 against MacDonald. There were charges related to it.
20 There was a civil action related to it. His evidence has
21 never been that that didn't happen.

22 **THE COMMISSIONER:** Right.

23 **MR. LEE:** The note appears to suggest he
24 didn't wish to speak of it and Mr. Dunlop pressured him to
25 do so, but the underlying allegation stands, in Mr.

1 Renshaw's mind at least, and I just wish to draw that
2 distinction between the three men.

3 **MR. MANDERVILLE:** I'm not sure why my friend
4 is objecting. My question to Mr. McConnery, having read
5 the entries in Mr. Phillips' notes concerning Renshaw,
6 Robert Renshaw, I suggested to Mr. McConnery, and he
7 agreed, that the note entries indicate Mr. Dunlop may have
8 been pressuring Mr. Renshaw to talk about things he didn't
9 wish to address.

10 **THE COMMISSIONER:** All right.

11 **MR. MANDERVILLE:** That was my question. I
12 don't believe it's remotely improper and I don't believe it
13 casts Mr. Renshaw's evidence in an inaccurate light.

14 **THE COMMISSIONER:** Well, given the fact that
15 many counsel, including counsel for the Cornwall Police,
16 often get up and want to make sure that we're really on the
17 straight and narrow, I think Mr. Lee's comments are
18 appropriate.

19 **MR. MANDERVILLE:** I can't recall a single
20 occasion when I've gotten up.

21 **THE COMMISSIONER:** Mr. Lee?

22 **MR. LEE:** Mr. Manderville may have
23 misunderstood me. I didn't object to his questions about
24 the Renshaw document at all, and I thought it was quite
25 proper. I was ready to object but he asked a question that

1 I think was fair.

2 I objected now that I'm concerned that he
3 may be grouping the three sets of allegations as being
4 similar to one another.

5 **THE COMMISSIONER:** No, I qualify your
6 objection as a public service announcement.

7 No, in all seriousness, I think it's a very
8 valid point. I think Mr. Manderville wasn't intimating
9 that, but for the public I think it's important that that
10 distinction be drawn.

11 **MR. LEE:** Thank you, sir.

12 **THE COMMISSIONER:** Thank you.

13 All right.

14 **MR. MANDERVILLE:** To return to where I was,
15 Mr. McConnery, you told Ms. Daley that you couldn't say
16 that Mr. Dunlop was manipulating C-8 because you only had
17 C-8's word. And I'm suggesting to you, you would want to
18 have other evidence about Mr. Dunlop manipulating other
19 people, such as Robert Renshaw, such as Ron Leroux, in
20 telling them what to say and putting words in their mouths,
21 before you could conclude that Mr. Dunlop may have been
22 manipulating witnesses or suborning perjury; correct?

23 **MR. McCONNERY:** I don't think I ever saw
24 evidence to suggest that Dunlop had puts words into
25 Renshaw's mouth. So I didn't draw -- I don't think I drew

1 that connection. I never interviewed Mr. Leroux.

2 I interviewed C-8. My concern with C-8 was
3 -- I would not have -- whatever view I was building of
4 Officer Dunlop, I would never have expressed an opinion
5 based on the uncorroborated allegation of C-8.

6 **MR. MANDERVILLE:** No, quite right.

7 **MR. McCONNERY:** Or the uncorroborated
8 allegation of Ron Leroux.

9 **MR. MANDERVILLE:** Let me put this to you
10 another way.

11 **MR. McCONNERY:** Okay.

12 **MR. MANDERVILLE:** You would not rely on the
13 uncorroborated allegation of C-8, as you've just indicated.
14 If you had evidence to the effect -- well, I'll back up.

15 Ms. Daley used the analogy of who's the
16 puppet and who's the puppet master, and you said it was
17 difficult to tell based on the uncorroborated evidence of
18 C-8; correct?

19 **MR. McCONNERY:** Can I ask you to identify
20 Ms. Daley?

21 **MR. MANDERVILLE:** The attractive woman
22 waving at you.

23 **(LAUGHTER/RIRES)**

24 **MR. MANDERVILLE:** Do you recall that?

25 **MR. McCONNERY:** Yes.

1 **MR. MANDERVILLE:** And I'm suggesting to you
2 if you had the evidence of Robert Renshaw and Mr. Leroux to
3 the effect that Mr. Dunlop was putting words into their
4 mouths, would that assist you ---

5 **THE COMMISSIONER:** Just a minute now. We
6 don't have Mr. Renshaw -- there's no evidence that Dunlop
7 is putting words in his mouth. I think that was the
8 distinction that we had there.

9 **MR. MANDERVILLE:** Well, I respectfully
10 disagree, Mr. Commissioner. I examined Robert Renshaw and
11 I recall quite distinctly taking him through the lengthy
12 interview he had with Mr. Dunlop.

13 And let me be clear; I'm not suggesting
14 Robert Renshaw made false allegations beyond getting the
15 year wrong concerning his allegations against Father
16 Charles MacDonald. I'm not suggesting Robert Renshaw made
17 false allegations.

18 I am suggesting that in his testimony here,
19 he made it very clear that in his interview with Mr.
20 Dunlop, it was Mr. Dunlop carrying the interview and
21 putting words into Mr. Renshaw's mouth.

22 **THE COMMISSIONER:** All right.

23 I'm looking at the note that we have here,
24 March 2nd -- March 1st, and that's where Mr. Lee was coming
25 from, saying, "Look, it just said he was pressuring him to

1 say things -- recount things that he didn't want to get
2 into".

3 So if there's no objection as to the
4 characterization of your cross-examination of Mr. Renshaw,
5 I guess -- unless Ms. Simms has another comment?

6 **MS. SIMMS:** I would just suggest if you want
7 to put it to him as a hypothetical, but he, as we've
8 discussed previously in the cross-examinations, was not
9 privy to the information that came out during the Inquiry.
10 So it's limited really to what he recalls from the meeting.

11 **THE COMMISSIONER:** Well, no ---

12 **MR. MANDERVILLE:** I don't -- with respect to
13 Ms. Simms, I don't believe she has captured what I'm trying
14 to get at here.

15 **THE COMMISSIONER:** Mr. Horn?

16 **MR. HORN:** Yes.

17 **MR. MANDERVILLE:** And we don't need to hear
18 about recovered memory syndrome, Mr. Horn.

19 **MR. HORN:** No, that's not what I'm here for.

20 The -- one of the things that is not being
21 looked at is that Mr. Dunlop is a police officer, and he
22 would know a number of techniques of interrogation, of
23 questioning, and these are trained techniques that are used
24 in order to get people to speak. The Reid technique is one
25 of them and there's many others.

1 So for us to read into this as an example of
2 him putting words into the mouth, this is techniques that
3 are used in order to try to get people to speak. So it was
4 just to try to elicit ---

5 **THE COMMISSIONER:** Are you trying to ---

6 **MR. HORN:** --- the individual. He wasn't
7 coaching him. He was basically using police techniques in
8 order to get a story, to get the truth.

9 **THE COMMISSIONER:** Sir ---

10 **MR. HORN:** Yes.

11 **THE COMMISSIONER:** --- you can't leave.
12 We're having a discussion.

13 **MR. HORN:** Yes.

14 **THE COMMISSIONER:** First of all, are you
15 giving evidence?

16 **MR. HORN:** No, I'm just saying that that's
17 the area that ---

18 **THE COMMISSIONER:** How do we know that that
19 was in Mr. Dunlop's mind? I don't know that it's in any of
20 his written material. I don't know if it's in his will
21 state, and he's declined to come and testify, sir.

22 So don't come and tell me what you think Mr.
23 Dunlop had in his mind unless it's in the documentary
24 material that we have.

25 **MR. HORN:** The question that I'm posing is

1 that ---

2 **THE COMMISSIONER:** Well, you're not supposed
3 to ask questions. You're objecting.

4 **MR. HORN:** Okay. I'm objecting.

5 **THE COMMISSIONER:** What are you objecting
6 to?

7 **MR. HORN:** My objection is that it is not
8 being posed to this witness that there's a possibility he
9 saw into what was going on. Actually, it's just police
10 techniques when they're interviewing somebody and trying to
11 get that person to speak, and these are techniques that are
12 taught by police colleges and they teach them these things.

13 So there's nothing new about what he was
14 doing.

15 **THE COMMISSIONER:** All right.

16 Your objection is not valid. Thank you.
17 How much longer, sir?

18 **MR. MANDERVILLE:** I would have said I've
19 been done a long time ago, but ---

20 **THE COMMISSIONER:** Well, I would have
21 thought so too.

22 **MR. MANDERVILLE:** --- I would think another
23 half hour, Mr. Commissioner.

24 **THE COMMISSIONER:** Okay. So ---

25 **MR. MANDERVILLE:** Perhaps less if it's

1 smooth.

2 **THE COMMISSIONER:** Well, we're going to take
3 a break. We're going to have the morning break. I intend
4 to take half-an-hour for lunch at 12:30, come back at 1:00
5 and then we'll take short breaks, but I intend to sit until
6 4:00 to try to catch up on the session.

7 And, if not, next week we'll have to do
8 night sessions. So I'm thinking of leaving at 5:00, coming
9 back at 6:00 and sitting from 6:00 to 9:00.

10 So let's take the morning break.

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

13 This hearing will resume at 11:15 a.m.

14 --- Upon recessing at 10:58 a.m./

15 L'audience est suspendue à 10h58

16 --- Upon resuming at 11:17 a.m./

17 L'audience est reprise à 11h17

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

20 This hearing is now resumed. Please be
21 seated. Veuillez vous asseoir.

22 **LORNE McCONNERY, Resumed/Sous le même serment:**

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

24 **MANDERVILLE (cont'd/suite):**

25 **MR. MANDERVILLE:** Mr. McConnery, picking up

1 where we left off, my question to you is if you had
2 evidence of other individuals, such as Mr. Leroux or Robert
3 Renshaw, alleging that Mr. Dunlop put words into their
4 mouths or manipulated them into giving false evidence,
5 would that have assisted you in concluding who the puppet
6 master might be?

7 **MR. McCONNERY:** Certainly.

8 **MR. MANDERVILLE:** I'd ask you to turn -- be
9 provided with Exhibit 3077. It's Document 130453, and it
10 is your notes of your interview with Mr. Dunlop of April
11 29, 2002 shortly before the section 11(b) motion before
12 Justice Chilcott.

13 **THE COMMISSIONER:** That's already in
14 evidence, isn't it?

15 **MR. MANDERVILLE:** Yes, it's Exhibit 3077.

16 **THE COMMISSIONER:** Thank you.

17 **MR. McCONNERY:** Three-zero-seven-seven
18 (3077) is the transcript of the 11(b) motion submissions.

19 **MR. MANDERVILLE:** Okay. I stand corrected
20 by Madam Clerk. It's 3078, Mr. Commissioner.

21 **MR. McCONNERY:** Okay.

22 **THE COMMISSIONER:** Okay.

23 **MR. McCONNERY:** Yes.

24 **MR. MANDERVILLE:** It should be, Mr.
25 McConnery, your two-and-a-half pages of notes of your

1 meeting with Mr. Dunlop?

2 MR. McCONNERY: Yes, it is.

3 MR. MANDERVILLE: And if you look halfway
4 down the first page, there's a note:

5 "Never brought on board for the..."

6 Is that your short form of the word
7 "investigation"?

8 MR. McCONNERY: Yes.

9 MR. MANDERVILLE: Was Mr. Dunlop suggesting
10 or -- suggesting he ought to have been brought on board for
11 the Project Truth investigations?

12 MR. McCONNERY: My recollection is he was
13 saying he was never brought on board by Cornwall for their
14 investigation.

15 MR. MANDERVILLE: Do you know which one?

16 MR. McCONNERY: I would say the initial
17 allegation of cover-up, obstruct justice.

18 MR. MANDERVILLE: Now, at page 2 of your
19 notes, about halfway down the page it indicates -- I assume
20 it's your short form for the word "question". It looks
21 like a "Q'n"?

22 MR. McCONNERY: Yes.

23 MR. MANDERVILLE: "Q'n: Why not be a
24 watchdog.

25 A: I was being misguided by my lawyer

1 as to civil versus criminal."

2 MR. McCONNERY: Yes.

3 MR. MANDERVILLE: That's what he told you?

4 MR. McCONNERY: Yes.

5 MR. MANDERVILLE: And you told us the other
6 day that you know Mr. Bourgeois?

7 MR. McCONNERY: I do.

8 MR. MANDERVILLE: I take it you know him
9 professionally as opposed to being personally acquainted?

10 MR. McCONNERY: Yes, just professionally.

11 MR. MANDERVILLE: And you see him in the
12 courts from time-to-time?

13 MR. McCONNERY: Yes.

14 MR. MANDERVILLE: And you know him to see
15 him?

16 MR. McCONNERY: Yes.

17 MR. MANDERVILLE: And when you see him does
18 he remember who you are or that you've met before?

19 MR. McCONNERY: Oh, yes.

20 MR. MANDERVILLE: And we understand that Mr.
21 Bourgeois was called to the Bar in 1994. Mr. Dunlop became
22 a police officer in 1983. Given your knowledge of the
23 Dunlop allegations in his lawsuit, in his statement of
24 claim, and your knowledge of Mr. Bourgeois who would have
25 been a second year lawyer when he became involved with Mr.

1 Dunlop, would it be your view, given your knowledge of Mr.
2 Bourgeois, that he would have been in over his head at the
3 time involved in a complex matter like this?

4 **THE COMMISSIONER:** No, no.

5 **MR. KLOEZE:** Mr. Commissioner, I don't think
6 this witness is in a position to give an opinion as to the
7 quality of counsel and I don't think he should put him in
8 that position to comment on a fellow member of the Bar.

9 **THE COMMISSIONER:** Well, fellow member -- I
10 don't know about that part of it -- go ahead.

11 **MR. MANDERVILLE:** Mr. Commissioner,
12 certainly, my clients have been repeatedly asked in the box
13 to comment on other officers, other individuals as to
14 whether they were in over their head, too inexperienced to
15 deal with a particular matter. I think it's a valid
16 question.

17 If Mr. McConnery doesn't know he can
18 certainly say so.

19 **THE COMMISSIONER:** Right. But what we're
20 talking about when other people were commenting, they were
21 there at the time. You're asking this gentleman to take
22 his knowledge that he has now and retrofit it back to
23 someplace where he barely read a statement of claim, and
24 I'm saying that you cannot.

25 Please go onto something else.

1 **MR. MANDERVILLE:** How long have you known
2 Mr. Bourgeois, Mr. McConnery?

3 **MR. McCONNERY:** I didn't realize that he was
4 called in 1994. I would have thought he had been called
5 prior to that. I spent a couple of years in the Newmarket
6 Crown's office but I left there in '93. I would have said
7 I had met him in my time in the Newmarket Crown's office.
8 So he may have appeared there as a student possibly. I
9 knew him here. I knew him -- I would say I knew him, yeah,
10 in the mid '90s and I would have said even earlier than
11 '94, but maybe I'm wrong.

12 **MR. MANDERVILLE:** So perhaps 15 years?

13 **MR. McCONNERY:** Yes.

14 **MR. MANDERVILLE:** Given the Commissioner's
15 comments and -- are you in any position to assess the
16 accuracy of Mr. Dunlop's recorded remark that he was
17 misguided by his lawyer?

18 **THE COMMISSIONER:** No, no, I'm not going to
19 let you ask that question either.

20 **MR. MANDERVILLE:** I'm not sure why that's
21 problematic, Mr. Commissioner. I'm simply asking if the
22 witness is in any position to assess that.

23 **THE COMMISSIONER:** How can he be in a
24 position to assess what -- what you're saying is, looking
25 back, what was his general reputation as a lawyer? Is that

1 what you're trying to get?

2 **MR. MANDERVILLE:** If Mr. McConnery knows
3 that.

4 **THE COMMISSIONER:** And how is that relevant?
5 It's past. I mean, if Mr. Bourgeois was a young lawyer
6 coming out in 1994, which he was, things can change very
7 quickly in someone's learning curve.

8 **MR. MANDERVILLE:** I quite agree, sir.

9 **THE COMMISSIONER:** So I don't think it's
10 relevant. If it is relevant, I think it is of marginal
11 benefit to this Inquiry, and so please go on to something
12 else.

13 **MR. MANDERVILLE:** I'll move on.

14 **THE COMMISSIONER:** Thank you.

15 **MR. MANDERVILLE:** Mr. McConnery, I take it
16 you'd agree with me, given that Mr. Bourgeois was called to
17 the Bar in 1994 and Mr. Dunlop became an officer in 1983,
18 that it stands to reason that Mr. Dunlop would have had
19 much more experience interviewing witnesses, preparing
20 witnesses, than Mr. Bourgeois had at the time of their
21 relationship; correct?

22 **MR. McCONNERY:** That's not unreasonable. I
23 don't know that but it's not unreasonable.

24 **MR. MANDERVILLE:** I'd ask that Mr. McConnery
25 be shown Exhibit 355. It's Document 102990.

1 **MR. McCONNERY:** So 3055 or ---?

2 **THE COMMISSIONER:** No, no.

3 **MR. MANDERVILLE:** Three-five-five (355).

4 **MR. McCONNERY:** Three-five-five (355).

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **THE COMMISSIONER:** Three-five-five (355)?

7 **MR. MANDERVILLE:** Three-five-five (355), Mr.
8 Commissioner. It should be Volume 4 of the transcript of
9 the ---

10 **THE COMMISSIONER:** Yeah, I have it.

11 **MR. MANDERVILLE:** --- 11(b) motion.

12 **MR. MANDERVILLE:** This volume of the
13 transcript, Mr. McConnery, contains your examination in-
14 chief of Mr. Dunlop and, I believe, a portion of Mr.
15 Neville's cross-examination of Mr. Dunlop.

16 **MR. McCONNERY:** Okay.

17 **MR. MANDERVILLE:** And I'd ask you to turn to
18 page 475 of the transcript, which would be Bates page
19 1015643.

20 **MR. McCONNERY:** Yes.

21 **MR. MANDERVILLE:** And towards the bottom of
22 that page, you question Mr. Dunlop concerning certain
23 allegations he made in the past about a lack of trust of
24 fellow officers, both Cornwall Police and OPP officers?

25 **MR. McCONNERY:** Yes.

1 **MR. MANDERVILLE:** And beginning at the
2 bottom of page 475, you state:

3 Question:

4 "Now, yesterday, sir, in my asking
5 questions of you, you indicated your
6 lack of trust of fellow officers,
7 fellow Cornwall officers, OPP officers;
8 correct?"

9 Answer: "Yes."

10 "You talked about certain reasons very
11 generally. You rhymed them off. You
12 spoke of illegal search warrants or
13 illegal search warrant?"

14 Answer: "Yes."

15 "You talked about police officer or
16 officers tearing up witness
17 statements?"

18 Answer: "Witness statements disappearing."

19 Question: "Witness statements disappearing.
20 You spoke of pages being ripped out of
21 notebooks?"

22 Answer: "Yes."

23 "The Project Truth officers, all of
24 whom are pretty well sitting in this
25 courtroom today, have you one iota of

1 evidence to suggest any of these
2 officers was responsible for any act of
3 that nature?"

4 And I won't read verbatim any further for
5 the moment, and I take it you recall your examination of
6 Mr. Dunlop, not word-for-word, but you generally recall it?

7 **MR. McCONNERY:** Oh, it comes back to me when
8 I read it now, yeah.

9 **MR. MANDERVILLE:** And you agree with me that
10 when you put it to Mr. Dunlop, "Do you have any iota of
11 evidence to suggest that the Project Truth officers were
12 destroying evidence or doing anything untoward", he agreed
13 with you that he had no evidence?

14 **MR. McCONNERY:** Yes, I think that's
15 accurate.

16 **MR. MANDERVILLE:** And further down page 476,
17 you note:

18 "The two officers who were monitoring,
19 on behalf of the Cornwall Police
20 Service, your contact with the Ontario
21 Provincial Police, we've heard were
22 Inspector Trew and Staff Sergeant
23 Derochie; correct?"

24 Answer: "Correct."

25 "Do you have one iota of evidence that

1 they were responsible for any
2 activities such as you described and
3 alleged yesterday?"

4 Answer: "No."

5 On the following page after an interjection
6 by Justice Chilcott, you state:

7 "Are you aware of any evidence to
8 suggest any officer under the umbrella
9 of the Project Truth investigation
10 destroying videotaped evidence?"

11 Answer: "No."

12 "Are you aware of any officer under the
13 umbrella of the investigation headed by
14 Detective Inspector Tim Smith in 1994
15 destroying videotaped evidence when
16 that investigation centred on the
17 allegation of David Silmser and the
18 conduct of the Cornwall Police
19 Service?"

20 Answer: "No."

21 The following page:

22 "Are you aware, sir, of any evidence of
23 any member of the Cornwall Police
24 Service while investigating the
25 complaint of David Silmser destroyed

1 videotaped evidence?"

2 Answer: "No."

3 And then you posed to him what documents are
4 you talking about that went missing and he suggests to you
5 -- and certainly you can read on to satisfy yourself -- he
6 suggests to you that when he met with Ms. Hallett certain
7 pages of his 110-page will state were missing; correct?

8 **MR. McCONNERY:** Okay.

9 **MR. MANDERVILLE:** And you show him the
10 document in the room and demonstrate to him that all 110
11 pages are intact. Do you recall that?

12 **MR. McCONNERY:** Yes, I do.

13 **MR. MANDERVILLE:** And to the best of your
14 recollection, Mr. McConnery, did Mr. Dunlop after
15 confirming that he had no evidence to suggest wrongdoing on
16 the part of my client and the OPP in a number of different
17 instances, did he ever go on to suggest that he had any
18 other evidence of some form of wrongdoing or inappropriate
19 conduct?

20 **MR. McCONNERY:** In his testimony?

21 **MR. MANDERVILLE:** Yes.

22 **MR. McCONNERY:** My answer can only -- this --
23 -- is I don't remember. I don't think so. I don't
24 remember. The transcript speaks for itself.

25 **MR. MANDERVILLE:** Okay. And nothing comes

1 to mind?

2 MR. McCONNERY: Nothing comes to mind today.

3 MR. MANDERVILLE: Now, you told Ms. Daley --

4 -

5 MR. McCONNERY: Yes.

6 MR. MANDERVILLE: --- when she was examining
7 you, that in the course of your examination of Mr. Dunlop
8 you felt you had to -- and I hope I'm quoting you
9 accurately -- "get at the truth of what he was doing". Do
10 you recall saying something of that nature?

11 MR. McCONNERY: That Mr. Dunlop said that?

12 MR. MANDERVILLE: No, that -- in your
13 evidence with Ms. Daley on Wednesday ---

14 MR. McCONNERY: Yes.

15 MR. MANDERVILLE: --- you testified in
16 response to a question from her that your examination of
17 Mr. Dunlop in the 11(b) motion was designed to get at the
18 truth of what he was doing?

19 MR. McCONNERY: Oh, I see what you're
20 saying. Yes, I agree with that. I agree I said that.

21 MR. MANDERVILLE: And that wasn't easy to
22 do, was it? I'm going to suggest to you that certainly in
23 this motion, he was a somewhat evasive witness?

24 MR. McCONNERY: Well, I found that he was
25 liable to make broad sweeping statements and, generally

1 speaking as a witness in-chief, I would not challenge the
2 statements that a witness said, and I felt -- I felt a real
3 obligation on me as the prosecutor to ensure that if these
4 broad statements and allegations were made, that I explored
5 them. That's why I went through the exercise that you just
6 took me through.

7 So if somebody gets in the stand and says,
8 "I didn't turn over the files because I didn't trust the
9 police". Why didn't you trust the police? Oh, they were
10 tearing things up, destroying evidence. Who was there?
11 There was Project Truth investigators.

12 Okay, tell me which you had suspicions of?
13 What was it based upon? And then he routinely would say,
14 "Well, but I don't really have any basis to believe that".

15 And so then I framed the questions the way I
16 did because it seemed to me, left to his own devices, he
17 would make a statement like that and if I didn't sort of go
18 pointedly at it to him, it would be left there -- excuse me
19 -- and yet when I asked those further questions, he would -
20 - I felt, withdrew from those allegations.

21 **MR. MANDERVILLE:** So you had to press him
22 somewhat?

23 **MR. McCONNERY:** Yes. I had to continue to
24 question him, yes, and I guess you might call it pressing
25 him.

1 I guess what I'm trying to say is I felt
2 that I probably having called him -- my examination
3 probably ventured into this sphere of cross-examination at
4 times.

5 **MR. MANDERVILLE:** And I suggested to you
6 moments ago, would it be fair to characterize him as having
7 been an evasive witness on that occasion?

8 **MR. McCONNERY:** I think that Officer Dunlop
9 at the 11(b) motion presented as being quite evasive on a
10 lot of matters.

11 **MR. MANDERVILLE:** And I take it in your
12 career, you've had occasion to examine many evasive
13 witnesses?

14 **MR. McCONNERY:** Certainly, I would say so.

15 **MR. MANDERVILLE:** And I also take it your
16 examination of Mr. Dunlop was designed to get at the truth
17 of what he had been doing?

18 **MR. McCONNERY:** Yes, I think that was -- I
19 think that was the view with which I started my examination
20 of Officer Dunlop; that I was -- I was hoping not only for
21 the court but maybe even for the community that we would
22 have a clear picture of what Dunlop had done. Not Dunlop
23 just saying what he had done but possibly by challenging
24 him on some of it, we would get to the root of what he
25 actually did do.

1 **MR. MANDERVILLE:** And your examination of
2 him -- or in your examination of him, you examined him no
3 differently than you would any other evasive witness?

4 **MR. McCONNERY:** Oh, no, I wouldn't say that,
5 no. I wouldn't say that.

6 I mean I never asked him to be declared
7 hostile. I never -- I don't know that I ever confronted
8 him with a prior statement. You know, maybe I did because
9 he didn't have an affidavit, for instance.

10 So no, I don't think I went that far, but I
11 -- my recollection is he had a tendency to make blanket,
12 sweeping allegations, and I just wanted to ensure that I
13 explored them so that we could see if there was any meat on
14 his allegations.

15 **MR. MANDERVILLE:** I would next like to
16 direct you to Exhibit 627, Document 102199, which is the
17 ruling by Mr. Justice Chilcott.

18 **MR. McCONNERY:** Yes?

19 **MR. MANDERVILLE:** And I would ask you to
20 turn to page 21 of that ruling, Bates page 1012102.

21 **MR. McCONNERY:** Yes, I have that.

22 **MR. MANDERVILLE:** You have that in front of
23 you, Mr. McConnery?

24 **MR. McCONNERY:** Yes, I do. Yes.

25 **MR. MANDERVILLE:** Mr. Chilcott, on page 21,

1 found as fact that the greatest contributor to the delay in
2 the matter was Mr. Dunlop didn't he?

3 **MR. McCONNERY:** Yes, that's what he says.

4 **MR. MANDERVILLE:** And he notes at page 21
5 that Mr. Dunlop repeatedly promised to provide information
6 and failed to do so or refused to do so; correct?

7 **MR. McCONNERY:** Yes.

8 **MR. MANDERVILLE:** And at page 22 -- the
9 bottom of page 21, top of page 22 -- Justice Chilcott notes
10 that Mr. Dunlop:

11 "Refused to provide the statements and
12 documentation until he had seriously
13 imperilled this prosecution and it was
14 too late to be salvaged."

15 **MR. McCONNERY:** Yes.

16 **MR. MANDERVILLE:** And he also found, at page
17 22, and I'm quoting:

18 "That it is easy to just say in
19 hindsight why didn't they..."

20 -- meaning the police:

21 "...come down harder on Dunlop but
22 remember at the time that he had been
23 through a hearing under the *Police Act*
24 and had been successful. He was suing
25 the police chief of Cornwall and the

1 others that I mentioned earlier,
2 including the Diocese, for millions of
3 damages in a civil action. He kept
4 promising to produce and as his
5 inspector at the time said, they were
6 afraid that if they were too harsh on
7 him, he would provide nothing and
8 refuse to cooperate at all. That I can
9 appreciate in the circumstances at the
10 time."

11 And, again, these are findings of fact by
12 Justice Chilcott; correct?

13 **MR. McCONNERY:** Yes.

14 **MR. MANDERVILLE:** And he also notes on that
15 page that Mr. Dunlop was trusted at the time and that was
16 mistake and that Mr. Dunlop had been purposefully
17 deceitful, correct?

18 **MR. McCONNERY:** Yes, those were his
19 findings.

20 **MR. MANDERVILLE:** And, again, these are
21 findings of fact?

22 **MR. McCONNERY:** By the judge, yes.

23 **MR. MANDERVILLE:** Yes.

24 **MR. McCONNERY:** Yes.

25 **MR. MANDERVILLE:** And you wrote a letter,

1 Exhibit 3080. That's Document 101781. It's your letter of
2 June 5, 2002, to Paul Lindsay of the Crown Law Office
3 Criminal in Toronto?

4 **MR. McCONNERY:** Yes. Yes, I have that.

5 **MR. MANDERVILLE:** I take it this is your
6 letter, firstly, sort of reporting on what had transpired
7 with Mr. Justice Chilcott and commenting on the possible
8 success of any appeal?

9 **MR. McCONNERY:** I had indicated at the end
10 of the section 11(b) application that I would seek
11 instruction from our Criminal Law Division regarding an
12 appeal and Jim Stewart, the Director of Crown Operations,
13 urged me to write a letter in that regard in a timely
14 fashion and I did that, and that's what this is.

15 I wasn't just reporting back on what had
16 happened. I was writing to request a review with respect
17 to appeal.

18 **MR. MANDERVILLE:** Okay. And you note at
19 page 5 of your letter under the heading "Decision of
20 Justice Chilcott" ---

21 **MR. McCONNERY:** Yes.

22 **MR. MANDERVILLE:** "Chilcott found the real
23 culprit in the delay to be Officer
24 Dunlop who did testify and whom he
25 found to be purposefully deceitful."

1 **MR. McCONNERY:** Yes.

2 **MR. MANDERVILLE:** I would ask you to look at
3 Exhibit 3081. It's Document Number 102157.

4 **MR. McCONNERY:** Yes.

5 **MR. MANDERVILLE:** What you should have in
6 front of you, if you do ---

7 **MR. McCONNERY:** I do.

8 **MR. MANDERVILLE:** --- is a letter dated June
9 18, 2002, to Murray Segal from John Pearson, Director of
10 Crown Operations, Central-West Region.

11 **MR. McCONNERY:** Yes.

12 **MR. MANDERVILLE:** Mr. Pearson indicates in
13 the letter that he, Fred Campling, Jennifer Donolo -- and
14 Jennifer Donolo had all reviewed the matter independently?

15 **MR. McCONNERY:** Yes.

16 **MR. MANDERVILLE:** And they had all concluded
17 that there was no basis for an appeal?

18 **MR. McCONNERY:** Yes.

19 **MR. MANDERVILLE:** They concluded that
20 Justice Chilcott's findings of fact were unassailable, and
21 that is -- and that he was correct in law or had made no
22 errors of law?

23 **MR. McCONNERY:** Disclosed no errors in law,
24 yes.

25 **MR. MANDERVILLE:** And I take it you'd agree

1 with me that findings of fact cannot be revisited by
2 another Tribunal or overturned unless there are palpable
3 and overriding errors in the assessment of the facts?

4 **MR. McCONNERY:** I think that's a fair
5 statement.

6 **MR. MANDERVILLE:** Thank you very much, Mr.
7 McConnery. Those are my questions.

8 **MR. McCONNERY:** Thank you, sir.

9 **THE COMMISSIONER:** Thank you.

10 Ms. Lahaie, good morning.

11 **MS. LAHAIE:** Good morning, Mr. Commissioner.

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

13 **LAHAIE:**

14 **MS. LAHAIE:** Good morning, Mr. McConnery.

15 **MR. McCONNERY:** Good morning.

16 **MS. LAHAIE:** My name is Diane Lahaie and I'm
17 one of the lawyers representing the Ontario Provincial
18 Police and its commissioned officers at this Inquiry.

19 **MR. McCONNERY:** Yes.

20 **MS. LAHAIE:** I have four issues I'd like to
21 canvass with you. They're very brief. I shouldn't be much
22 more than 20 minutes or so.

23 The first issue, sir, relates to your
24 interview on March 12th, 2002 with C-8, and I would ask that
25 Exhibit 3068, Document Number 130412, be shown.

1 **MR. McCONNERY:** Okay. I have that.

2 **MS. LAHAIE:** We've reviewed this document on
3 the primary issues and the reason for this interview, but I
4 would also wish to canvass a portion of the interview, your
5 notes of that interview relating to another issue that's
6 been extensively reviewed in this Inquiry, and that's the
7 videotapes issue for the purpose of demonstrating C-8's
8 views as expressed to you on the videotapes issue as of
9 March 12th, 2002.

10 So I would ask you to go to Bates page
11 1171128.

12 **MR. McCONNERY:** That's the same Exhibit,
13 3068?

14 **MS. LAHAIE:** Yes, the Bates number is the
15 number in the corner, the smaller number, seven digits.

16 **MR. McCONNERY:** Yes, I have it.

17 **MS. LAHAIE:** All right.

18 About midway on that page ---

19 **MR. McCONNERY:** Yes.

20 **MS. LAHAIE:** "I [interpreted] C-8 to ask
21 him about the recovery of videotapes in
22 1993 at the house in Summerstown..."

23 **MR. McCONNERY:** No, "I interrupted..."

24 **MS. LAHAIE:** I'm sorry, "I interrupted".

25 Thank you.

1 **MR. McCONNERY:** "...C-8..."

2 **MS. LAHAIE:** "...in Summerstown that he
3 and Leroux lived at. He began to tell
4 me that Leroux had threatened him and
5 that when Leroux went to Florida, he
6 (C-8) went to the police about threats
7 and that Leroux had guns. He said he
8 was there when the police found the
9 suitcase and opened, and it contained
10 videos. He had never seen them before,
11 but he seemed to recall that some were
12 commercially bought, i.e. jackets, et
13 cetera, but some were just black
14 videotapes with stickers on them. He
15 could tell they were pornographic, and
16 then he said, 'Well, just because I
17 knew Ken and Ron.'"

18 That would be Ken Seguin and Ron Leroux;
19 correct?

20 **MR. McCONNERY:** Yes.

21 **MS. LAHAIE:** "C-8 said that with respect
22 to the tapes, he couldn't say what he
23 really knew about the tapes, if
24 anything, because Dunlop had told him
25 so much about the tapes. He was

1 adamant he had never seen them before,
2 nor after the police took them and he
3 certainly never watched them. I asked
4 him pointedly if he knew anything about
5 Ken Seguin doing home porn videos, i.e.
6 cameras aimed at Seguin's bed. He
7 denied ever seeing such a camera or
8 anyone ever talking or admitting
9 knowledge of such a camera. He said he
10 had heard from Dunlop about Ken Seguin
11 having a camera and about home videos,
12 but he couldn't now tell us what Dunlop
13 told him or didn't tell him about Ken
14 Seguin doing home videos."

15 And in brackets you have inserted:

16 "(To be clear, my understanding was C-8
17 never heard anything about homemade
18 porno movies involving Ken Seguin or
19 his camera other than what Dunlop told
20 him, and he wasn't clear about what
21 Dunlop told him.)"

22 That's an accurate reflection of the content
23 of what he was saying to you on that day, sir?

24 **MR. McCONNERY:** Yes, I think it was. I
25 don't believe it captured everything said about the videos,

1 but it certainly was trying to capture what I recalled --
2 because it's written about two days later.

3 **MS. LAHAIE:** Yes.

4 **MR. McCONNERY:** Or at least completed two
5 days later. It's fairly lengthy.

6 But yes, that was certainly what he was
7 telling me about the videotapes.

8 **MS. LAHAIE:** Okay. And we also, of course,
9 have the notes which are at C -- I don't propose to pull
10 them up, but just for reference for the court, Exhibit C-
11 625, Document Number 105525, were the notes of Kevin
12 Phillips in relation to the same interview, and we see a
13 discussion with respect to the tapes on that as well, which
14 is very close to your representation in these notes.

15 And so essentially, if I'm understanding
16 correctly, Mr. Dunlop is saying -- I'm sorry, Mr. C-8 is
17 saying that he had never seen the tapes before or after and
18 he was really just going on what Mr. Dunlop had told him,
19 and you couldn't really recall what had been told to him at
20 that point; correct?

21 **MR. McCONNERY:** I think that captures it,
22 yes.

23 **MS. LAHAIE:** Okay. Moving on to the second
24 issue, sir, for this second issue, if we could pull up
25 Exhibit 1140, Document 732711?

1 **THE COMMISSIONER:** So this is your letter
2 dated August 15th, 2000.

3 **MR. McCONNERY:** Okay. I can just read it on
4 the screen.

5 **THE COMMISSIONER:** Yes.

6 **MS. LAHAIE:** All right.

7 **MR. McCONNERY:** I don't know if I have it
8 here or not.

9 **THE COMMISSIONER:** You do, but you can go on
10 the screen. I think it's a simple ---

11 **MR. McCONNERY:** Yes.

12 **MS. LAHAIE:** Okay.

13 **MR. McCONNERY:** Hopefully it is.

14 **MS. LAHAIE:** I think we've reviewed it
15 enough. You've probably committed it to memory at this
16 point.

17 Now, I understand you were provided -- from
18 the second page of this opinion letter there are some
19 confirming information as well, so it's 7126443 -- if that
20 page could be pulled up, 7126443?

21 You were provided with the five briefs
22 involving the five individual members of the clergy on May
23 29th, 2001; correct?

24 **MR. McCONNERY:** Yes.

25 **MS. LAHAIE:** And the conspiracy brief came

1 to you from Ms. Hallett on the 13th of June 2001; correct?

2 MR. McCONNERY: Yes.

3 MS. LAHAIE: All right.

4 And these were assignments which were made
5 to you by the Ministry of the Attorney General, not the
6 Ontario Provincial Police; correct?

7 MR. McCONNERY: I'm sorry; I was reading
8 something here. On June 13th I received the conspiracy
9 brief from the police. It doesn't say ---

10 MS. LAHAIE: Oh, I'm sorry; correct.

11 But I think you testified earlier that the
12 conspiracy brief -- oh, I'm sorry; you're correct. The
13 conspiracy brief, you went to the office of the Ontario
14 Provincial Police and there was an issue about photocopying
15 it and they were somewhat frustrated by the fact that you
16 had not actually received it from Ms. Hallett.

17 Is that a more accurate reflection?

18 MR. McCONNERY: Yes, they weren't -- they
19 weren't happy that I was asking them for yet another copy.
20 I think that maybe captures it.

21 MS. LAHAIE: Okay. The assignment of these
22 reviews came to you from the Ministry of the Attorney
23 General; correct?

24 MR. McCONNERY: Yes.

25 MS. LAHAIE: It's not something that the

1 Ontario Provincial Police turned over to you directly to
2 do?

3 **MR. McCONNERY:** No.

4 **MS. LAHAIE:** They didn't assign you that
5 task or request that you do it? It didn't come from them;
6 it came from your superiors?

7 **MR. McCONNERY:** Right.

8 The only thing that I would maybe correct
9 you about is that the first I learned about it was through
10 Jim Miller.

11 **MS. LAHAIE:** Who is a superintendent with
12 the Ontario Provincial Police?

13 **MR. McCONNERY:** Right.

14 And he told me that and we sort of laughed,
15 and I would say, "No, I'm not." And then I got the follow-
16 up memo or call from Mr. Segal.

17 **MS. LAHAIE:** All right.

18 And my understanding of how that came to
19 pass is that Inspector Hall would have complained to
20 Superintendent Miller, who then in turn met with Murray
21 Segal, and then the assignment flows down to you from the
22 Ministry of the Attorney General.

23 Is that accurate?

24 **MR. McCONNERY:** Generally, I would say
25 that's the way it happened, yes.

1 **MS. LAHAIE:** Okay. And similarly, is it
2 your understanding that Shelley Hallett would have received
3 this assignment as well from the Ministry of the Attorney
4 General? It's not something that the police brought to
5 her; the Ministry would assign those reviews to her?

6 **MR. McCONNERY:** Well, my role was a little
7 bit different, I believe, than Ms. Hallett's. If she was
8 assigned as the lead Crown on the Project Truth
9 allegations, then I think she would review whatever the
10 police brought to her. She wouldn't say, "Oh, get the
11 Ministry's approval that I review them." She would take
12 whatever they brought to her.

13 I was assigned to do the Father MacDonald
14 prosecution. So this was a little adjunct to that, and I
15 wasn't -- I certainly wasn't going to undertake it unless
16 my role changed, which it did.

17 **MS. LAHAIE:** My understanding is that the
18 briefs were sent to the Ministry of the Attorney General
19 and that they assigned them to Ms. Hallett.

20 Do you have any information contrary to
21 that?

22 **MR. McCONNERY:** Not really, no, I don't.

23 **MS. LAHAIE:** Okay.

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

25 **MS. LAHAIE:** Now, my understanding from the

1 evidence we've heard so far is that following the decision
2 on March 1st, 2001 in the Jacques Leduc matter, Ms. Hallett
3 no longer participated in any Project Truth prosecutions;
4 correct?

5 **MR. McCONNERY:** That's accurate.

6 **MS. LAHAIE:** And no reviews of files either?
7 She was off Truth; correct?

8 **MR. McCONNERY:** Correct.

9 **MS. LAHAIE:** Off of Project Truth?

10 **MR. McCONNERY:** Off of Truth, yes. Yes.

11 **MS. LAHAIE:** But she was no longer ---

12 **MR. McCONNERY:** No, I -- yes.

13 **MS. LAHAIE:** --- participating in those
14 matters; correct?

15 **MR. McCONNERY:** That's correct, yes.

16 **MS. LAHAIE:** And do you know whether anyone
17 else was assigned the review of those briefs from March 1st,
18 2001 until they came to you almost three months later?

19 **MR. McCONNERY:** Well, I would say, no, there
20 wasn't -- I think the -- no.

21 Clearly, they came to me because they had
22 been left with Ms. Hallett. The police wanted an opinion
23 and hadn't received it, and they came to me.

24 **MS. LAHAIE:** Okay. And were you aware that
25 it was a point of contention with Inspector Hall and the

1 Ministry of the Attorney General, that there was never --
2 there were never specific, designated Crowns for the
3 Project Truth officers, "go-to" people that they could go
4 to with their prosecutions? There were a number of Crowns
5 and a great deal of turnover?

6 **THE COMMISSIONER:** That's -- we're blending
7 a lot of questions in there, so ---

8 **MS. LAHAIE:** M'hm.

9 **THE COMMISSIONER:** --- what's your question?

10 **MS. LAHAIE:** Were you aware that it was a
11 point of contention with Inspector Hall that there were no
12 designated Crowns for Project Truth?

13 **MR. McCONNERY:** Well, I thought there were
14 designated Crowns. There was Ms. Hallett, there had been
15 Mr. Pelletier, there had been ---

16 **THE COMMISSIONER:** Mr. Godin -- or no?

17 **MR. McCONNERY:** --- a fellow from up north.

18 **THE COMMISSIONER:** Alain Godin.

19 **MR. McCONNERY:** Alain Godin.

20 **MS. LAHAIE:** Were you aware, for instance,
21 that Curt Flanagan was initially going to be the designated
22 Crown and that the Father MacDonald case went to Mr.
23 Pelletier, then to Ms. Hallett, then on to you, and that
24 this was a point of contention with Inspector Hall, that
25 there -- there was not a specific, designated Crown, or

1 teams of Crowns, that could be consulted with Project Truth
2 matters?

3 In other words, briefs had to be submitted
4 to the Ministry of the Attorney General, and then from
5 then, they would get farmed out to the various individuals?

6 **THE COMMISSIONER:** Yes, sir?

7 **MR. KLOEZE:** I just want to make a point of
8 clarification.

9 I think there was some documentary evidence
10 -- and Inspector Smith probably testified as well -- that
11 his understanding was that Curt Flanagan was supposed to be
12 the designated Crown but of -- I'm not even sure if Mr.
13 Flanagan himself was asked this question, but I'm not
14 entirely sure that was ever conveyed to Mr. Flanagan, so --
15 -

16 **THE COMMISSIONER:** What ---

17 **MS. LAHAIE:** My recollection is that it was
18 and that he went on to, I believe it was, gaming, after a
19 very short period of time and so he was not the designated
20 Crown.

21 **THE COMMISSIONER:** But he was originally ---

22 **MS. LAHAIE:** Yes.

23 **THE COMMISSIONER:** --- designated? Okay.

24 Is that fair?

25 **MR. KLOEZE:** I think the evidence -- I think

1 there's some documentary evidence in -- suggesting that Mr.
2 Flanagan was supposed to be the designated Crown. I'm not
3 sure that actually -- that designation, if we can call it
4 such, ever actually happened.

5 **THE COMMISSIONER:** All right.

6 **MR. McCONNERY:** So was I aware of Officer
7 Hall being a little disgruntled?

8 **MS. LAHAIE:** Yes.

9 **MR. McCONNERY:** Pat Hall shared a lot of his
10 "disgruntle" with me.

11 **MS. LAHAIE:** M'hm?

12 **MR. McCONNERY:** That, specifically, no. And
13 I think my answer would have been but there were always
14 assigned Crowns, and there were very good reasons that
15 those Crowns changed.

16 Mr. MacDonald turned it over to Mr.
17 Pelletier ---

18 **THE COMMISSIONER:** Murray MacDonald?

19 **MR. McCONNERY:** Mr. Murray MacDonald turned
20 it over to Mr. Pelletier. I don't think there was any
21 dispute that that was a sound decision.

22 **MS. LAHAIE:** M'hm?

23 **MR. McCONNERY:** Mr. Pelletier, in turn,
24 asked that he be relieved of it, again, for good reason.

25 **MS. LAHAIE:** M'hm?

1 **MR. McCONNERY:** And the unfortunate
2 circumstances involving Ms. Hallett, obviously she couldn't
3 continue, so -- I'm sure it was frustrating, but I don't
4 know if Pat Hall was actually complaining about it or not,
5 I don't believe.

6 **MS. LAHAIE:** So he wasn't sharing his
7 frustration about that particular issue with you?

8 **MR. McCONNERY:** He may have.

9 **MS. LAHAIE:** Okay.

10 **MR. McCONNERY:** He vented about a lot of
11 things to me.

12 **MS. LAHAIE:** Okay.

13 Officer Hall testified that the files
14 involving Bishop LaRocque, Father McDougald, Father Ostler,
15 and Father Cameron were delivered to Ms. Hallett at her
16 residence on September 22nd, 1999, following MAGs assignment
17 of her as the designated Crown. You have no information to
18 the contrary?

19 **MR. McCONNERY:** No, I don't.

20 **MS. LAHAIE:** And that the Father Maloney
21 brief was sent to Mr. Stewart who assigned it to
22 Ms. Hallett, and it was delivered to her on November 15th,
23 1999.

24 **MR. McCONNERY:** Okay.

25 **MS. LAHAIE:** You have no information

1 contrary?

2 **MR. McCONNERY:** No, I don't.

3 **MS. LAHAIE:** No? And the conspiracy brief
4 was assigned to Ms. Hallett by the Ministry of the Attorney
5 General. The brief was given to her on July 20th, 2000.
6 Again, that's something you're prepared to accept?

7 **MR. McCONNERY:** Certainly.

8 **MS. LAHAIE:** By the time she begins the case
9 involving Jacques Leduc -- and in late January, February,
10 2001, she had had the first four briefs, if we do the math
11 on that, for 16 months. Does that sound about right?

12 **MR. McCONNERY:** Yes.

13 **MS. LAHAIE:** Okay. And she'd had the Father
14 Maloney brief for 14 months at that point ---

15 **MR. McCONNERY:** Okay.

16 **MS. LAHAIE:** --- correct?

17 **MR. KLOEZE:** Mr. Commissioner, all of this
18 has been part of the evidence. We've heard of all of this
19 already, and I'm not sure it's useful to ask this witness,
20 who wasn't involved in that part of it, any of these
21 questions.

22 **MS. LAHAIE:** I'm leading to a point. Thank
23 you. She's had the conspiracy brief for ---

24 **THE COMMISSIONER:** Just for a minute, can
25 you ---

1 MS. LAHAIE: Yes.

2 THE COMMISSIONER: --- get to the point?

3 MS. LAHAIE: Yes.

4 THE COMMISSIONER: Thank you.

5 MS. LAHAIE: I'm going to be there in less
6 than a minute, barring any objections.

7 She's had the conspiracy brief for six
8 months, at that point?

9 MR. McCONNERY: Okay.

10 MS. LAHAIE: All right, so 16 months, 14
11 months, 6 months.

12 The individual briefs, sir, were one-to-two
13 volumes each, I believe you've set out in correspondence;
14 correct?

15 MR. McCONNERY: As many as three, I think,
16 on some of the allegations, yes.

17 MS. LAHAIE: Now, if we look at that
18 situation, and you became aware through your involvement
19 with Project Truth and attendance in Cornwall that there
20 had been -- there were a number of rumours and innuendo and
21 even a web site that had all of this information about
22 these individuals out there in the community; correct? You
23 became aware of that?

24 MR. McCONNERY: Eventually, yes, I did.

25 MS. LAHAIE: Okay.

1 And that there was -- the allegations in
2 relation to the conspiracy were also on the website. You
3 became aware of that?

4 **MR. McCONNERY:** Yes. Yes.

5 **MS. LAHAIE:** And, would you agree, sir, that
6 it's not ideal for those alleged perpetrators who were
7 awaiting decisions to have these matters out there in the
8 public rumour mill for that length of time? Would you
9 agree that that's not ideal for them and their lives?

10 **MR. McCONNERY:** Yes.

11 **MS. LAHAIE:** And would you also agree that
12 it's not ideal for the public's confidence in the
13 administration of justice to have these rumours and
14 innuendo and website information hanging out there for as
15 long as they did?

16 **MR. McCONNERY:** What was the question again?
17 That it wasn't ---

18 **MS. LAHAIE:** That the public's confidence in
19 the administration of justice -- people are reading about
20 these things on the website; they're talking about it at
21 water coolers; we've heard evidence of -- throughout this
22 Inquiry.

23 Do you think the public has got a reduced
24 sense of confidence by -- in a common sense way, saying,
25 "What are the police doing about this? Are there going to

1 be charges? Is this going to be something that's going to
2 come to a conclusion?"

3 **MR. McCONNERY:** Yes.

4 **MS. LAHAIE:** It reduces public confidence to
5 have matters out there that long?

6 **MR. McCONNERY:** As a general statement, I
7 would agree with that, yes.

8 **MS. LAHAIE:** And would you agree that the
9 Ontario Provincial Police was entitled to have the opinions
10 done in a thorough, conscientious way, as you did, in 2 and
11 2-and-a-half months, as opposed to 14 to 16 months?

12 **MR. KLOEZE:** Mr. Commissioner, I think the
13 evidence shows, and Mr. McConnery has testified, that when
14 he was doing the briefs, in the two and two-and-a-half
15 month period that he did them, that was all he was doing,
16 and Ms. Hallett was doing quite a number of other things,
17 but it -- Mr. McConnery has already testified to that.

18 **THE COMMISSIONER:** No, go ahead. I think we
19 will deal with Ms. Hallett's workload and the rest later.

20 **MS. LAHAIE:** My difficulty, and the point
21 I'm trying to make, is just -- and perhaps we can just go
22 straight to that -- is your comment that you believed that
23 the Ontario Provincial Police had an unreasonable set of
24 expectations with respect to Ms. Hallett's abilities, or
25 capabilities, or expectations, of what she could get done

1 within a certain time period.

2 Would you agree rather that it's the
3 Ministry of the Attorney General that piled too much on for
4 this woman?

5 **THE COMMISSIONER:** Well, no, now we're
6 getting into -- that I don't know that we can go -- I don't
7 know if the witness is qualified to say that, but I
8 preferred your other angle on it as to whether the public
9 confidence and whether, you know, the -- and I think you'll
10 -- is 16 months a little long, just abstractly, for someone
11 to give an opinion on a police brief?

12 **MR. McCONNERY:** Yes.

13 **MS. LAHAIE:** Okay. I think it's important,
14 though, that when we talk about what the Ontario Provincial
15 Police's expectations were of Ms. Hallett, really what they
16 were trying to get done was a review of those files and
17 their expectations weren't unreasonable, were they? That
18 they wanted to get it done quicker than 6, 14 and 16 months
19 later?

20 **THE COMMISSIONER:** You're getting away from
21 ---

22 **MS. SIMMS:** Sorry, I don't want to interrupt
23 and waste any further time, but I'm just concerned.

24 I think there was some evidence that
25 discussions, that this witness wouldn't be privy to,

1 between Inspector Hall and Ms. Hallett and reasons for some
2 of that delay that Inspector Hall was aware of. I just
3 don't think it's fair necessarily to put this question to
4 the witness.

5 **THE COMMISSIONER:** Well, just move over to
6 the other side now, Ms. Lahaie.

7 **MR. KLOEZE:** I'll also -- Mr. McConnery's
8 evidence, I think, was not that the OPP's expectations were
9 unrealistic but that their understanding of the time
10 commitment that would be involved were unrealistic.

11 **THE COMMISSIONER:** It matters not; it
12 matters not. I think the witness has indicated that,
13 generally speaking, 16 months is way too -- well, he said
14 it was unreasonable to wait 16 months. And why don't we
15 just leave it at that, knowing that if we tunnel down I'm
16 going to look at what the reasons were, what happened, that
17 kind of thing. But officially, 16 months is too long.

18 And what Ms. Lahaie didn't comment on,
19 though, or ask questions, she talked about the alleged
20 perpetrators, the community and, I would add, the
21 complainants have a reasonable expectation that their
22 complaint will be dealt with in a timely fashion as well,
23 would it not be?

24 **MR. McCONNERY:** Yes, I do agree.

25 **THE COMMISSIONER:** Thank you.

1 Okay. Carry on. Move on.

2 **MS. LAHAIE:** Thank you.

3 In terms of the comparison between
4 workloads, I think it is important, though, to go back and
5 look. You were, I would characterize, as very charitable
6 in terms of what she did have on her plate because truly,
7 sir, you'll agree with me, you also had the Dunlop box
8 issue; correct?

9 **MR. McCONNERY:** Yes.

10 **MS. LAHAIE:** You had the Father Charles
11 MacDonald's prosecution to contend with and an 11(b)
12 application?

13 **MR. McCONNERY:** Yes, I did, but no, I didn't
14 either because by the time I arrived to commence a review
15 of Father MacDonald it was basically bumped off my desk.
16 Correct.

17 **MS. LAHAIE:** Correct.

18 And that's what freed you up to be able to
19 turn your mind to the review of those six briefs.

20 **MR. McCONNERY:** Yes.

21 **MS. LAHAIE:** Right?

22 **MR. McCONNERY:** Yes.

23 **MS. LAHAIE:** And in that time period you had
24 time -- between the time that it's assigned to you on May
25 29th, 2001 for the first batch until your decision of August

1 15th, 2001, so two and a half months, you had time to review
2 all of the material in those six briefs, make further
3 inquiries of the officers; the officers complied with your
4 request and provided all that material. You requested an
5 additional 10 or so briefs, and all of the other related
6 investigations to get yourself completely up to speed on
7 all the possible facts that were out there and render an
8 opinion; correct?

9 MR. McCONNERY: Yes.

10 MS. LAHAIE: And so you were able to
11 accomplish that in two and a half months?

12 MR. McCONNERY: Yes.

13 MS. LAHAIE: In terms of how much ---

14 MR. McCONNERY: No, I'm ---

15 MS. LAHAIE: You had a lot on your plate
16 too, sir, would you agree?

17 MR. McCONNERY: We looked at a lot of
18 information. There were two of us doing it.

19 MS. LAHAIE: M'hm.

20 MR. McCONNERY: We had lots of other things
21 that were distracting us to a certain extent, but two and a
22 half months -- you know, if somebody had really said, as
23 Mr. Segal had said, "I'd like this done in 30 days" I'm not
24 sure 30 days was realistic, but 40 days might have been.
25 And I took longer than that.

1 I didn't -- I never felt any real pressure
2 by anyone, "Get this done, Mr. McConnery. What are you
3 doing?" I was told, "Do it. Do it thoroughly. Give us
4 your best opinion, but this is your priority".

5 **MS. LAHAIE:** Okay.

6 **MR. McCONNERY:** Right.

7 **MS. LAHAIE:** I want to turn to the Father
8 Charles MacDonald case for a moment.

9 Before we do that, the only point I wanted
10 to make -- and I started to make it -- was with respect to
11 what you had on your plate compared to what Ms. Hallett had
12 on her plate. The only additional matters that she had
13 were the matters of Malcolm MacDonald and Dr. Peachey who
14 were deceased and Jacques Leduc. Other than that you had
15 the same workload; is that fair?

16 **THE COMMISSIONER:** On the Project Truth
17 matters?

18 **MS. LAHAIE:** On Project Truth.

19 **MR. KLOEZE:** I'm not sure that this witness
20 can say with any accuracy what was on Ms. Hallett's plate.
21 I think he also referred to the fact that she had an
22 appellate practice going on at 720 Bay.

23 **THE COMMISSIONER:** Okay. I'm going to make
24 the same comment that I made to Mr. Carroll yesterday. You
25 weren't listening to the full question or you didn't

1 understand the full question, "With respect to Project
2 Truth the differences are?" So it has nothing to do with
3 her other caseload, but with respect to this Project Truth
4 matter the only differences were as outlined by Ms. Lahaie.

5 And I think you can answer that.

6 **MR. McCONNERY:** I don't agree.

7 **MS. LAHAIE:** Okay.

8 **MR. McCONNERY:** I mean, first of all, she
9 had Leduc.

10 **MS. LAHAIE:** Yes. No, I gave that example.

11 **MR. McCONNERY:** Did you give me that one?

12 **MS. LAHAIE:** Yes, I gave you Mr. Malcolm
13 MacDonald and Dr. Peachey who were deceased, and we have
14 the dates of their deaths, and I don't have them handy, but
15 we have as well the Jacques Leduc prosecution. And other
16 than that, as far as Project Truth is concerned, you had
17 the same issues on your plate?

18 **MR. McCONNERY:** I don't think I can comment.

19 **MR. KLOEZE:** I believe there is evidence.
20 Well, certainly, we'll hear next week that Ms. Hallett also
21 had a brief to review for Mr. Dufour, I believe.

22 **THE COMMISSIONER:** We'll hear that from her
23 next week.

24 **MS. LAHAIE:** Certainly.

25 So turning to the Father MacDonald

1 prosecution, sir, you received that telephone call on
2 Easter weekend in 2001. So in April sometime; correct?

3 **MR. McCONNERY:** I think it was April, yes.

4 **MS. LAHAIE:** And Ms. Simms did a thorough
5 job of putting in all the correspondence between yourself
6 and Ms. Hallett with respect to that file.

7 You indicated that your position was to
8 leave her alone as you knew she was upset with respect to
9 what had occurred in Cornwall, and so you didn't want to
10 press her to forward materials to you or to discuss the
11 various issues?

12 **MR. McCONNERY:** I think it was more than
13 upset. There was a criminal investigation going on. So
14 I'm not going to be calling her asking her for things when
15 there are criminal investigators knocking on her door.
16 They came and they interviewed me.

17 **MS. LAHAIE:** Yes.

18 **MR. McCONNERY:** You know, so there were many
19 reasons why I felt I should take the position that, out of
20 respect for her position, I should not be asking her
21 questions.

22 **MS. LAHAIE:** All right.

23 I just want to -- if we could look at
24 Exhibit -- I believe it's 3045, Document 109243?

25 **MR. McCONNERY:** Three-zero (30)?

1 **MS. LAHAIE:** Three-zero-four-five (3045).

2 **MR. McCONNERY:** Okay. I have that.

3 **MS. LAHAIE:** She forwards, on July 18th,
4 2001, eight bankers' boxes of materials in relation to the
5 Father Charles MacDonald case?

6 **MR. McCONNERY:** Yes.

7 **MS. LAHAIE:** And further disclosure of
8 copies of videos, an assortment of many things, and she
9 indicates that -- and this is where she forwards to you
10 also the five initial briefs of the individuals, I see, on
11 the second page: LaRocque, Maloney, Cameron, Ostler and
12 McDougald?

13 **MR. McCONNERY:** Well, I think I said I got
14 those on May the 9th.

15 **MS. LAHAIE:** Right.

16 And so she's forwarding a -- that's one of
17 the letters that goes between you in terms of her
18 forwarding contents of the MacDonald file, at least, in
19 order to assist with your preparation. You were to have a
20 trial on this in May of '01, though; correct? Originally,
21 was it to be in May of '01 before the adjournment?

22 **MR. McCONNERY:** Yes, yes.

23 **MS. LAHAIE:** Okay. And then on July 27th,
24 2001 there's a letter to you from Ms. Hallett, if we look
25 at Document 3046.

1 **MR. McCONNERY:** Exhibit 3046?

2 **MS. LAHAIE:** Yes.

3 **MR. McCONNERY:** Yes.

4 **MS. LAHAIE:** Document 109244?

5 **MR. McCONNERY:** Yes.

6 **MS. LAHAIE:** And she's thanking you for your
7 letter of July 18th:

8 "As I indicated to you in my memorandum
9 dated June 2nd, 2001 there are
10 approximately four or five boxes of
11 material to be sent to you in relation
12 to the prosecution of Charles
13 MacDonald. These contain preliminary
14 inquiry transcripts, videotapes,
15 correspondence file and casebooks. I'm
16 nearly finished reviewing and
17 photocopying the correspondence file so
18 that these boxes can be sent to you
19 next week."

20 I believe when Ms. Simms was questioning you
21 that -- and we were reviewing the correspondence -- that
22 the last of the material which included a number of
23 videotapes and audiotapes and the correspondence folders
24 don't come to you until February 27th, 2002.

25 **MR. McCONNERY:** Okay.

1 **MS. LAHAIE:** Does that sound accurate?

2 **MR. McCONNERY:** There was a delivery of some
3 material in February 2002.

4 **MS. LAHAIE:** Okay.

5 **MR. McCONNERY:** I don't remember
6 specifically when it was.

7 **MS. LAHAIE:** Okay. I just -- if I could
8 just have one moment, please?

9 **(SHORT PAUSE/COURTE PAUSE)**

10 **MS. LAHAIE:** Thank you. Exhibit 3048,
11 Document 110322?

12 **MR. McCONNERY:** I have that.

13 **MS. LAHAIE:** All right.

14 So just to put it in context, your trial
15 that went over from May of '01 to March of '02 and has a
16 number of contentious issues, including an 11(b) now in the
17 works, it would have been important for you to receive the
18 correspondence folder which normally tells the history of
19 communications between lawyers, various issues of
20 disclosure and various issues of, potentially, waivers or
21 tells the story when you're transferred a file, doesn't it?

22 **MR. McCONNERY:** We could inform on some of
23 those issues, yes.

24 **MS. LAHAIE:** And although July of '01 is
25 when she's indicating she's going to forward the balance of

1 the file to you within a couple of weeks or a few weeks,
2 you don't receive that until the month before the trial --
3 the month before the next scheduled trial date, so the 27th
4 of February. The matter has gone over to March and you're
5 getting this on February 27th?

6 **MR. McCONNERY:** Yes.

7 **MS. LAHAIE:** And that includes 13
8 videotapes, seven audiotapes, correspondence, indictments,
9 information, pre-trial conference reports and
10 correspondence from Mr. Pelletier, all items that you don't
11 know whether they have been disclosed because there's no
12 tracking for disclosure and which are of great assistance
13 to you in preparation for an 11(b) application; correct?

14 **THE COMMISSIONER:** Just a second.

15 Mr. Kloeze?

16 **MR. KLOEZE:** Sorry, as I recall Mr.
17 McConnery's evidence, he said that he had received all that
18 -- he already was in possession of all that other material.
19 He was just receiving this part of it, I guess, from Ms.
20 Hallett. The only new thing was the correspondence file.

21 **MS. LAHAIE:** Is that accurate, Mr.
22 McConnery? You had all the 13 videotapes and seven
23 audiotapes?

24 **MR. McCONNERY:** I had access to all of that
25 from the Ontario Provincial Police. She had her own

1 working copies.

2 MS. LAHAIE: Okay.

3 MR. McCONNERY: Anything I wanted, the
4 police had their copies.

5 MS. LAHAIE: And so they had to provide
6 additional copies to you or ---

7 MR. McCONNERY: Or let me look at their
8 copy. I don't recall that I took copies and kept them. If
9 I wanted to watch a video, I likely would arrange to do it
10 on a day that I was going to go to Long Sault. That's my
11 general belief about that. We may have had some in Ottawa,
12 but we didn't have a TV in our room. So I think I went
13 down and I used the office of the OPP, and I had access to
14 anything there I wanted. I recall clearly watching the Ron
15 Leroux videos.

16 I don't think any of this was anything I was
17 complaining about not having. Then she sent me the
18 correspondence file, the other files that may have had some
19 information relative to the 11(b) application.

20 So yes, she was completing the turning over
21 of materials to me, but none of this was significant to my
22 preparation for the 11(b) or for the trial, I didn't think.

23 MS. LAHAIE: The correspondence folder
24 certainly would have been important for your preparation
25 for the 11(b) application; would you not agree with that?

1 **MR. McCONNERY:** It certainly could have
2 been, yes.

3 **MS. LAHAIE:** Because this tells the story of
4 exchanges between counsel during the course or the history
5 of the prosecution; isn't that right?

6 **MR. McCONNERY:** Well, I haven't reviewed it,
7 so I don't know if it did or not, but it certainly could
8 have.

9 **MS. LAHAIE:** Okay. So when you were ---

10 **MR. McCONNERY:** I hadn't received the 11(b)
11 application yet.

12 **MS. LAHAIE:** Okay.

13 **MR. McCONNERY:** I don't believe.

14 **MS. LAHAIE:** You knew it was coming?

15 **MR. McCONNERY:** Oh, absolutely.

16 **MS. LAHAIE:** Okay. So Officer Hall's
17 comments to you that Ms. Hallett, he thought she worked
18 very hard but she was slow in responding to him, that was
19 your experience as well?

20 **MR. McCONNERY:** She was slow in turning over
21 some of the material to me, yes. I don't think I could say
22 anything other than that.

23 **MS. LAHAIE:** The final issue I wanted to
24 cover with you, Mr. McConnery, more important to some than
25 others, and it involves the relationship between Inspector

1 Hall and Ms. Hallett at the end of the day, and you were
2 asked questions about what each was saying after the
3 relationship had turned sour.

4 In French we have an expression. You were
5 "entre deux feux"; you were hearing both sides and
6 remaining neutral and forging ahead to accomplish the tasks
7 that were before you; correct? You had to continue to
8 forge ahead and -- you weren't sharing the comments of the
9 other with each?

10 **MR. McCONNERY:** No, I don't think I was.

11 **MS. LAHAIE:** Okay.

12 **MR. McCONNERY:** I probably was trying to
13 remain neutral. I don't know if I was neutral.

14 **MS. LAHAIE:** And I just -- this is going to
15 be a longish question, but I would just ask you to bear
16 with me. I'm just going to perhaps give you examples of
17 things that Inspector Hall could have said to you, and
18 correct me or tell me whether these things came to you or
19 not, and I'm merely getting at the characterization or the
20 use of the word "princess".

21 Inspector Hall indicated to you that he had
22 difficulties with the fact that his officers were
23 constantly having to pick her up at the train station?

24 **MR. McCONNERY:** He complained about that.

25 **MS. LAHAIE:** And that she had a number of

1 assistants with her when she would come. The first time he
2 met her in October of '98, she came off the train with two
3 assistants who were carrying her bags?

4 **MR. McCONNERY:** I don't remember that one
5 specifically.

6 **MS. LAHAIE:** Okay. That she was being
7 chauffeured to various locations by, especially, Officer
8 Dupuis?

9 **MR. McCONNERY:** Yes, he told me that.

10 **MS. LAHAIE:** And he would make comments
11 about her being an appeal Crown and not being a field
12 Crown, if you were who was used to consulting with police
13 officers, used to actually speaking with the individuals
14 that they're working with on a consulting type basis -- not
15 consulting but discussion?

16 **MR. McCONNERY:** I don't know if it went that
17 far, but I can tell you that he commented on the fact that
18 she was "an appeal Crown" and not a trial Crown.

19 My own knowledge was that she was originally
20 a trial Crown who went to the Appeal Section.

21 **MS. LAHAIE:** And I'm just going to ask you
22 to think back to just the totality of those comments and
23 whether it's in looking at all of that that you have come
24 to the conclusion that it's the concept of or the
25 characterization of "princess" that he was referring to,

1 but he didn't actually use that word?

2 MR. McCONNERY: I think Pat Hall used the
3 word "princess".

4 MS. LAHAIE: I reviewed all of your notes,
5 Mr. McConnery. Are you absolutely certain that he used the
6 word, because it doesn't appear anywhere in your notes?

7 MR. McCONNERY: I don't think if you look at
8 my notes, that I really made any notes about the conflict
9 between them. It wasn't something -- it was why -- I'm not
10 even sure it was why I was there. It might have been part
11 of what led to my being down there, but I wasn't trying to
12 get involved in that.

13 So I wasn't trying to put in my notes, "Pat
14 Hall, today, he said she was a princess. She said to me,
15 'Watch your back with Pat Hall.'" I wasn't making notes of
16 anything like that. I don't know that she ever said
17 anything like that.

18 I can tell you Shelley Hallett was upset.
19 She was emotionally upset. I understood her upset. I
20 tried personally not to go there and to upset her, and I
21 understood that Pat Hall was not pleased with her and he
22 did call her a princess.

23 MS. LAHAIE: Are you -- a while ago you said
24 "I think he called her a princess". Is it possible that he
25 didn't actually use that particular term?

1 **MR. McCONNERY:** I can only do the best I
2 can. I think he called her a princess. I believe he used
3 that very term on more than one occasion about her.

4 **MS. LAHAIE:** Thank you, Mr. McConnery.
5 Those are my only questions.

6 **MR. McCONNERY:** Okay.

7 **THE COMMISSIONER:** Thank you.

8 Mr. Carroll, how long do you think you're
9 going to be?

10 **MR. CARROLL:** Four to five minutes. I'll be
11 finished by the time you get up.

12 **THE COMMISSIONER:** I'm getting up now.

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

15 **MR. CARROLL:** Thank you for coming, Mr.
16 McConnery.

17 **MR. McCONNERY:** Mr. Carroll.

18 **MR. CARROLL:** My name is Bill Carroll. We
19 know each other, and I'm the lawyer for the Ontario
20 Provincial Police Association.

21 As you may know from being co-counsel on
22 some trials, when you go last there's precious little left
23 that hasn't already been canvassed. So I only have two
24 very brief areas for you.

25 And one of them is going over some of the

1 ground that Ms. Lahaie dealt with, and I'd perhaps ask you
2 to wait and get a ruling on whether or not the question is
3 appropriate. All right?

4 **MR. McCONNERY:** M'hm.

5 **MR. CARROLL:** And it deals again with Ms.
6 Hallett's workload because you did express opinions that
7 she had a lot on her plate and the unrealistic expectations
8 of the OPP.

9 And my simple question to you on this
10 subject is this. Did Ms. Hallett ever say to you that she
11 felt that she was overworked or overburdened by the amount
12 of -- the number of files that either 720 Bay or Mr.
13 Stewart had sent her way?

14 **THE COMMISSIONER:** Fair question.

15 **MR. McCONNERY:** I seem to recall a
16 discussion with Ms. Hallett possibly very shortly after
17 this was turned over to me that she really felt stressed
18 and taxed by the workload, that she was still doing
19 appellate work while she was the lead on Project Truth.
20 Project Truth -- she may have said something to me like,
21 "When you get into it, it's all-consuming. Whether you're,
22 on the next day, working on something else, your mind is on
23 Project Truth." And that she had significant appeals to
24 argue, to prepare, to draft factums on, and I don't think
25 she was in the position -- she may even have been saying,

1 "Make sure you get the time to do it." It may have been
2 that kind of discussion.

3 MR. CARROLL: Fair enough.

4 And perhaps there's one follow-up to that.
5 Did she ever say to you, "I asked my superiors to do
6 something about this. It was overwhelming, and I asked for
7 help and -- did she mention that to you?"

8 MR. McCONNERY: What I seem to recall is
9 that there was a discussion in which she may have said
10 something like, why couldn't these briefs go to somebody
11 else?

12 MR. CARROLL: You're saying there was a
13 discussion where she said that to you?

14 MR. McCONNERY: Yes.

15 MR. CARROLL: My question is did she tell
16 you that she'd gone to her superiors and said, "This is
17 overwhelming. I either need help or some of this stuff has
18 to go to somebody else"?

19 MR. McCONNERY: No, but that's what I'm
20 saying.

21 MR. CARROLL: Okay, good.

22 MR. McCONNERY: Where she related to me ---

23 MR. CARROLL: Yes.

24 MR. McCONNERY: --- that she was saying --
25 not to me but to others ---

1 **MR. CARROLL:** Right, okay.

2 **MR. McCONNERY:** Like "With my workload, why
3 can't this go to someone else?"

4 And the response being, "Who has the best
5 picture of all this already? Doesn't it make sense that we
6 have that kind of continuity?"

7 So it's the usual conflict. You have all
8 this background knowledge. Why are we going to let
9 somebody else get up to speed to do what you could do a
10 little quicker, but we're also mindful you have other work
11 to do.

12 **MR. CARROLL:** And this would have been Mr.
13 Segal or somebody in a position of authority to actually do
14 something about it if they chose to?

15 **MR. McCONNERY:** Well, ---

16 **MR. CARROLL:** I don't know who's in that
17 Ministry other than ---

18 **MR. McCONNERY:** I don't either. I'm not
19 jumping into that one.

20 **MR. CARROLL:** All right.

21 It was -- I had phrased it in terms of a
22 superior. If -- she had obviously addressed it with some
23 superior, even if she didn't name him?

24 **MR. McCONNERY:** I think she did.

25 **MR. CARROLL:** Fair enough. Thank you.

1 And the only other area is just in terms of
2 -- you were very fair in describing how, when you asked the
3 Project Truth officers to do follow-up, they did it in a
4 "timely fashion" were your words, and I assume also, you
5 would agree, that it was done in a thorough fashion and to
6 your specifications?

7 **MR. McCONNERY:** I would say that it was.
8 You know, there may have been -- I would get something and
9 I may have said, well, here's what I really meant or here's
10 what I really need.

11 **MR. CARROLL:** All right. And they'd go back
12 and do it?

13 **MR. McCONNERY:** Yup, I felt that the
14 officers, when I went down there, most of them had been
15 reassigned.

16 **MR. CARROLL:** Right.

17 **MR. McCONNERY:** And they were coming back as
18 Pat Hall would need them, and they were doing things in a
19 timely fashion and reasonably thoroughly, I thought.

20 **MR. CARROLL:** Okay.

21 And the reason I'm just putting that as
22 background because you did talk, I think it was in Mr.
23 Lee's cross-examination, that based on a note you had that
24 he referred to that there was some discussion about the
25 issue of search warrants and their applicability to the

1 investigation.

2 MR. McCONNERY: Yes.

3 MR. CARROLL: You certainly don't have a
4 note, nor a recollection today of directing the police
5 officers to pursue the search warrant avenue though; do
6 you; of telling them actually go down that road as opposed
7 to just a discussion about the concept?

8 MR. McCONNERY: I think where the search
9 warrant issue came up was I had a list of things that I was
10 proposing to talk to Pat Hall about.

11 MR. CARROLL: Right.

12 MR. McCONNERY: One of them was SWs, meaning
13 search warrants.

14 MR. CARROLL: Sure.

15 MR. McCONNERY: And then I don't have it
16 checked off on my list, but I recall a discussion about
17 tracking funds, whether or not -- tracking funds.

18 MR. CARROLL: Yeah.

19 MR. McCONNERY: Whether or not that would
20 require the execution of a warrant, and I do recall some
21 discussion about solicitor-client privilege issues.

22 So I think we talked about it. Pat Hall may
23 have convinced me it wasn't worthwhile. I don't know. I
24 don't have a note.

25 MR. CARROLL: Fair. There was a discussion.

1 At the end of that discussion, the decision was made it
2 would not be a truthful area to pursue?

3 **MR. McCONNERY:** I think that's fair.

4 **MR. CARROLL:** All right. And the last --
5 and, again, I'd ask you to wait in case there's an
6 objection or a ruling -- the last area that I wanted to ask
7 you a question on was in the nature or in relation to the
8 opinion from Former Justice Griffiths, all right. So just
9 hold on.

10 A couple of questions to set it up: Did I
11 understand your evidence to be that you rendered your
12 opinion to the officers, independent of and without ever
13 seeing that opinion from Justice Griffiths?

14 **MR. McCONNERY:** Yes.

15 **MR. CARROLL:** All right. Now, hold on.

16 What was then your understanding of the
17 purpose of getting that opinion if you were going to advise
18 the officers without even having the benefit of seeing it?

19 **MR. KLOEZE:** I will object to that. I think
20 that goes to the very question, the legal question asked is
21 subject to confidence as well and we're claiming privilege
22 over that.

23 **MR. CARROLL:** I'm sorry. I just missed the
24 last part of what you're saying.

25 **MR. KLOEZE:** Sorry. What I understand the

1 question to be from Mr. Carroll is he's basically asking
2 this witness what the question was to retired Mr. Justice
3 Griffiths.

4 **THE COMMISSIONER:** No. He's saying what's
5 the use of getting a second opinion if you're going to make
6 your decision and give it to the police?

7 And I think that that is -- no, no, Mr.
8 Carroll. You can't do that because Mr. Segal is
9 instructing a person, and that would be getting into, I
10 guess, the details of what is being said but also the whole
11 purpose of it is if they're claiming it, you can't go by
12 that.

13 **MR. CARROLL:** It just strikes me as an
14 oddity to be certain if -- and I thought it was ---

15 **THE COMMISSIONER:** Mr. Carroll, I agree with
16 you 100 percent that it's an oddity.

17 **MR. CARROLL:** Well ---

18 **THE COMMISSIONER:** It's unfortunate that the
19 Attorney General does not waive the solicitor-client so we
20 can get to that. But they have their rights, and I respect
21 that right, and we have to deal with what we have.

22 **MR. CARROLL:** And obviously I accept your
23 ruling and I can think of no better way to end and begin a
24 weekend and have you agree with me on anything, especially
25 100 percent.

1 (LAUGHTER/RIRES)

2 MR. CARROLL: Thank you, sir. Thank you,
3 Mr. McConnery.

4 THE COMMISSIONER: And will agree, because I
5 can't join you obviously, that Mr. Carroll will buy lunch
6 for everyone.

7 (LAUGHTER/RIRES)

8 THE COMMISSIONER: Sir, we are going to take
9 let's say until 10 after one to permit people to get
10 something to eat. We'll come back.

11 And how long are you going to be, Mr.
12 Kloeze, so we can set up the next witness?

13 MR. KLOEZE: About 20 minutes. So I think
14 we can have the next witness for 1:30.

15 THE COMMISSIONER: Thank you.

16 MR. McCONNERY: Might I ask for
17 consideration, Mr. Commissioner.

18 THE COMMISSIONER: Yes?

19 MR. McCONNERY: That we do that 20 minutes
20 now?

21 THE COMMISSIONER: That we do what 20
22 minutes now?

23 MR. McCONNERY: Mr. Kloeze's.

24 I really have time constraints that I've set
25 out today that are being blown out in the water.

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

2 **MR. KLOEZE:** Mr. Commissioner, I can make it
3 as fast as possible if I ---

4 **THE COMMISSIONER:** Okay.

5 **MR. KLOEZE:** It might be 15.

6 **THE COMMISSIONER:** Pardon me. Just -- as
7 long as no one needs any health breaks on the
8 administrative staff because they -- you know, other
9 lawyers can leave and -- okay. So let's go. Let's go.
10 We'll give you 15 minutes, Mr. Kloeze.

11 **MR. McCONNERY:** Thank you.

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

14 **MR. KLOEZE:** I will speak quickly.

15 Thank you, Mr. Commissioner.

16 Mr. McConnery, you know who I am. For the
17 purpose of the record, my name is Darrell Kloeze. I'm a
18 counsel here or one of the counsels here for the Ministry
19 of the Attorney General.

20 **MR. McCONNERY:** I apologize for continually
21 mispronouncing your name.

22 **MR. KLOEZE:** Well, that's one of the reasons
23 I actually wanted to say it.

24 **(LAUGHTER/RIRES)**

25 **MR. KLOEZE:** That is not an uncommon

1 occurrence though that my name is mispronounced.

2 I do want to start very quickly just
3 clearing up some areas and maybe assisting you or assisting
4 the record.

5 You asked a number of -- at a number of
6 points during your examination in-chief. It would be
7 helpful to see the documents or to see your notes. And so
8 I'm going to very quickly ask you to just identify some
9 things, so we could take them and maybe put them as
10 exhibits.

11 The first area goes back to the adjournment,
12 the first adjournment that Kevin Phillips actually argued
13 for the Father MacDonald trial in April of 2001. And at
14 that point, the trial was adjourned to March of 2002. You
15 recall that?

16 **MR. McCONNERY:** Yes, I do.

17 **MR. KLOEZE:** And you made efforts at that
18 time, or certainly Mr. Phillips made efforts because I'm
19 not sure you were in Ottawa by that point. Mr. Phillips
20 made efforts to communicate with Defence counsel to see
21 whether or not there was any availability to move the trial
22 ahead.

23 **MR. McCONNERY:** Yes.

24 **MR. KLOEZE:** And Ms. Simms referred you to -
25 - I believe she referred you to a portion in the transcript

1 or something, but I just wanted to refer you to the letters
2 themselves. And the first one is Document Number 109566.

3 **MR. McCONNERY:** I think it was shown to me.

4 **THE COMMISSIONER:** Yes, it was. It's an
5 exhibit already, I thought. I could be wrong.

6 **MR. KLOEZE:** I'm not sure these were made
7 exhibits. Sorry. Ms. Simms is referring to the
8 Respondent's Factum. I just want to enter the letters
9 themselves.

10 **THE COMMISSIONER:** Fine.

11 **MR. KLOEZE:** I believe I gave late notice on
12 that actually. So I'll assist Madam Registrar and hand out
13 copies, and I'll do the three all at once.

14 So the first one for the record is 109566;
15 the second, 109567 and the third, 109569. I see no reason
16 these can't be all made just one exhibit.

17 **THE COMMISSIONER:** We do. No, three
18 different.

19 So Exhibit Number 3097 is a letter dated
20 April 25th, 2001 addressed to Mr. Selkirk from Kevin
21 Phillips.

22 --- **EXHIBIT NO./PIÈCE NO. P-3097:**

23 (109566) - Letter from Kevin Phillips to
24 Robert Selkirk re: R.v. MacDonald dated 25
25 Apr 01

1 **THE COMMISSIONER:** Exhibit 3098 is a letter
2 dated May 11th, 2001 addressed to Mr. Neville from Mr.
3 Phillips.

4 **--- EXHIBIT NO./PIÈCE NO. P-3098:**

5 (109567) - Letter from Kevin Phillips to
6 Michael Neville re: R.v. Charles MacDonald
7 dated 11 May 01

8 **THE COMMISSIONER:** And Exhibit 3099 is a
9 letter dated May 24th, 2001 addressed to Mr. Neville from
10 Kevin Phillips. Okay.

11 **--- EXHIBIT NO./PIÈCE NO. P-3099:**

12 (109569) - Letter from Kevin Phillips to
13 Michael Neville re: R.v. Charles MacDonald
14 dated 24 May 01

15 **MR. KLOEZE:** Do you have all three letters?

16 **MR. McCONNERY:** I do.

17 **MR. KLOEZE:** And you'll agree that these are
18 the letters that Mr. Phillips wrote to defence counsel
19 after the adjournment of April 25th, 2001, seeking the --
20 seeking any information that -- from defence counsel as to
21 their availability for an earlier trial?

22 **MR. McCONNERY:** Yes.

23 **MR. KLOEZE:** Okay. Thank you.

24 The second area I want to bring you to, you
25 were asked a number of questions by Ms. Simms and also it

1 was touched upon in the cross-examination about your
2 efforts. First of all, we know that you did call Mr.
3 Dunlop to testify at the stay application.

4 **MR. McCONNERY:** Yes.

5 **MR. KLOEZE:** And you called him as your
6 witness?

7 **MR. McCONNERY:** Yes.

8 **MR. KLOEZE:** Or as a Crown witness.

9 And Ms. Simms -- I think you referred, when
10 Ms. Simms was asking you these questions, about your
11 efforts in order to ensure that Mr. Dunlop would attend in
12 Cornwall for that appearance?

13 **MR. McCONNERY:** Yes.

14 **MR. KLOEZE:** And you referred to notes that
15 you had made about that and indeed, as I looked at your
16 notes, you've made some extensive notes about the efforts
17 that you had made to make sure that Mr. Dunlop was going to
18 be available.

19 **MR. McCONNERY:** Yes.

20 **MR. KLOEZE:** And I want to enter those as an
21 exhibit now. The Document Number is 130428. And again, I
22 gave late notice on it, so I have copies.

23 **THE COMMISSIONER:** Thank you.

24 Exhibit Number 3100 are notes re: contacts
25 with Perry Dunlop re: his travel arrangements.

1 **MR. McCONNERY:** Yes. I have two copies here
2 for some reason.

3 **MR. KLOEZE:** Yes.

4 **--- EXHIBIT NO./PIÈCE NO. P-3100:**

5 (130428) - Notes of Lorne McConnery re:
6 Contacts with Perry Dunlop his travel
7 arrangements, undated

8 **MR. KLOEZE:** So if you take a moment and
9 look at these notes, the first entry is on Thursday, April
10 18th:

11 "Pat Hall confirmed with BC Detachment
12 RCMP that P. Dunlop had been served
13 with a subpoena for the 29th of April."

14 **MR. McCONNERY:** Yes.

15 **MR. KLOEZE:** So you had subpoenaed Mr.
16 Dunlop to be available for the stay application which was
17 argued -- was commencing the 29th of April?

18 **MR. McCONNERY:** Yes.

19 **MR. KLOEZE:** But that's not obviously all
20 you did. And the second -- I guess the third bullet point
21 -- you have a telephone conversation with Yvonne Pink.

22 And can you tell us who Yvonne Pink is?

23 **MR. McCONNERY:** I understood her to be Mr.
24 Dunlop's counsel or lawyer in B.C.

25 **MR. KLOEZE:** Okay. And Ms. Pink, if we can

1 read this:

2 "She advised me that Dunlop wanted
3 expenses up front, a car, a direct
4 flight from Victoria to Toronto. He
5 did not want to be out of pocket at any
6 time. I advised that I would attend to
7 arrangements to fly him in on Thursday,
8 April 25th so he could review his
9 materials."

10 That summarizes -- is that your recollection
11 of your conversation with Ms. Pink?

12 **MR. McCONNERY:** Yes.

13 **MR. KLOEZE:** And those were -- I guess Mr.
14 Dunlop wasn't on the phone at that point that you were
15 communicating with Ms. Pink about these arrangements?

16 **MR. McCONNERY:** That's correct.

17 **MR. KLOEZE:** Okay. And you agreed to make
18 those arrangements?

19 **MR. McCONNERY:** Yes.

20 **MR. KLOEZE:** And you in fact did make those
21 arrangements for Mr. Dunlop?

22 **MR. McCONNERY:** I had somebody make them.

23 **MR. KLOEZE:** And the one thing I wanted to
24 focus on is the fact that you wanted -- you had arranged so
25 that he could be in Cornwall earlier, the Thursday before

1 the stay application was to be heard, so that he would have
2 a chance to review his materials?

3 **MR. McCONNERY:** I wanted, yes.

4 **MR. KLOEZE:** Yes. You wanted that to
5 happen. We'll see later on down the notes that that in
6 fact didn't happen. Well, he didn't arrive on the
7 Thursday.

8 And if we go further down to the next bullet
9 point:

10 "I called the second time and spoke to
11 Ms. Pink's assistant, Anne, to ask for
12 Dunlop's home address and a copy of his
13 driver's licence and an email address
14 to which Air Canada could email his
15 ticket. Anne advised me he could not
16 come prior to Saturday, April 27th
17 because he was self-employed and had
18 commitments."

19 So you were advised that because of his
20 employment status, he wanted to come a bit later than the
21 Thursday?

22 **MR. McCONNERY:** Yes.

23 **MR. KLOEZE:** Okay. And in the following
24 bullet point -- I'm not going to read the whole thing, but
25 it just mentions that you spend approximately one hour with

1 Graham Kelly attempting to make the appropriate
2 arrangements. Graham Kelly, I understand, would be the
3 clerk who was helping you make these arrangements?

4 **MR. McCONNERY:** Mr. Kelly was from Mr. Jim
5 Stewart's office.

6 **MR. KLOEZE:** Okay, if we can just turn to
7 the following page then? At the top of it, if I can read
8 it, it says:

9 "On Monday, April 22nd, I became aware
10 of a fax from Ms. Pink containing P.
11 Dunlop's copy, driver's licence which
12 was unfortunately illegible. The
13 letter attached here indicates now that
14 Dunlop wants a direct flight on Sunday,
15 April 28th and wants to return to B.C.
16 on May 1st.

17 **MR. McCONNERY:** Yes.

18 **MR. KLOEZE:** So in fact, the arrangements
19 were subsequently changed again so that Mr. Dunlop would
20 arrive the day before the stay application started?

21 But I understood -- sorry, I didn't let you
22 answer that.

23 So the arrangements were changed so that Mr.
24 Dunlop would arrive just the day before the application
25 started; is that correct?

1 **MR. McCONNERY:** She was expressing his
2 desire, and I think the following paragraph tells me that
3 when I spoke to Graham Kelly, whatever the date was -- and
4 my notes contain copies of the tickets and other things --
5 he had already purchased a non-refundable ticket for Mr.
6 Dunlop. So I don't know if that was for the Saturday as
7 being requested or an earlier day.

8 **MR. KLOEZE:** Okay. And that note further --
9 the next note says that it would cost about \$145 to change
10 that ---

11 **MR. McCONNERY:** Yes.

12 **MR. KLOEZE:** To change that ticket?

13 There's a further fax, if you see the entry
14 on April 23rd, 2002.

15 **MR. McCONNERY:** Yes.

16 **MR. KLOEZE:** "A fax arrived from Yvonne
17 Pink attached re: PD's travel
18 arrangements and getting him a per diem
19 for lost income."

20 Do you remember that conversation?

21 **MR. McCONNERY:** Yes.

22 **MR. KLOEZE:** Okay. And what was the issue
23 there?

24 **MR. McCONNERY:** Well, he was coming back, he
25 felt, as an officer. He wanted to be paid by the Cornwall

1 Police Service as if he were a member of the Force on duty
2 on a basis of a per diem contract.

3 MR. KLOEZE: And did you make any inquiries
4 as to whether that was available?

5 MR. McCONNERY: Yes. I can see here that I
6 spoke to Staff Sergeant Derochie to see if that was
7 something to do. I was, quite frankly, consuming a lot of
8 time doing this that I ordinarily wouldn't do, but yes, I
9 did do it.

10 MR. KLOEZE: Okay. And I guess we can find
11 -- we can see in the next bullet point you did talk to
12 Staff Sergeant Derochie.

13 THE COMMISSIONER: They had no protocol with
14 respect to that kind of thing?

15 MR. KLOEZE: That's right.

16 I want to turn to the next page, but the
17 next page is cut off slightly, and the way we have it in
18 the database that further page is a separate document,
19 which I'm going to hand up now, and its number is 130427.

20 THE COMMISSIONER: Thank you.

21 Exhibit Number 3101 is a copy of notes from
22 Mr. McConnery dated Wednesday, April 24th, 2002.

23 --- EXHIBIT NO./PIÈCE NO. P-3101:

24 (130427) - Notes of Lorne McConnery dated 24

25 Apr 02

1 **MR. KLOEZE:** Do you have those notes in
2 front of you now?

3 **MR. McCONNERY:** Yes, I do.

4 **MR. KLOEZE:** And these notes are dated
5 Wednesday, April 24th, and we can see in the first entry
6 that you were having a conference telephone call to British
7 Columbia with Yvonne Pink, Perry Dunlop and then yourself
8 and Kevin Phillips ---

9 **MR. McCONNERY:** Yes.

10 **MR. KLOEZE:** --- are on that call. And this
11 is where you basically setup the arrangements and advise
12 Mr. Dunlop of those arrangements.

13 And if we go down to -- just to summarize
14 what those arrangements are, I guess about 12 lines down it
15 says:

16 "I advised car rental..."

17 Do you see that, sir?

18 **MR. McCONNERY:** Yes, sir.

19 **MR. KLOEZE:** "I advised car rental
20 arranged. I said Tilden but I must
21 correct that to National."

22 The next bullet point advised:

23 "Room for him at Comfort Inn in
24 Cornwall. Advised Genier would meet
25 him and provide his meal money, a

1 cheque for \$476 based on 14 days at \$34
2 per day and I told him that money had
3 to be accounted for."

4 And at the very -- at the last bullet point
5 of that:

6 "I advised I tried to change flight and
7 then I'd call Ms. Pink's office and
8 leave a message and Ms. Pink could then
9 confirm with me a time for Genier to
10 meet him and to turnover money and his
11 briefs."

12 **MR. McCONNERY:** Yes.

13 **MR. KLOEZE:** Okay. So I guess Mr. Dunlop
14 made a number of requests of you for his attendance to come
15 to Cornwall.

16 **MR. McCONNERY:** Yes.

17 **MR. KLOEZE:** And by and large you tried to
18 meet those requests?

19 **MR. McCONNERY:** Yes, I tried to meet all of
20 them. I don't think I could meet all of them but I tried.

21 **MR. KLOEZE:** And you yourself were involved,
22 as you said, a number of hours in making arrangements for
23 Mr. Dunlop to do this?

24 **MR. McCONNERY:** Yes.

25 **MR. KLOEZE:** And that's not normally part of

1 your job but you were doing that to accommodate Mr. Dunlop?

2 MR. McCONNERY: He was very demanding and I
3 tried to do what I could to help him, and that's unusual.

4 MR. KLOEZE: And also, you wanted to make
5 sure that ---

6 MR. McCONNERY: That sounded inappropriate
7 the way I said it. I just meant it's unusual it would fall
8 to me to do it. Sorry.

9 MR. KLOEZE: And you also wanted to make
10 sure that Mr. Dunlop had his materials to review before you
11 testified?

12 MR. McCONNERY: Yes.

13 MR. KLOEZE: And that was made available to
14 Mr. Dunlop?

15 MR. McCONNERY: Yes.

16 MR. KLOEZE: And you met with Mr. Dunlop on
17 -- I think we've seen the note. You met him on the first
18 day of the stay application?

19 MR. McCONNERY: Correct.

20 MR. KLOEZE: And he testified for basically
21 a period of a day with a span to two days?

22 MR. McCONNERY: Yes.

23 MR. KLOEZE: Now, in terms of preparation of
24 Mr. Dunlop, I guess you understood that he had been a
25 police officer.

1 **MR. McCONNERY:** Yes.

2 **MR. KLOEZE:** And that he was experienced in
3 testifying?

4 **MR. McCONNERY:** Yes.

5 **MR. KLOEZE:** And that preparation of a -- do
6 you normally spend a lot of time preparing a police officer
7 for their testimony?

8 **MR. McCONNERY:** Depending on the
9 significance of the case, yes.

10 **MR. KLOEZE:** Okay. But certainly one of the
11 most important elements of preparing a police officer would
12 be to provide the officer with his notes and materials that
13 they would be referring to?

14 **MR. McCONNERY:** Yes.

15 **MR. KLOEZE:** And you did that in this case?

16 **MR. McCONNERY:** I did. I think I met him
17 more to get an indication of where he was coming from, what
18 his attitude was, than to review all of his evidence.

19 **MR. KLOEZE:** I want to move onto another
20 matter and that's the question Mr. Horn asked you as to
21 whether or not you had intended to call Mr. Pelletier as a
22 witness on the stay application.

23 **MR. McCONNERY:** Yes.

24 **MR. KLOEZE:** And again, at that point when
25 you answered it you said you thought you might have made

1 notes as to who you intended to call at the stay
2 application. I just want to refer you to those notes.

3 **MR. McCONNERY:** Okay.

4 **MR. KLOEZE:** And they're found at Document
5 130444. Again, I have copies.

6 That's actually a large exhibit and this
7 excerpt regarding -- just regarding the list of witnesses
8 is on the very first Bates page, which is 1171185.

9 And the reason, Mr. McConnery, I'll tell you
10 I believe that Mr. Horn asked you the question and that I'm
11 asking you the questions now is that when Mr. Hall
12 testified he seemed to have a recollection, although it was
13 a vague recollection, that at one of the court hearings you
14 were expecting Mr. Pelletier to actually be in attendance
15 and that you were surprised or showed some regret that Mr.
16 Pelletier wasn't there.

17 And so I want to show you this document to
18 see whether or not Mr. Pelletier actually appears on the
19 list of witnesses that you intended to call.

20 **THE COMMISSIONER:** Exhibit 3102 are notes
21 dated Monday, April 29th, 2002.

22 --- **EXHIBIT NO./PIÈCE NO. P-3102:**

23 (130444-1171185) - Notes of Lorne McConnery
24 dated 29 Apr 02

25 **MR. McCONNERY:** Okay.

1 **MR. KLOEZE:** So we see at the bottom of that
2 page you have a note saying:

3 "Re: Section 11(b) application,
4 potential Crown witnesses."

5 And is Mr. Pelletier's name on that list?

6 **MR. McCONNERY:** No. Let me tell you that my
7 practice is when I'm starting a hearing, a trial, I will
8 usually do a page like this to start out, where I put down
9 the names of everybody I intend to call, potential Crown
10 witnesses. I will do little things like write down the
11 date of an occurrence, et cetera, et cetera.

12 So whatever my thought processes were about
13 who might testify in the 11(b) application, I certainly --
14 that was narrowed down by April 29th to this list. So if I
15 had ever thought of calling Mr. Pelletier I knew on the 29th
16 that I was not.

17 **MR. KLOEZE:** So there -- it certainly wasn't
18 possible that there was an incident where you're waiting
19 for Mr. Pelletier to show up at court and he didn't show,
20 considering that his name is not on this list?

21 **MR. McCONNERY:** I certainly don't remember
22 that.

23 **MR. KLOEZE:** And you have no recollection of
24 that?

25 **MR. McCONNERY:** No.

1 **MR. KLOEZE:** Okay.

2 I'm just going to enter one more new
3 document, sir, and that should end that part of it, and it
4 refers to a meeting that you had with Mr. Silmsner ---

5 **MR. McCONNERY:** Yes.

6 **MR. KLOEZE:** --- to prepare for the trial.

7 **MR. McCONNERY:** Yes.

8 **MR. KLOEZE:** And that meeting was on
9 February 27th, 2002. The Document Number is 130394.

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **THE COMMISSIONER:** Thank you. Exhibit 3013
12 are notes dated February 27th, 2002.

13 **--- EXHIBIT NO./PIÈCE NO. P-3103:**

14 (130394) - Notes of Lorne McConnery re:
15 Meeting with David Silmsner dated 27 Feb 02

16 **MR. McCONNERY:** Yes.

17 **MR. KLOEZE:** Now, this is a meeting you and
18 Kevin Phillips and Constable Joe Dupuis have with Mr.
19 Silmsner?

20 **MR. McCONNERY:** Yes.

21 **MR. KLOEZE:** And what was the purpose of
22 this meeting?

23 **MR. McCONNERY:** This was, again, a meeting
24 for us to introduce ourselves to Mr. Silmsner -- it's
25 getting reasonably close to trial time, and not necessarily

1 to review his evidence but to let him know we are there, we
2 would be doing the trial, let him -- bring him up to date
3 as to what we were doing with respect to the 11(b); to meet
4 him; to assess him; get a feel for, you know, how you deal
5 with this particular individual because he was a bit of a
6 handful.

7 **MR. KLOEZE:** Okay. Now, the way you
8 described the purpose it seems to me it's not the same
9 purpose as the meeting you had with, for example, C-2
10 around the same time. You're not -- you're not going over
11 his evidence, for example?

12 **MR. McCONNERY:** Yes, I would say that is
13 accurate. It's different.

14 **MR. KLOEZE:** Okay. And the purpose of the
15 meeting is basically to introduce yourself to Mr. Silmsen
16 and tell him what's going on and what to expect in the
17 trial?

18 **MR. McCONNERY:** Yes, and for us to find out
19 what we're going to expect from him.

20 **MR. KLOEZE:** Okay. And you've already
21 alluded to, I guess, to something in the meeting. Can you
22 tell us what happened at that meeting?

23 **MR. McCONNERY:** He got up and walked out.

24 **MR. KLOEZE:** And how long -- like how long
25 did you meet with him first?

1 **MR. McCONNERY:** My notes help me in this
2 regard, and it says somewhere in here the meeting was about
3 20 minutes long. Actually, it's the first note I made. So
4 this is a note I made after the meeting. I probably made
5 some rough notes about it earlier and then I felt it was
6 incumbent upon me to try to capture things more thoroughly
7 and I did that.

8 **MR. KLOEZE:** Okay. On the bottom of the
9 second page, maybe I can help you and I should show you
10 this, it's your note that says:

11 "Notes made between 11:10 and 11:50 and
12 not meant to be anything more than a
13 synopsis of the discussion, as I
14 recalled it, before Silmsers walked
15 out."

16 **MR. McCONNERY:** Yes.

17 **MR. KLOEZE:** Okay.

18 **MR. McCONNERY:** Meaning the discussion
19 before he walked out.

20 **MR. KLOEZE:** That's correct.

21 **MR. McCONNERY:** Yes.

22 **MR. KLOEZE:** And so you had a meeting for
23 about 20 minutes and he walked out at the conclusion of
24 that or can you describe what happened?

25 **MR. McCONNERY:** He brought it to an end by

1 walking out. The meeting would have been far from over at
2 that time.

3 **MR. KLOEZE:** And is there anything, in your
4 opinion, that you were discussing at the time that would
5 have caused that reaction?

6 **MR. McCONNERY:** Well, I didn't think so and,
7 you know, I was trying in my notes to be fair to him
8 because I started with an officer telling me, "Don't be
9 surprised if he gets up and he walks out." So you know, I
10 had that mindset that this might happen.

11 So then when I tried to do my notes, again,
12 maybe as I had explained one other time, he got up and he
13 walked out and I think I wrote something like, you know, "I
14 don't think I did anything to upset him or anything like
15 that. It was almost rehearsed." That's not the right
16 word. It was almost "for effect". That's the way I put
17 it. It was for effect that he got up and he -- he didn't
18 storm out, but he walked out. It was like this is at an
19 end; I'm out of here.

20 And so I explained that there was something
21 that I had said at some point that got him somewhat heated,
22 and I was very conscious that if you said anything
23 pertaining to Mr. Silmser, it could sort of get him going.

24 For instance, if in talking about things and
25 he expressed very strongly his opinions about counsel, and

1 if I were to respond, "Well, they're doing their job", he
2 didn't like to hear that and I knew that.

3 So I was really trying to be careful not to
4 do anything to set him off in that regard, and then I felt
5 and I believe I capture in here that there was something
6 where he reacted strongly. And after I wrote that note, I
7 wrote an addendum which, as you've seen, I've done on other
8 occasions, and this was something that occurred to me after
9 I wrote my note that, you know, maybe this was something
10 that set him off and made him get up and walk out.

11 Yes, because I end that by saying this
12 happened just before he walked out. And I had said to him
13 something about, you know, "The attitude you're presenting
14 me with is 'I don't care. I might not go. I might not
15 respond to the subpoena'." And I said, "Well, if everyone
16 is like that, it's going to be a pretty short trial". And
17 he was telling me, "I don't care. I don't care because the
18 justice here is going to be in the civil court, not in the
19 criminal court."

20 And so I added that because I remembered
21 that that discussion was just before he walked out on me.
22 So I added that as an addendum.

23 **MR. KLOEZE:** Now -- and just because he --
24 because he reacted in that way, that didn't cause you, I
25 guess, any concerns in terms of whether or not you

1 continued to have a reasonable prospect of conviction with
2 regard to these charges for Mr. Silmsner?

3 **MR. McCONNERY:** Mr. Silmsner -- I think I've
4 read so much about Mr. Silmsner and various cross-
5 examinations. You know, maybe one of the expressions now
6 is somebody who is really tightly wound. That -- tightly
7 wound, yes -- that's the way I would describe Mr. Silmsner.

8 He never gave me reason to believe that he
9 didn't believe in what he was saying and that he was trying
10 to be truthful. He just -- he was so angry, so upset, and
11 I felt that he did things at times for effect. And in my
12 view, he's blowing his foot off, but in his view, he was
13 doing something to show everybody how upset he was. That
14 was my view of it.

15 I never felt anything he said, and this was
16 the only time I met Mr. Silmsner, affected my view of
17 whether or not there was a reasonable prospect of
18 conviction.

19 **MR. KLOEZE:** Okay. Thank you.

20 I want to move on to another matter, and
21 that involves, just very briefly, the evidence of Pat Hall.
22 And I want to refer you to a document that's already been
23 made an exhibit. It's Exhibit 2832.

24 And the reason I'm showing this to you is
25 that Mr. Hall makes a comment about you in this letter.

1 This is a letter to Jim Stewart.

2 If you would just look at the first page to
3 identify it? It's a letter dated April 22nd, 2004 to James
4 Stewart and is about "Project Truth, Your Memorandum dated
5 September 6, 2001". Now, keep in mind this letter is dated
6 April, 2004.

7 **MR. McCONNERY:** Right. So it's two years
8 later.

9 **MR. KLOEZE:** And if we can turn to the last
10 page of the letter, which is what I'm going to be focussing
11 on.

12 Now, this letter doesn't appear to have been
13 copied to you. Do you remember seeing this letter at any
14 point when it was -- I guess in 2004, before preparation
15 for this Inquiry?

16 **MR. McCONNERY:** I saw it in preparation for
17 the Inquiry and I believe I've seen it in the past.

18 **MR. KLOEZE:** Okay. To give you a bit of
19 context about this -- and Mr. Hall has testified about this
20 letter as well -- he's referring to a press release that
21 was issued by the OPP in August of 2001, shortly after you
22 provided your opinion letter on the six outstanding briefs
23 that we've been talking about at length over the last
24 number of days.

25 Do you ever remember seeing a copy of the

1 press release itself?

2 MR. McCONNERY: Yes, I do.

3 MR. KLOEZE: Okay.

4 MR. McCONNERY: I do.

5 MR. KLOEZE: And Mr. ---

6 MR. McCONNERY: I think I saw the newspaper
7 article.

8 MR. KLOEZE: You saw it in the newspaper
9 article?

10 MR. McCONNERY: Yeah, that's my recollection
11 now.

12 MR. KLOEZE: Okay. Now, Mr. Hall has
13 testified that when they drafted the press release, they
14 sent it to, I guess, the Attorney General and Mr. Pearson,
15 John Pearson, reviewed it and sent it back to the OPP and
16 asked them to remove the names of the conspirators because
17 what the press release first said was there was an
18 investigation into a conspiracy involving these people, and
19 they identified the people. Mr. Pearson had asked them to
20 take those names out.

21 MR. McCONNERY: Yes.

22 MR. KLOEZE: And if you look at the first
23 full paragraph here, it gives Mr. Hall's version of this.
24 Halfway through the paragraph it says:

25 "I prepared a draft copy..."

1 Do you see where I am?

2 **MR. McCONNERY:** Yes.

3 **MR. KLOEZE:** "I prepared a draft copy
4 outlining the participants in the
5 alleged conspiracy, including the
6 Ministry of the Attorney General. My
7 supervisor, Detective Superintendent J.
8 Miller, contacted Mr. John Pearson on
9 the proposed press release. He was
10 advised to delete any reference to the
11 names of the participants in the
12 conspiracy due to the fact that the OPP
13 could get sued."

14 Then he goes on to say:

15 "I find it rather strange that the
16 Ministry of the Attorney General would
17 be suing the OPP for clearing those
18 involved in the conspiracy allegations.
19 Lorne McConnery commented that he was
20 not pleased with the contents of the
21 final press release. My reply was that
22 it was actually your Ministry's press
23 release under OPP letterhead."

24 Now, Mr. McConnery, do you recall having a
25 conversation with Mr. Hall about the contents of the press

1 release?

2 MR. McCONNERY: Yes, I do.

3 MR. KLOEZE: And did you advise Mr. Hall
4 that you were not pleased with the contents?

5 MR. McCONNERY: Yes, I did.

6 MR. KLOEZE: And why was that?

7 MR. McCONNERY: Can I see the press release?

8 MR. KLOEZE: Certainly. I'll refer you to
9 Exhibit 2913.

10 (SHORT PAUSE/COURTE PAUSE)

11 MR. McCONNERY: Okay. Now that I look at
12 this, this is what I saw. So it's not a newspaper article.
13 It's the actual ---

14 THE COMMISSIONER: M'hm.

15 MR. McCONNERY: Can we blow it up so I can
16 read it? Sorry.

17 (SHORT PAUSE/COURTE PAUSE)

18 MR. McCONNERY: Yes.

19 MR. KLOEZE: There's a second page to it as
20 well.

21 MR. McCONNERY: Yes. Okay.

22 THE COMMISSIONER: So the question was why
23 were you not happy with that?

24 MR. KLOEZE: Let me put some background to
25 the question.

1 Mr. Hall has testified that -- or the
2 impression in Mr. Hall's letter here and also in the
3 testimony he's given was that you weren't pleased because
4 the names of the conspirators were removed from the press
5 release.

6 Is that the reason you had problems with the
7 press release, sir?

8 **MR. McCONNERY:** No. The press release, we
9 had just finished -- what I was being told -- I was never
10 consulted about the press release, and that would be very
11 unusual for me to ever be consulted about a press release.
12 If the Minister is doing a press release on a case I was
13 involved with, and that's happened a couple of times, they
14 might run it by me to make sure it was accurate, but what
15 happened here, it's a police press release.

16 So Pat Hall is giving me the background
17 that's set out in the letter. But my understanding was
18 this was a press release about the fact that the Project
19 Truth briefs that I had reviewed, it was at an end and
20 there were not going to be any charges laid as a result of
21 those briefs.

22 So can you scroll this down a little bit for
23 me?

24 **THE COMMISSIONER:** You mean to the previous

25 ---

1 **MR. KLOEZE:** Probably want to go to the
2 previous page?

3 **MR. McCONNERY:** Yes, sorry. Thank you.

4 So that's what I understood the press
5 release was going to be about and I had spoken to -- Jim
6 Miller had told me that he wanted to do a press release
7 right away, as soon as we got the opinion.

8 I seem to recall at some point speaking to
9 John Pearson. They weren't asking me how to draft it or
10 anything but they did speak to me about it. And the press
11 release comes out and the press release says, "the OPP
12 found no evidence that a paedophile ring operated in the
13 city."

14 I was never asked for an opinion on that. I
15 don't know if it would have been a proper question to ever
16 put to me because I don't -- we don't give opinions on
17 things like that. We are asked was there evidence to
18 support this criminal charge.

19 And so the thrust of this press release
20 seemed to me to be saying this has all been subjected to
21 Crown review, i.e. Lorne McConnery, without naming me, and
22 he too has found that there is no paedophile ring in the
23 City of Cornwall.

24 I never expressed an opinion on it. I was
25 never asked for an opinion on it, and if that's what

1 somebody might read this press release and take from it, it
2 was dramatically incorrect.

3 **MR. KLOEZE:** Okay. So ---

4 **MR. McCONNERY:** And I was not happy about
5 that. I did not have any issue with the fact that yet
6 again, the names weren't back in the paper. You know, no
7 evidence was found to support the conspiracy allegations.
8 I didn't have any difficulty with the fact that the names
9 aren't splashed in the paper again.

10 **MR. KLOEZE:** Okay. So as I understand your
11 answer, you had anticipated the press release would cover
12 the conspiracy allegations, and your review of the
13 conspiracy allegations because it immediately followed your
14 delivery of your opinion on those allegations.

15 **MR. McCONNERY:** And the other briefs. I
16 mean, they didn't have to go into them individually, but
17 that no further charges would be laid and that there was
18 not grounds to lay -- however one expresses it -- to lay
19 charges of conspiracy to obstruct justice.

20 But, in fact, it starts off by saying the
21 OPP found and I felt it made it sound like I was saying
22 there was no evidence that a paedophile ring operated in
23 the City of Cornwall.

24 **MR. KLOEZE:** Okay. I just have one more
25 area, and it's a very brief area I'm going to ask you

1 about, and this is about the concerns that you had
2 expressed, and you and Jim Stewart were involved in this in
3 March of 2002, when you found out that the trial judge was
4 going to be changed from Mr. Justice Rutherford to Mr.
5 Justice Chilcott.

6 And as I understand your evidence, your
7 concern, especially after you got the letter from Mr.
8 Justice Cunningham, the Regional Senior Judge, you still
9 had a concern, but that concern was that the Court had
10 unilaterally adjourned a trial, and a fairly significant
11 trial, for six weeks without any notice to you?

12 **MR. McCONNERY:** Right. But I think by that
13 time, my concern was anger.

14 **MR. KLOEZE:** Yes.

15 **MR. McCONNERY:** Yes.

16 **MR. KLOEZE:** But that was anger directed at,
17 I guess, the circumstances of the six-week adjournment
18 without any notice to you?

19 **MR. McCONNERY:** Yes.

20 **MR. KLOEZE:** Okay. Now, I understand that
21 you, yourself, had no concerns with Mr. Justice Chilcott as
22 a judge being able to hear this application or the
23 subsequent trial, in the sense of his competence to hear
24 the trial or any bias that he might have on it?

25 **MR. McCONNERY:** I had absolutely no reason

1 to believe there was any possibility of bias.

2 MR. KLOEZE: Okay.

3 MR. McCONNERY: I'm sorry, there was
4 something else you asked me there. No, I was not concerned
5 about Justice Chilcott. If you'd given me my druthers,
6 would I have gone there? I don't want to answer that.

7 MR. KLOEZE: Okay.

8 MR. McCONNERY: I don't think that assists
9 this, but I had no problem with him as an experienced trial
10 judge, as a man I knew and respected in the legal community
11 in Ottawa.

12 MR. KLOEZE: Okay. And you had no evidence
13 then, sir, or no evidence that you're aware of that's
14 appeared since, that Mr. Justice Chilcott had any
15 connection with any of the complainants or the accused in
16 this matter?

17 MR. McCONNERY: That's correct. That was
18 the other thought that I didn't get out, but that I wanted
19 to say. You know, I felt whatever there was about the
20 prior judicial officer, there was no concern I was aware of
21 regarding Justice Chilcott in that regard.

22 MR. KLOEZE: Okay.

23 THE COMMISSIONER: The prior judicial, you
24 mean Charbonneau, Justice Charbonneau?

25 MR. McCONNERY: Okay, let me say that too.

1 And the fact that Justice McKinnon appeared to have had
2 some involvement with Dunlop in the Cornwall Police
3 Service.

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

5 **MR. KLOEZE:** That's right, and that's where
6 I'm going, sir, because some of the questions that were
7 asked of you by Ms. Simms and by other counsel suggested
8 that it would have been appropriate to ask for an out-of-
9 region judge. And one of the examples is because of the
10 fact that came to light about Mr. Justice McKinnon ---

11 **MR. McCONNERY:** Yes.

12 **MR. KLOEZE:** --- and his prior
13 representation when he was counsel for Father MacDonald,
14 and I just wanted to sort of disconnect Mr. Justice
15 McKinnon from this argument.

16 There's never been any suggestion then or
17 now that Mr. Justice Chilcott had any connection with any
18 of the -- with I guess, the substance of the trial itself?

19 **MR. McCONNERY:** That's right.

20 **MR. KLOEZE:** Okay.

21 And, again, going to the question of whether
22 or not it would have been appropriate to get an out-of-
23 region judge, the main thrust of your argument at the
24 Section 11(b) application or a major thrust of your
25 argument was that it was in the public interest or would

1 continue to be in the public interest to have a trial in
2 this matter?

3 **MR. McCONNERY:** Yes.

4 **MR. KLOEZE:** And that's not something that
5 would necessarily have to be heard by an-out-of-region
6 judge. A local judge would be able to appreciate and
7 assess that as well -- as much as an out-of-region judge;
8 isn't that correct?

9 There's nothing special about having an out-
10 of-region judge being able to assess the public interest in
11 a matter, or assess any of the legal arguments that come up
12 in an 11(b) application?

13 **MR. McCONNERY:** No. My hope was we were
14 going to do more than have an 11(b).

15 **MR. KLOEZE:** Yes. But even ---

16 **MR. McCONNERY:** I had no concerns about
17 Justice Chilcott as the judge. My concern was it was a --
18 I felt a high-handed adjournment of this very high profile
19 trial, and I've already expressed my concern that I was
20 told was over the top about how it was arranged.

21 **MR. KLOEZE:** Okay.

22 And at the end of the day, you agreed -- in
23 your letter requesting a review for appeal, you agreed that
24 the decision of Mr. Justice Chilcott seemed well-founded in
25 the sense that there was no obvious legal error in it?

1 **MR. McCONNERY:** Yes, I agree with that.

2 **MR. KLOEZE:** Mr. McConnery, I apologize for
3 going over time. Those are my questions. Thank you very
4 much for spending the time with us.

5 **MR. McCONNERY:** Thank you.

6 **THE COMMISSIONER:** Ms. Simms?

7 **MS. SIMMS:** I have no further questions.
8 Thank your, Mr. McConnery.

9 **THE COMMISSIONER:** Mr. McConnery, I want to
10 thank you ---

11 **MR. MANDERVILLE:** I apologize, Mr.
12 Commissioner, and I apologize to Mr. McConnery for what I'm
13 about to tell you.

14 In the last 20 minutes, we've received
15 documents from Ms. McArthur, one of which is a document
16 from Mr. McConnery to others, and we're just receiving them
17 in the last 20 minutes.

18 Frankly, I don't know if anyone in this room
19 will wind up having questions for Mr. McConnery about it,
20 but it seems to me that rather than have him go and someone
21 decide that we have to get him back somehow, we should sort
22 that out in the next 15-20 minutes and perhaps Mr. Kloeze
23 can tell us what he proposes to do with it and whether
24 we've seen the last of MAG documents or we can anticipate
25 additional ones this month.

1 **MR. KLOEZE:** Mr. Commissioner, I'm not aware
2 of what these documents are. Certainly not anything ---

3 **THE COMMISSIONER:** Can you put your
4 Blackberry away, sir?

5 **MR. KLOEZE:** Sorry. I'm looking to see what
6 they are, as Ms. McArthur has ---

7 **THE COMMISSIONER:** Sorry. Okay. I see what
8 you're saying.

9 **MR. KLOEZE:** Because I'm unaware of this and
10 I obviously haven't been able to read my emails.

11 **MR. MANDERVILLE:** Mr. Commissioner, if it's
12 of assistance, Mr. Lee, with his laptop, we've been able to
13 look at some of them as they've come in, in the last 20
14 minutes and to be fair to Mr. Kloeze, he was up here
15 examining ---

16 **THE COMMISSIONER:** No, no, of course, of
17 course.

18 **MR. MANDERVILLE:** --- Mr. McConnery at the
19 time. One document, Document 130757, very clearly is a
20 memo from Mr. McConnery to others concerning Richard Nadeau
21 and honestly, as I said to you before, I have no idea if
22 anyone in the room would want to ask a question about it,
23 but we haven't had a chance to look at it.

24 **THE COMMISSIONER:** All right. Well, sir, I
25 was about to thank you for your patience and the

1 professionalism you've shown in being a gentleman about the
2 fact that we are holding you back, and I'm afraid I'm going
3 to have to hold you back a little longer.

4 **MR. McCONNERY:** Mr. Commissioner, I'm giving
5 my wife your phone number.

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

7 **(LAUGHTER/RIRES)**

8 **MR. McCONNERY:** You can deal with that.

9 **THE COMMISSIONER:** I will. I will.

10 **MR. McCONNERY:** Thank you very much for
11 those comments, sir.

12 **THE COMMISSIONER:** I really appreciate that
13 so why don't -- I'll tell you what we'll do.

14 Counsel can look at these documents and if
15 they all say they have no further questions, you don't have
16 to wait for me, out you go.

17 So, again -- and, if I see you back, well,
18 then -- but, I do -- in case that I'm not going to see you
19 again, I do want to thank you for your collaboration. I
20 think that your evidence was given in a professional way,
21 and I really do appreciate that. Thank you.

22 **MR. McCONNERY:** Thank you, sir.

23 **THE COMMISSIONER:** So we're going to be
24 coming back at 1:00 and, please, I do -- 2:00. I do wish,
25 if we can get this witness on his way, let's get him on his

1 way, and, if not, let's deal with it as quickly as
2 possible.

3 Thank you.

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

6 This hearing will resume at 2:00 p.m.

7 --- Upon recessing at 1:11 p.m. /

8 L'audience est suspendue à 13h11

9 --- Upon resuming at 2:02 p.m. /

10 L'audience est reprise à 14h02

11 **THE REGISTRAR:** Order; all rise. À l'ordre;
12 Veuillez vous lever.

13 This hearing is now resumed. Please be
14 seated. Veuillez vous asseoir.

15 ---HOUSEKEEPING MATTERS BY/MATIÈRES ADMINISTRATIVES PAR MR.
16 DUMAIS:

17 **MR. DUMAIS:** Mr. Commissioner, just one
18 housekeeping matter from this morning's evidence?

19 Towards the end of Mr. McConnery's evidence,
20 Mr. Manderville alluded to a document, which is Document
21 Number 130757, which was disclosed to the parties as Mr.
22 McConnery was giving his evidence. I'd like to file it, on
23 consent with all of the parties, as the next exhibit.

24 **THE COMMISSIONER:** Yes, thank you.

25 Exhibit 3104 is an email correspondence from

1 James Stewart to Leslie McIntosh, and it's dated December
2 31st, 2008.

3 ---EXHIBIT NO./PIÈCE NO P-3104:

4 (130757) - E-mail from James Stewart to Ross
5 Bingley dated 25 Sep 03

6 MR. DUMAIS: Yes, Mr. Commissioner, and that
7 date indicates when the message was forwarded to
8 Ms. MacIntosh to be disclosed to the Inquiry, but I think
9 the relevant portion of the email transmission is the email
10 from Mr. Stewart ---

11 THE COMMISSIONER: Right.

12 MR. DUMAIS: --- to Ross Bingley, on October
13 1st, 2000 and ---

14 THE COMMISSIONER: I understand that. I'm
15 just saying that for purposes of identifying the exhibit.

16 MR. DUMAIS: Thank you.

17 THE COMMISSIONER: Thank you.

18 MR. DUMAIS: And I understand that all
19 parties are content that it go in without any further
20 questioning of Mr. McConnery.

21 THE COMMISSIONER: Thank you. Next witness?

22 MR. DUMAIS: The next witness? Cosette
23 Chafe.

24 --- COSETTE CHAFFE, Affirmed/Sous affirmation solonelle

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

1 DUMAIS:

2 THE COMMISSIONER: Thank you.

3 MS. CHAFE: Thank you.

4 THE COMMISSIONER: Welcome aboard.

5 MS. CHAFE: Okay.

6 THE COMMISSIONER: I have a few -- so make
7 yourself comfortable, speak into the microphone. There's
8 fresh water, and glasses that hopefully don't leak.

9 If we're going to send you to some
10 documents, you'll have the hard copy or you can see it on
11 the screen. More importantly, if there's something that
12 you don't feel comfortable about, let me know, and I'll see
13 if I can address it.

14 Now, the first thing I have to accuse you,
15 though, of is rendering Mr. Dumais speechless ---

16 (LAUGHTER/RIRES)

17 THE COMMISSIONER: --- or almost thereof.

18 MR. DUMAIS: I'll try to keep my voice up
19 for the afternoon, Mr. Commissioner.

20 THE COMMISSIONER: All right.

21 Oh, the other thing is, at 3:55 I have to be
22 on my way if I have any hope of getting home, legally and
23 safely.

24 MR. DUMAIS: Good afternoon, Cosette.

25 I understand you're retired from the

1 position of Regional Manager, East Region, for the Ontario
2 Victims Services Secretariat. Is that correct?

3 MS. CHAFE: Yes.

4 MR. DUMAIS: And you just recently retired,
5 last year? Or ---

6 MS. CHAFE: April '07, so, almost two years.

7 MR. DUMAIS: All right. And I understand in
8 preparation for your evidence today you have submitted a
9 résumé, and I'm going to ask Madam Clerk to put to you a
10 document, which is Document Number 200346.

11 THE COMMISSIONER: Thank you. Exhibit
12 Number 3105 is the résumé of Cosette -- is it Chafe?

13 MS. CHAFE: Chafe.

14 THE COMMISSIONER: All right, thank you.

15 ---EXHIBIT NO./PIÈCE NO P-3105:

16 (P-3105: (200346) - Career Profile of
17 Cosette Chafe

18 MR. DUMAIS: Now, if I can just take you to
19 the second page of the document, Cosette, and if we can
20 just start with your education?

21 I understand you obtained a Bachelor of Arts
22 degree from Carleton University in 1967?

23 MS. CHAFE: Yes.

24 MR. DUMAIS: And after graduation you joined
25 the Children's Aid Society of Ottawa, where you worked for

1 a period of 12 years.

2 MS. CHAFE: That's correct.

3 MR. DUMAIS: And shortly -- or after you
4 left the Children's Aid office, you joined the Ministry of
5 the Attorney General as Manager of the Victim/Witness
6 Assistance Program in Ottawa?

7 MS. CHAFE: I did.

8 MR. DUMAIS: You worked there from April,
9 1987 to June of 1991.

10 I understand you were seconded for a short
11 period of time to the St. Joseph Training School
12 prosecution? We'll talk a little bit about that later on.

13 And then, you returned to your original
14 position in September of 1993 until November 2001?

15 MS. CHAFE: That's correct.

16 MR. DUMAIS: And after, you were promoted to
17 the position at which you retired, as Regional Manager of
18 the East Region. Is that correct?

19 MS. CHAFE: That's correct.

20 MR. DUMAIS: All right. Now, if we can just
21 start, Cosette, with your experience, your secondment
22 experience, at the St. Joseph's Training School for Boys
23 prosecution? Can you just explain to us how that came
24 about?

25 You were at that time Manager of the

1 Victim/Witness Assistance Program office in Ottawa;
2 correct?

3 MS. CHAFE: I was.

4 MR. DUMAIS: Okay.

5 MS. CHAFE: I was approached by my corporate
6 office, by the Director of the Victim/Witness Assistance
7 Program in Toronto, to consider a secondment to develop,
8 implement and supervise services to a large prosecution
9 that became known as the St. Joseph's Training School
10 prosecution.

11 MR. DUMAIS: Okay. In my understanding, you
12 eventually accept that secondment?

13 MS. CHAFE: I did accept the secondment,
14 yes.

15 MR. DUMAIS: Okay. And tell us how the work
16 began at St. Joseph's School?

17 MS. CHAFE: How the work began?

18 MR. DUMAIS: What did you do? How did the -
19 --

20 MS. CHAFE: Okay.

21 MR. DUMAIS: --- work begin? Were you --
22 just tell us what your involvement was in that program.

23 MS. CHAFE: Okay. The Victim/Witness
24 Assistance Program was actually allocated a total of five
25 positions for that special Victim/Witness Assistance

1 program, so one of the first things I had to do was hire
2 staff, obtain space within courthouse, communicate with
3 Crown attorneys, lawyers, court services people -- just get
4 all the operational things in place.

5 My recollection is that the preliminary
6 inquiries started in August of '93. I was seconded in
7 June, they started in August, so there wasn't a lot of lead
8 time to get things in place, prior to the beginning of the
9 preliminary inquiries.

10 **THE COMMISSIONER:** You said '93.

11 **MS. CHAFE:** Sorry ---

12 **THE COMMISSIONER:** Ninety-one ('91)?

13 **MS. CHAFE:** --- '91. Ninety-one ('91).

14 **MR. DUMAIS:** All right. And I understand
15 that during that period of time you would have worked
16 closely with Detective Inspector Tim Smith. Is that
17 correct?

18 **MS. CHAFE:** I did.

19 **MR. DUMAIS:** All right. And if I understand
20 your involvement, you would have managed Victim Services
21 for that prosecution? Do I have that right?

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

23 **MR. DUMAIS:** Okay. And were you attending
24 court for the preliminary inquiries, for the trials, or
25 were workers attending at your direction?

1 **MS. CHAFE:** I managed the service, but I
2 also did provide some services.

3 **MR. DUMAIS:** Okay.

4 **MS. CHAFE:** There were four people providing
5 services -- three were doing that full-time, and I was
6 doing a bit less because of the management
7 responsibilities.

8 So, yes, I did attend; we did attend court
9 with the victims. We attended Crown interviews; we
10 attended court. We provided a full range of services.

11 **MR. DUMAIS:** Okay. And were those services
12 directed from the V/WAP office in Ottawa?

13 **MS. CHAFE:** No, they were not.

14 **MR. DUMAIS:** Okay.

15 **MS. CHAFE:** It was completely independent
16 from the V/WAP office in Ottawa.

17 At the time, there were a total of three
18 employees in Ottawa. There was myself, an admin assistant
19 and one other person. And it was completely independent;
20 we obtained space on the third floor of the courthouse in
21 Ottawa.

22 **MR. DUMAIS:** Okay. And did someone -- was
23 someone else hired with the V/WAP office in Ottawa, to
24 replace you during this secondment?

25 **MS. CHAFE:** Yes. One of the staff took on

1 the position of acting -- it was the coordinator title at
2 the time, not Manager, Acting Coordinator, and we
3 backfilled her position.

4 **MR. DUMAIS:** All right. Now, if we can just
5 back up a bit, I just want to talk to you about the
6 Victim/Witness Assistance Program, and what that is all
7 about.

8 And my understanding is the program was set
9 up to provide a range of services to victims of crime, who
10 are involved with the criminal justice system. Is that
11 correct?

12 **MS. CHAFE:** Yes.

13 **MR. DUMAIS:** And am I correct in
14 understanding as well that services begin when charges are
15 laid; correct?

16 **MS. CHAFE:** Services begin after charges are
17 laid. There's sometimes a lag between the beginning -- the
18 charge and the beginning of services, but services do not
19 begin before charges are laid, so sometime after charges
20 are laid.

21 **MR. DUMAIS:** All right.

22 So if a police officer is conducting an
23 investigation, has a number of victims, but for one reason
24 or another decides not to lay a charge, V/WAP services
25 aren't triggered?

1 **MS. CHAFE:** That's correct.

2 **MR. DUMAIS:** Okay. Now, we've heard some
3 background evidence from Sonia Faryna on the historical
4 background of the Victim/Witness Assistance Program.

5 And just to put your evidence in context,
6 I'm just going to attempt to summarize what the program is
7 all about.

8 My understanding is that V/WAP received
9 Cabinet approval sometime during the early part of 1986?

10 **MS. CHAFE:** Correct.

11 **MR. DUMAIS:** And that led to the
12 implementation of 12 program sites across the Province that
13 were localized in Crown Attorneys' offices?

14 **MS. CHAFE:** They weren't necessarily located
15 within the office, but we were part of the Criminal Law
16 Division at the time and worked very closely with Crown
17 Attorneys' offices.

18 **MR. DUMAIS:** All right.

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

20 **MR. DUMAIS:** Now, the first 10 sites opened
21 in April of 1987?

22 **MS. CHAFE:** Yes.

23 **MR. DUMAIS:** And you were one of the first
24 persons hired to work at one of these sites, I take it?

25 **MS. CHAFE:** That's correct.

1 **MR. DUMAIS:** And of course one of these
2 sites was the Ottawa site?

3 **MS. CHAFE:** It was.

4 **MR. DUMAIS:** All right.

5 And between 1996 and 1998, there was an
6 additional 14 program sites that were established?

7 **MS. CHAFE:** That's right.

8 **MR. DUMAIS:** Bringing the total to 26 across
9 the Province?

10 **MS. CHAFE:** Correct.

11 **MR. DUMAIS:** And today there are
12 approximately 56 V/WAP sites across the Province. Is that
13 correct?

14 **MS. CHAFE:** That's correct.

15 **MR. DUMAIS:** And I understand that V/WAP is
16 a component of the Ontario Victims Services Secretariat and
17 has been since 2001 when there was an integration of
18 services for victims from the AG's office and the Solicitor
19 General's office?

20 **MS. CHAFE:** That's right.

21 **MR. DUMAIS:** All right.

22 And one of the involvements that you have
23 personally had with V/WAP is establishing a protocol for
24 multiple victim, multiple perpetrator investigations?

25 **MS. CHAFE:** Yes, it's protocol for the

1 development and implementation of -- can I refer to
2 Victim/Witness Assistance Program as V/WAP?

3 MR. DUMAIS: You certainly can.

4 MS. CHAFE: For implementation of V/WAP in
5 multi-victim, multi-perpetrator cases.

6 MR. DUMAIS: Okay. And perhaps I can just
7 take you to Exhibit 49, Tab 8.

8 MS. CHAFE: Yes.

9 MR. DUMAIS: Now, the protocol that has been
10 put in front of you is dated January, 1996; correct?

11 MS. CHAFE: That's correct.

12 MR. DUMAIS: And I understand that the
13 protocol that you worked on would have been sometime
14 towards the end of 1992 or the beginning of 1993?

15 MS. CHAFE: That's my recollection, yes.

16 MR. DUMAIS: Okay. And you've reviewed this
17 protocol, and would you agree that it is essentially the
18 same protocol that was drafted by yourself back in 1992-
19 '93?

20 MS. CHAFE: Yes.

21 MR. DUMAIS: And am I correct in
22 understanding that you drafted this protocol following your
23 secondment to the Alfred investigation and prosecutions
24 because you thought that this was something that was
25 lacking in the guidelines that the Ministry had?

1 **MS. CHAFE:** Yes. At the time, in '92-'93
2 when it was drafted, there were only the 12 victim witness
3 programs in Ontario. So that meant there were 44
4 jurisdictions without any Victim/Witness Assistance
5 Program.

6 And, as well, there were very brief victim
7 witness program goals, policies and guidelines. It was a
8 four-page document and that was all that existed in terms
9 of services.

10 So I was asked if I would do a first draft
11 of this protocol, and it states in the introduction that
12 the purpose was to just establish additional guidelines.

13 **MR. DUMAIS:** Okay. And you made reference
14 to the existing guidelines within the Ministry. If you can
15 just turn to Bates page 075 of that document, which is
16 Appendix 1, these were the guidelines that were in place at
17 that time. Is that correct?

18 **MS. CHAFE:** Is there supposed to be
19 something on the screen now?

20 **MR. DUMAIS:** It's going to come up shortly.

21 **MS. CHAFE:** Okay.

22 **(SHORT PAUSE/COURTE PAUSE)**

23 **MS. CHAFE:** Yes, that's the document I was
24 referring to.

25 **MR. DUMAIS:** All right. And I understand

1 that you were assisted in the drafting of this protocol by
2 Penny Contreras and Janet Lee. Is that correct?

3 MS. CHAFE: Yes.

4 MR. DUMAIS: All right.

5 MS. CHAFE: They had input into it, yes.

6 MR. DUMAIS: Okay.

7 MS. CHAFE: They were just -- for your
8 information, they were V/WAP managers who were seconded in
9 other special prosecutions.

10 MR. DUMAIS: So one of them would have been
11 seconded to the Jericho Project. Is that correct?

12 MS. CHAFE: Janet Lee was seconded to the
13 Project Jericho prosecutions and Penny Contreras, she was
14 actually a new employee to do this, but it was a special
15 prosecution for the St. John's cases in Uxbridge.

16 MR. DUMAIS: Okay. So you had all had
17 experience with multiple victim/multiple perpetrator
18 investigations?

19 MS. CHAFE: Yes.

20 MR. DUMAIS: All right.

21 And if I can just then take you to Bates
22 page 051 of that document? I'm going to ask you to go
23 back. So I'm looking at the third paragraph on that page,
24 Cosette, and I'll just read it out for you.

25 MS. CHAFE: Okay. I've lost the tab. Hang

1 on.

2 **THE COMMISSIONER:** The tab is ---

3 **MS. CHAFE:** It's okay, I have it.

4 **MR. DUMAIS:** So it reads as follows:

5 "The purpose of this protocol is to
6 establish additional guidelines to
7 facilitate the development and
8 implementation of a Victim/Witness
9 Assistance Program specifically
10 designed to provide services to victims
11 and witnesses in multi-victim/multi-
12 perpetrator cases."

13 So is that correct; that was your objective?

14 **MS. CHAFE:** Yes.

15 **MR. DUMAIS:** And the idea behind that is
16 that the Victim/Witness Assistance Program, as it then
17 existed, was not structured to handle these major
18 investigations. Do I have that right?

19 **MS. CHAFE:** That's right. Even in
20 established sites an investigation of -- a large
21 investigation would require additional resources because
22 the established sites at the time had two staff.

23 **MR. DUMAIS:** Okay. And they would not be
24 able to handle such a big project?

25 **MS. CHAFE:** They might not.

1 **MR. DUMAIS:** All right.

2 And if I look at the next page then under
3 "Principles", it's the second line of the second paragraph.
4 So you outline the following:

5 "Core preparation and orientation is a
6 critical aspect of any prosecution
7 involving children or allegations which
8 are historical in nature."

9 **MS. CHAFE:** Yes.

10 **MR. DUMAIS:** All right.

11 And if you can then just turn the page, so
12 Bates page 053, that last paragraph, you're essentially
13 summarizing your reasoning and it reads as follows:

14 "In summary, these prosecutions are
15 complex, time consuming and demanding.
16 They require special attention and
17 should be handled by an experienced
18 victim/witness coordinator who is
19 permitted to devote her entire
20 attention to the case. Ordinarily,
21 this will require her to be relieved of
22 regular assigned duties."

23 **MS. CHAFE:** Yes.

24 **MR. DUMAIS:** And by that, you mean regular
25 assigned duties from your regular VWAP duties, if that's

1 where the resource comes?

2 MS. CHAFE: Yes. Yes.

3 MR. DUMAIS: All right.

4 MS. CHAFE: May I comment?

5 MR. DUMAIS: Yes..

6 MS. CHAFE: You keep saying "you" because I
7 was -- I'd assume you're saying "you" because I did the
8 first draft of this protocol, but I should point out it's a
9 Victim/Witness Program protocol. It's not mine.

10 MR. DUMAIS: It's not yours. You had a
11 significant contribution.

12 All right. So if I could then just take you
13 back in time and if you can just give us an idea of -- I
14 think you've already indicated that you had three staff
15 working at the V/WAP office in Ottawa back in 1992. Is
16 that correct?

17 MS. CHAFE: That's correct.

18 MR. DUMAIS: So you would have a
19 coordinator, an admin staff?

20 MS. CHAFE: Yes.

21 MR. DUMAIS: And someone who would ---

22 THE COMMISSIONER: Support staff?

23 MS. CHAFE: Well, it's complex. At the
24 time, shortly after, maybe '93, four positions in the
25 Province were designated as assistant coordinator

1 positions. They were new positions.

2 In Ottawa, we already had a person basically
3 providing -- fulfilling the functions of that position, but
4 it wasn't called that at the time. So for these purposes,
5 maybe we could call it an assistant coordinator position
6 even though it wasn't in place at the time.

7 **THE COMMISSIONER:** These two people would
8 hit the ground running and be able to give assistance to
9 the victims as per the program?

10 **MS. CHAFE:** Yes, the manager and the --
11 well, the coordinator and the assistant coordinator would
12 be service providers, yes.

13 **THE COMMISSIONER:** Okay, service providers.

14 **MR. DUMAIS:** All right.

15 Now, if we can just then have a look at
16 1999, when you would have become involved in the
17 investigations here in Cornwall, what was the staff
18 complement at that time?

19 **MS. CHAFE:** There was myself as manager.
20 There were -- I believe there were four services workers
21 and there was 1 or 1.5 admin assistant positions.

22 **MR. DUMAIS:** Okay. So, in actuality, three
23 additional positions, three positions more than you would
24 have had back in 1992?

25 **MS. CHAFE:** Yes.

1 **MR. DUMAIS:** All right.

2 And what about in 2001, when you became the
3 Regional Manager? Do you recall how many staff was at the
4 V/WAP office in Ottawa?

5 **MS. CHAFE:** I believe it was the same; four
6 positions.

7 **MR. DUMAIS:** Okay.

8 **MS. CHAFE:** It's possible that in '99 there
9 were three services worker positions and another one was
10 added between then and the time I left in '01. I'm not
11 sure, but I believe there were four.

12 **MR. DUMAIS:** Okay. And I understand that
13 V/WAP has formal review mechanism within its structure
14 itself. Is that correct?

15 **MS. CHAFE:** You mean evaluation, is that
16 what you're referring to?

17 **MR. DUMAIS:** Yes.

18 **MS. CHAFE:** There is a mechanism in place to
19 distribute client satisfaction surveys systematically, and
20 I don't know if that's what you're referring to.

21 **MR. DUMAIS:** Okay. Perhaps you can just
22 explain to us what that is.

23 **MS. CHAFE:** There is the survey, two- or
24 three-page survey, that is systematically mailed out to
25 victims in cases completed within a given timeframe. Okay.

1 They're systematically mailed out. And that happens 9 or
2 10 times a year, and it's for a week.

3 And so in a site the size of Ottawa,
4 hundreds would be mailed out in a year.

5 **MR. DUMAIS:** Okay. And those evaluations
6 eventually lead to modifications or updates to your
7 protocols and the procedures?

8 **MS. CHAFE:** They're part of the structure
9 that's in place. They certainly do provide invaluable
10 feedback from clients. There's also now, and I believe it
11 was implemented in 2000, there is a V/WAP Advisory
12 Committee at the corporate office of the OVSS, and it's
13 comprised of victim/witness program managers and corporate
14 office staff. And it's a problem-solving -- it's for
15 review, problem-solving, identification of issues, that
16 kind -- and I understand that there is also now a policy
17 committee made up of managers as well.

18 **MR. DUMAIS:** All right.

19 Now, if I can then just ask you to have a
20 look at Exhibit 49, Tab 10.

21 **MS. CHAFE:** Yes.

22 **MR. DUMAIS:** So this is the policies and
23 procedures manual and that document is dated Spring, 2006.
24 I take it this is the last version of the policies and
25 procedures manual for V/WAP?

1 **MS. CHAFE:** To my knowledge, it's the most
2 recent version.

3 **MR. DUMAIS:** And did you have any
4 involvement in any of the drafting of this policy manual?

5 **MS. CHAFE:** Yes. The first version of this
6 manual was done in 2000-2001 and I was involved in the
7 drafting of that manual, and I was involved in the
8 revisions made to it as well in 2006.

9 **MR. DUMAIS:** All right.

10 And, essentially, this policies and
11 procedures manual sets out a number of procedures to follow
12 to offer different services to victims?

13 **MS. CHAFE:** That's right.

14 **MR. DUMAIS:** And if I can just ask you to
15 turn to Bates page 206; so that's at subsection 5.14,
16 "Victims and Special Prosecutions".

17 And just before I ask you to explain that,
18 Cosette, can you -- do you remember whether or not the
19 previous policies and procedures manual had a similar
20 section for special prosecutions?

21 **MS. CHAFE:** I'm -- I can't be sure. I
22 believe it did, but I'm not positive.

23 **MR. DUMAIS:** Okay. Then if I can just ask
24 you what that section is about or what services are we
25 referring to here? Perhaps I ---

1 **MS. CHAFE:** It would -- well, it sets out
2 the context for special prosecutions.

3 **MR. DUMAIS:** Okay. Well, let's look then at
4 the first two lines of paragraph 2 -- sorry, the fourth
5 paragraph, right under "Context". It reads as follows:

6 "Special prosecutions are normally
7 designated as such because they involve
8 several accused persons charged with
9 serious offences against multiple
10 victims."

11 **MS. CHAFE:** Yes.

12 **MR. DUMAIS:** And then it goes on to say that
13 they're often historical in nature.

14 **MS. CHAFE:** M'hm.

15 **MR. DUMAIS:** Et cetera, et cetera.

16 So is this special prosecution section
17 similar to what -- the protocol that you drafted back in
18 1992-1993? Is it meant to cover the same circumstances?

19 **MS. CHAFE:** Similar circumstances, yes.

20 **MR. DUMAIS:** Similar circumstances.

21 **MS. CHAFE:** Yes.

22 **MR. DUMAIS:** All right.

23 And if we just look then at the next
24 paragraph:

25 "Special prosecutions typically require

1 substantial commitment of time,
2 resources and expertise in order to
3 effectively [sic] to the special needs
4 of the victims and the special
5 circumstances of prosecutions. They
6 also require a high level of
7 collaboration and coordination amongst
8 the Crowns, police officers and program
9 staff."

10 Is that correct?

11 **MS. CHAFE:** Yes.

12 **MR. DUMAIS:** All right.

13 And the next paragraph essentially deals
14 with the financing and funds, and if I can just read the
15 next paragraph starting at the second sentence:

16 "The director, PCDB, is involved in
17 securing funds that may be necessary to
18 contract for specialized expertise and
19 to provide staff resources to cover
20 duties at the home sites of those who
21 undertake work on special
22 prosecutions."

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

24 **MR. DUMAIS:** So then am I to understand then
25 that when there is a special prosecution that is

1 designated, that there's this provision for additional
2 funds within the Ministry; is that correct?

3 **MS. CHAFE:** My understanding at the time
4 that I got involved with Project Truth was that if
5 something was designated as a special prosecution there
6 might be funds and resources to go along with that. In
7 this section it does talk about the need to dedicate
8 specific staff to these prosecutions and et cetera.

9 There is no criteria in here, though, for
10 what qualifies as a special prosecution. Does it mean two
11 offenders with six victims or does it mean 30 offenders
12 with 100 victims? The criteria is not spelled out in here.

13 **MR. DUMAIS:** And clearly, just to go back a
14 bit, you require the special prosecution designation before
15 you can even request for funds. Do I have that right?

16 **MS. CHAFE:** You know, I'm not sure if this
17 special prosecution -- and it is in quotation marks right
18 in the purpose in this section.

19 **MR. DUMAIS:** Yes.

20 **MS. CHAFE:** I'm not sure if that's something
21 that we used within the Victim/Witness program to allude to
22 prosecutions that were complex and required resources over
23 and above the usual resources. It may have been particular
24 to the Victim/Witness Program. I don't know.

25 **MR. DUMAIS:** Okay.

1 **MS. CHAFE:** Okay?

2 **MR. DUMAIS:** But clearly when you became
3 involved in some of the prosecutions here in Cornwall, you
4 had made reference to that term, to the "special
5 prosecution" term; is that correct?

6 **MS. CHAFE:** That I did, yes, in an email.

7 **MR. DUMAIS:** And that's what you were
8 referring to; is that correct?

9 **MS. CHAFE:** Yes. In my mind at the time if
10 it was designated a special prosecution then maybe we'd get
11 resources and funds.

12 **MR. DUMAIS:** Okay. And what is your
13 understanding as to who this designation is requested? Who
14 do you ask for this designation?

15 **MS. CHAFE:** Director -- my boss.

16 **MR. DUMAIS:** Okay. So the Director of ---

17 **MS. CHAFE:** I'm sorry. Who would I ask for
18 this designation?

19 **MR. DUMAIS:** Correct.

20 **MS. CHAFE:** I would talk to my boss about
21 any case where I felt that the program, my program, was
22 unable to provide adequate services.

23 **THE COMMISSIONER:** It says here:

24 "As a result, the Manager must refer
25 any request for additional resources to

1 the Regional Manager and not make any
2 commitment to the local Crown attorney
3 or regional Crown until resources have
4 been identified and secured."

5 **MS. CHAFE:** That's correct. In '99 there
6 was no regional structure.

7 **THE COMMISSIONER:** Right.

8 **MS. CHAFE:** So I did not have a Regional
9 Manager.

10 **THE COMMISSIONER:** Right. You ---

11 **MS. CHAFE:** So I went higher. I went to my
12 boss, who was the director.

13 **MR. DUMAIS:** Who was the director?

14 **MS. CHAFE:** Yes.

15 **MR. DUMAIS:** All right.

16 And I take it to get this designation some
17 sort of a presentation of how many victims, how many
18 perpetrators, how many investigations needs to be
19 presented; do I have that right?

20 **MS. CHAFE:** Okay. We're going at this from
21 one direction and I'll answer the question but if I became
22 aware of a case involving multiple perpetrators and
23 multiple victims, I would contact my Director and alert her
24 to that. If it was within my jurisdiction, I would have
25 information from the police and from the Crown attorney

1 about the scope of the investigation, the details of it,
2 and I would provide that as well.

3 That is what I would do if it came to my
4 attention and had not yet come to the attention of my
5 Director from other sources.

6 **MR. DUMAIS:** I see. And perhaps -- so we
7 spoke about the protocol that you wrote and then we spoke
8 about this victim and special prosecution section in the
9 policy manual. I mean, the protocol is still in place
10 today as far as you know?

11 **MS. CHAFE:** It is.

12 **MR. DUMAIS:** Okay. And does the protocol
13 and the policy -- that section of the policy and procedure
14 manual complement themselves or are they meant to address
15 different situations, different scenarios?

16 **MS. CHAFE:** They complement themselves.

17 **MR. DUMAIS:** All right.

18 **MS. CHAFE:** It refers to it in the practice
19 section. In this section 5.14 the last paragraph says
20 "practice."

21 **MR. DUMAIS:** Yes.

22 **MS. CHAFE:** And it refers to it.

23 **MR. DUMAIS:** All right.

24 And is there any reason why the protocol
25 that you developed does not form part of this policy and

1 procedure manual?

2 MS. CHAFE: It was drafted as a standalone
3 document.

4 MR. DUMAIS: I see.

5 MS. CHAFE: And there was talk of updating
6 that document when we were updating the policy and
7 procedures manual but it did not get done.

8 MR. DUMAIS: Okay. Do you think there is
9 any value to incorporating that within your policy and
10 procedures manual?

11 MS. CHAFE: Absolutely.

12 MR. DUMAIS: All right.

13 Now, I understand that in offering services
14 to victims you have a -- V/WAP has a certain file system
15 for -- just to keep the information organized. And I
16 understand that there are two separate file systems. So
17 there is one; on the one hand a general file for the
18 prosecution and specific files for each and every victim;
19 do I have that right?

20 MS. CHAFE: No.

21 MR. DUMAIS: All right.

22 Why don't you explain to us the file system?

23 MS. CHAFE: Normally in the Victim/Witness
24 Assistance Program a file is opened under -- and I'm not
25 here as an expert witness. I haven't worked in the

1 Victim/Witness Program since November of '01 and I've been
2 retired for almost two years. And actually, all of that
3 information that I'm about to say would be in detail in
4 sections 8, 9 and 10 of the manual.

5 MR. DUMAIS: Yes.

6 MS. CHAFE: But they're not included here.
7 You stop at section 7 in your document.

8 MR. DUMAIS: You're ---

9 MS. CHAFE: I think you focused on service
10 provision sections and the operational sections are not in
11 the exhibit.

12 MR. DUMAIS: Fair enough, and I think that's
13 ---

14 MS. CHAFE: Yeah.

15 MR. DUMAIS: --- a separate tab in that
16 exhibit.

17 MS. CHAFE: It is -- oh, okay. I don't see
18 it.

19 MR. DUMAIS: I'm just leading to we're going
20 to look at a number of documents from a number of files.
21 Some of these documents are pages of a file that list
22 services that some of the workers gave to some of the
23 victims. Other documents are more generic documents in the
24 sense that there are emails between you and ---

25 MS. CHAFE: Oh, no, okay.

1 **MR. DUMAIS:** --- and coworkers. So am I
2 correct in understanding that there is a general file for
3 the prosecution? Are these ---

4 **MS. CHAFE:** No. What I was getting at was
5 that the way we structure files is in the manual. It's
6 just not included here and I can't refresh my memory by
7 looking to this exhibit because it's not there.

8 Files are opened according to the name of
9 the offender.

10 **MR. DUMAIS:** Yes.

11 **MS. CHAFE:** Okay. Within the offender file
12 there is general information.

13 **MR. DUMAIS:** Yes.

14 **MS. CHAFE:** Just general information,
15 contacts with police, Crowns, and there is information
16 about contacts with the victim. There's a hardcopy file
17 but there is also a case management system for the
18 Victim/Witness Assistance Program. It's called VICTRACK so
19 everything is done electronically. And the workings of
20 that are very complex, okay?

21 **MR. DUMAIS:** All right.

22 **MS. CHAFE:** When I undertook to provide
23 services in the Project Truth cases they were not Ottawa
24 files. So I did not enter them into the electronic system.
25 I opened a file for each offender.

1 **MR. DUMAIS:** Yes.

2 **MS. CHAFE:** And within that file kept
3 general -- information specific to that prosecution and
4 that file. There was a page for each victim.

5 **MR. DUMAIS:** Yes.

6 **MS. CHAFE:** And notes were documented on
7 that page relating to each individual victim. And there
8 were also general notes and emails about contacts with
9 police, Crowns, et cetera.

10 I also kept -- and this would be particular
11 to a large prosecution with several offenders -- I kept a
12 general file. What was in that general file was mostly
13 emails that had been sent. It was never meant to be a
14 complete file about every contact I ever had about those
15 prosecutions.

16 **MR. DUMAIS:** All right. So that general
17 file was not specific to an offender?

18 **MS. CHAFE:** No, it was not.

19 **MR. DUMAIS:** All right.

20 **MS. CHAFE:** It was general information.

21 **MR. DUMAIS:** Okay.

22 Now, just before we look at some of your
23 specific involvement in the Project Truth prosecutions, I
24 would like for you to explain what the relationship between
25 the Men's Project and the V/WAP program was at the time.

1 **MS. CHAFE:** There was no relationship.
2 **MR. DUMAIS:** All right.
3 **MS. CHAFE:** Other than Project -- the Men's
4 Project existed as a community-based agency ---
5 **MR. DUMAIS:** Yes.
6 **MS. CHAFE:** --- to provide services.
7 **THE COMMISSIONER:** In Ottawa?
8 **MS. CHAFE:** In Ottawa, to provide services
9 to adult male survivors.
10 **MR. DUMAIS:** Yes.
11 **MS. CHAFE:** It was a community-based agency
12 just like sexual assault centres, shelters, family
13 counselling agencies. It was a community-based agency to
14 which we referred clients as appropriate.
15 **MR. DUMAIS:** Okay.
16 **MS. CHAFE:** I believe it existed prior to
17 when SOLGEN began to fund it for Project Truth.
18 **MR. DUMAIS:** Okay. So at one point in time,
19 SOLGEN began funding it for Project Truth. Is that
20 correct?
21 **MS. CHAFE:** That's my understanding.
22 **MR. DUMAIS:** All right. So how did that
23 work or how did that come about?
24 **MS. CHAFE:** Again, Sonia Faryna testified to
25 that in her -- when she was testifying. I had no knowledge

1 of that at the time. I have some knowledge of it now and I
2 could provide general information, but I'm not the expert
3 on the overview of that.

4 **MR. DUMAIS:** Fair enough.

5 But when you were involved with some of the
6 investigations and prosecutions here in Cornwall, you would
7 refer victims to counselling services. Is that correct?

8 **MS. CHAFE:** We would, absolutely.

9 **MR. DUMAIS:** All right.

10 And at one point-in-time, someone would have
11 told you that there's this Men's Project in Ottawa and
12 they've received financing now to offer services in
13 Cornwall. Is that correct?

14 **MS. CHAFE:** Yes, I became aware of that at
15 one point.

16 **MR. DUMAIS:** All right. And so did -- was
17 there any type of relationship that developed between the
18 V/WAP services or the services that you were offering here
19 in Cornwall and the Men's Project?

20 **MS. CHAFE:** Well, I'm not sure what you mean
21 about relationship. We would refer people to the Men's
22 Project. There was one, possibly two, meetings that were
23 held at the OPP Long Sault Detachment where Crown Attorneys
24 -- or Shelley Hallett was there, the police officers and
25 Rick Goodwin from the Men's Project were there to talk

1 about -- and Denis Lessard from SOLGEN -- to talk about the
2 status of the cases and how we would proceed, or services -
3 - how services for victims were to be provided.

4 **MR. DUMAIS:** All right.

5 And you mentioned the name of Denis Lessard.
6 Who is that gentleman?

7 **MS. CHAFE:** He doesn't speak a word of
8 French and goes by Denis Lessard, believe it or not.

9 **(LAUGHTER/RIRES)**

10 **MR. DUMAIS:** All right.

11 So who is then Denis Lessard?

12 **MS. CHAFE:** Denis Lessard is -- and this is
13 my understanding -- he was a program consultant with the
14 Ministry of the Solicitor General in 1999 and became aware
15 of the investigations or prosecutions related to Project
16 Truth.

17 He was the program consultant that was
18 dealing with sexual assault centres in the east region and
19 he was dealing with the Sexual Assault Centre in Cornwall,
20 and I believe that they began to get more calls from adult
21 male survivors. That's my understanding.

22 **MR. DUMAIS:** Yes.

23 **MS. CHAFE:** And that's how it came to his
24 attention. I believe that's what's in Sonia Faryna's
25 testimony.

1 **MR. DUMAIS:** All right. And so your only
2 involvement then with Denis Lessard or -- sorry, with the
3 Men's Project -- was you were referring victims to their
4 services. Is that -- do I have that right?

5 **MS. CHAFE:** In 2000 and 2001, yes.

6 **MR. DUMAIS:** Okay.

7 **MS. CHAFE:** When I became regional Manager,
8 that changed.

9 **MR. DUMAIS:** Okay.

10 **MS. CHAFE:** But that's because of that
11 position. It had nothing to do with Project Truth.

12 **MR. DUMAIS:** Okay.

13 I'm just going to ask you then if you can
14 just, Madam Clerk -- if we can put Document Number 123731 -
15 - so, Cosette, 123731.

16 **THE COMMISSIONER:** Is that a new document,
17 sir?

18 **MR. DUMAIS:** That's a new document, Mr.
19 Commissioner.

20 **THE COMMISSIONER:** Okay. Thank you.

21 Exhibit Number 3106 is an email
22 correspondence from Cosette Chafe to Cathy Finley, January
23 4th, 2000; 3106.

24 **--- EXHIBIT NO./PIÈCE NO. P-3106:**

25 (123731) - E-mail from Cosette Chafe to

1 Cathy Finley re: Cornwall Prosecutions dated
2 January 4, 2000

3 **MR. DUMAIS:** All right.

4 Because I'm just trying to determine how you
5 and the Victim/Witness Assistance Program in Ottawa became
6 involved with the Cornwall investigations.

7 So my understanding is that at one point in
8 time you would have had a conversation with Denis Lessard.
9 Is that correct?

10 **MS. CHAFE:** Yes.

11 **MR. DUMAIS:** All right. And from him you
12 would have found out that there were ongoing investigations
13 and prosecution involving multiple victims/multiple
14 perpetrators in Cornwall?

15 **MS. CHAFE:** Yes.

16 **MR. DUMAIS:** All right.

17 And if we look at the document -- has it
18 been filed, Mr. Commissioner?

19 **THE COMMISSIONER:** This one here?

20 **MR. DUMAIS:** Yes.

21 **THE COMMISSIONER:** The 3106?

22 **MR. DUMAIS:** Thank you.

23 If we can look at the bottom email? So this
24 is an email from Cathy Finley.

25 And perhaps you can just explain to us who

1 Cathy Finley was back in 1999?

2 MS. CHAFFE: She was the Director of the
3 Victim/Witness Assistance Program.

4 MR. DUMAIS: Okay. And she is sending out
5 an email to a number of people. The first three, I
6 believe, are prosecutors or Crowns that were involved in
7 the prosecutions of some of those cases, so Shelley
8 Hallett, Curt Flanagan and Alain Godin and, as well, a
9 number of other people are copied on this, you being one of
10 them. Is that correct?

11 MS. CHAFFE: Correct.

12 MR. DUMAIS: All right.

13 And Catherine is essentially saying that
14 she's hoping that someone from the Victim/Witness
15 Assistance Program -- I'm looking at the third line of the
16 email -- someone from the Victim/Witness Assistance Program
17 may be able to support witnesses through the court
18 proceedings.

19 And then the last line on that paragraph:

20 "I anticipate using that information to
21 dedicate resources to the
22 prosecutions."

23 So it looks like the Crowns are looking for
24 some help and Cathy Finley is looking at ways to assist
25 them to provide services for some of these victims. Is

1 that correct?

2 **MS. CHAFE:** That's not my understanding of
3 the way it evolved.

4 **MR. DUMAIS:** Okay. What's your
5 understanding then?

6 **MS. CHAFE:** This email -- before this email
7 was sent, I had contacted -- Cathy Finley and I had a few
8 conversations about the need to provide services in these
9 cases.

10 I alerted her to the cases, and it's my
11 understanding that when I provided that information, she
12 went to -- she brought this information to the attention of
13 others in the Ministry of the Attorney General. I don't
14 know what forum it would have been. I don't know who it
15 would have been, but she had some conversations, attempting
16 to obtain approval and funding for the services.

17 Then subsequent to those discussions, when I
18 understand she didn't get approval or funding, she wrote
19 directly to the Crown Attorneys involved in the cases to
20 say, "Maybe we can be of assistance. Can you provide
21 information about numbers and we'll take it from there?"

22 **MR. DUMAIS:** All right.

23 So then the postscript in that email reads
24 as follows:

25 "Shelley, Cosette Chafe from the Ottawa

1 V/WAP will be available to assist in
2 the support of the two witnesses
3 required for the prelim in January.
4 She will be in touch with you."

5 MS. CHAFE: Yes.

6 MR. DUMAIS: All right.

7 So then at this point-in-time, you had
8 agreed to provide services to one specific prosecution here
9 in Cornwall. Is that correct?

10 MS. CHAFE: Limited services, yes.

11 MR. DUMAIS: All right. But services for
12 that specific prosecution?

13 MS. CHAFE: That's right.

14 MR. DUMAIS: All right.

15 THE COMMISSIONER: Which was?

16 MR. DUMAIS: Which was the Malcolm MacDonald
17 preliminary inquiry, I believe, Mr. Commissioner.

18 Do I have that right?

19 MS. CHAFE: I'd have to look at my file.

20 THE COMMISSIONER: The Malcolm MacDonald?

21 MR. DUMAIS: And I'm just going by memory,
22 Mr. Commissioner. I believe the Malcolm MacDonald ---

23 MS. CHAFE: It didn't go ahead.

24 MR. DUMAIS: It didn't go ahead.

25 MS. CHAFE: If that's going to help.

1 **MR. DUMAIS:** Because the alleged ---

2 **THE COMMISSIONER:** Oh, oh.

3 **MR. DUMAIS:** --- perpetrator had died;

4 correct?

5 **THE COMMISSIONER:** That's right, okay, okay.

6 **MR. DUMAIS:** Do I have that right?

7 **MS. CHAFE:** I know one alleged perpetrator
8 passed away, I don't know if it's this one. I do know that
9 it did not go ahead.

10 **MR. DUMAIS:** Okay.

11 But the services that you agreed to provide
12 here was out of your V/WAP office in Ottawa. Is that
13 correct?

14 **MS. CHAFE:** There were no additional
15 resources to provide that service.

16 **THE COMMISSIONER:** Mr. Kozloff to the
17 rescue.

18 **MR. KOZLOFF:** It's only because Mr. Dumais
19 is doing such a brave job of trying to get through this
20 with limited ability like me, I feel almost as sick as he
21 feels.

22 Anyway, Mr. MacDonald died on the 23rd of
23 December '99. His prelim was scheduled for January of
24 2000. So it makes perfect sense that this is in relation
25 to Malcolm MacDonald.

1 **THE COMMISSIONER:** No, I just want to know -
2 - you see, in my mind when they said Malcolm MacDonald, I
3 thought obstruct justice? Why do we need a victim's person
4 there, but it's the subsequent ---

5 **MR. KOZLOFF:** This was another appearance
6 for Mr. MacDonald.

7 **THE COMMISSIONER:** There you go. Thank you.

8 **MR. DUMAIS:** Thank you.

9 And I guess my question because that was --
10 you agreed to provide those services over and above your
11 work that was -- your work from Ottawa?

12 **MS. CHAFE:** That's right. I was not
13 relieved of any responsibilities, my normal
14 responsibilities. I agreed to do this pending. I was
15 hopefully pending the allocation of additional resources --
16 -

17 **MR. DUMAIS:** Okay.

18 **MS. CHAFE:** To provide service.

19 **MR. DUMAIS:** So then am I to understand that
20 the Ottawa V/WAP office, back in 1999 or earlier on, did
21 not provide any services to Cornwall?

22 **MS. CHAFE:** Yes.

23 **MR. DUMAIS:** All right.

24 **MS. CHAFE:** Actually, there was a specific
25 directive to Victim/Witness Assistance Program managers --

1 at the time there were limited numbers of sites -- that we
2 were not to provide services to victims in other
3 jurisdictions, where charges were laid in other
4 jurisdictions, without prior approval from the director.

5 **MR. DUMAIS:** All right.

6 But the City of Cornwall at that period of
7 time did not have a V/WAP office. Is that correct?

8 **MS. CHAFE:** That's right.

9 **MR. DUMAIS:** All right.

10 And this -- so the information and the
11 discussion that preceded this email in December of 1999
12 occurred shortly before that date. Is that correct?

13 **MS. CHAFE:** There were a few discussions.
14 If I had to guess, I'd say over a period of several weeks.

15 **MR. DUMAIS:** Okay. And am I correct in
16 understanding that this was the first time that you
17 yourself had heard that there were these investigations and
18 prosecutions here in Cornwall?

19 **MS. CHAFE:** No, that's not correct. I knew
20 generally of the investigations. The Ottawa newspapers
21 reported generally sometimes about things occurring outside
22 of the Ottawa area. So I did know generally, I believe,
23 information about Perry Dunlop, and CAS had been in the
24 newspapers at different times. So I knew that there were
25 investigations but I didn't know about charges or

1 prosecutions.

2 MR. DUMAIS: Okay.

3 And was this the first time that there was
4 any discussion about the V/WAP office in Ottawa offering
5 services to this prosecution or investigation?

6 MS. CHAFE: Yes.

7 MR. DUMAIS: All right.

8 Now, I'm wondering whether or not you can
9 explain to us who makes the decision to offer services to a
10 particular victim. Where does that come from? Where does
11 that start?

12 MS. CHAFE: Well, when a Victims/Witness
13 Assistance Program is established in a jurisdiction, its
14 mandate is to provide services to victims and witnesses of
15 crime within that jurisdiction.

16 The types of victims are set out in the
17 protocol and that hasn't changed since the implementation
18 of the program in '87. The majority of victims that the
19 program dealt with were victims of either child abuse, wife
20 assault, partner assault, sexual assault, families of
21 murder victims.

22 When a program is established one of the
23 jobs, if you want -- one of the priority tasks for a
24 manager is develop mechanisms; to develop operational
25 systems for the program. And one of the main things to do

1 is develop a referral system. So we work in collaboration
2 with the local police forces, Crown Attorney's office,
3 community agencies, but mainly police forces and Crown
4 Attorneys offices for referrals.

5 **MR. DUMAIS:** Okay. And is it an entirely
6 referral-based service? And by that I mean you don't get
7 involved unless someone asks you to get involved, or can
8 you yourself ask to be involved.

9 **THE COMMISSIONER:** What do you mean, on the
10 victim level? Like can you pickup the phone and you know
11 there's a victim out there, phone him up and say, "I'd like
12 to meet with you?"

13 **MS. CHAFE:** Yes.

14 **THE COMMISSIONER:** Do you do that?

15 **MS. CHAFE:** That's the -- the great
16 advantage to being court-based within the Ministry of the
17 Attorney General is that we can develop protocols to get
18 copies of police reports directly and then we can initiate
19 contact with victims based on those reports.

20 **THE COMMISSIONER:** All right.

21 **MR. DUMAIS:** I'm just going to ask you then
22 to turn to -- ask Madam Clerk to put Document Number
23 123732.

24 **THE COMMISSIONER:** Thank you.

25 Exhibit 3107, email correspondence from

1 Cosette Chafe to Cathy Finley dated Thursday, February 10th,
2 2000.

3 --- EXHIBIT NO./PIÈCE NO. P-3107:

4 (123732) - E-mail from Cosette Chafe to
5 Cathy Finley re: Cornwall Prosecutions,
6 dated February 10, 2000

7 MR. DUMAIS: All right.

8 So the previous email -- so your response to
9 the initial email was dated January 4th, 2000. This email
10 is dated -- I'm looking at the bottom portion here -- it's
11 dated January 11, 2000 and it appears to be the email from
12 Shelley Hallett to Cathy Finley.

13 MS. CHAFE: Right.

14 MR. DUMAIS: All right. So, essentially,
15 she sets out for Cathy what services she is seeking from
16 V/WAP.

17 So she indicates at the top that she's
18 involved in these two major Cornwall prosecutions, the
19 first one being *R v. MacDonald, Charles* and if you look at
20 the last paragraph under that first heading, she indicates:

21 "I would appreciate Victim/Witness
22 assistance on this case."

23 Do you see that?

24 MS. CHAFE: Yes, I do.

25 MR. DUMAIS: All right.

1 And then she indicates or make the same
2 request for the other case that she's involved in, so *R v.*
3 *Leduc*. Is that correct?

4 **MS. CHAFFE:** Yeah.

5 **MR. DUMAIS:** All right.

6 And I think we have the answer here that Mr.
7 Kozloff provided to us earlier on, so the third paragraph
8 from the bottom. So she does indicate here and she does
9 make reference to the prosecution of Angus Malcolm
10 MacDonald and that the services will no longer be
11 necessary. Is that correct?

12 **MS. CHAFFE:** Yes.

13 **MR. DUMAIS:** All right.

14 So then your response to this email, and I
15 take it that at one -- but you must have been copied on it
16 or provided with a copy -- because you're responding to
17 Cathy.

18 **MS. CHAFFE:** No, I wasn't, actually. Cathy's
19 email was sent to me February 10th saying, "Have I already
20 sent this to you?"

21 And my response on February 10th is "No, I
22 hadn't received this".

23 **MR. DUMAIS:** Okay. But on February 10th, you
24 do get a copy of the email, right?

25 **MS. CHAFFE:** Yes. Yes.

1 **MR. DUMAIS:** All right.

2 So on February 10th, you're responding to
3 this ---

4 **MS. CHAFE:** Yes.

5 **MR. DUMAIS:** --- email, essentially, or this
6 request for services, and you're indicating, as you've
7 said, "No, I haven't received this email." And then the
8 second sentence line -- the second sentence:

9 "I guess we don't do anything with this
10 project until it receives special
11 prosecution status."

12 **MS. CHAFE:** That's right.

13 **MR. DUMAIS:** All right.

14 So that was your position at this point in
15 time. You're waiting for this special prosecution
16 designation; is that correct?

17 **MS. CHAFE:** I'm waiting for money and
18 services.

19 **MR. DUMAIS:** Yes.

20 **MS. CHAFE:** In my mind, money and services
21 were attached to the special prosecution designation.

22 **MR. DUMAIS:** Right. Because it doesn't come
23 until such time as you get this designation?

24 **MS. CHAFE:** That was my understanding at the
25 time that I wrote this.

1 **MR. DUMAIS:** Okay.

2 **THE COMMISSIONER:** And has that changed any
3 or were you under misapprehension?

4 **MS. CHAFE:** Well, the manual which was
5 revised in '06, the section that Mr. Dumais referred me to,
6 section 5.14, still refers to special prosecutions. So I'm
7 not sure of the language at this time, but when I wrote
8 this email that's what I meant.

9 **MR. DUMAIS:** Okay. And certainly, it does
10 not appear from that email that -- and perhaps I'm wrong --
11 that you're involved in providing any information to obtain
12 this designation. Am I correct on that?

13 **MS. CHAFE:** No.

14 **MR. DUMAIS:** So you are then involved in
15 providing information to obtain this special prosecution
16 designation?

17 **MS. CHAFE:** I would provide whatever
18 information Cathy Finley thought she needed to be able to
19 push it up and get the designation inasmuch as I knew.

20 **MR. DUMAIS:** Fair enough. Are you doing
21 that?

22 **MS. CHAFE:** Absolutely.

23 **MR. DUMAIS:** Okay.

24 **MS. CHAFE:** And I had every confidence that
25 Cathy Finley was doing everything she could to get the

1 funds and resources as well.

2 MR. DUMAIS: And I'm not saying she wasn't.

3 My question was who's providing the
4 information to Cathy or who's responsible for obtaining
5 this designation?

6 MS. CHAFE: The Victim/Witness Assistance
7 Program on its own may not have been able to get that
8 designation. My understanding was that some higher powers
9 had to agree that there was a need.

10 MR. DUMAIS: Okay. And I guess my question
11 was a little more specific than that.

12 Are you telling Ms. Finley, "Listen, we've
13 got five investigations; we've got 30 or 40 witnesses that
14 we need to meet. Prelims are set for this date. We have a
15 number of trials coming up. That's why we need this
16 special designation"?

17 MS. CHAFE: I provided her with the --
18 whatever information I had, and I do believe I had the
19 number of offenders. I don't know that I had the exact
20 number of offenders, but I know it was numerous.

21 And bear in mind that when Cathy Finley
22 raised it with the powers that be, they should have known
23 exactly what the numbers were.

24 MR. DUMAIS: M'hm.

25 MS. CHAFE: The Victim/Witness Program

1 didn't work in isolation in the Ministry of the Attorney
2 General.

3 **MR. DUMAIS:** All right.

4 But certainly, your intent at this point in
5 time is not to provide any services until such time as this
6 designation has been made?

7 **MS. CHAFE:** No, because I had already agreed
8 to provide some services in January.

9 **MR. DUMAIS:** But we know from the previous
10 email that the accused ---

11 **MS. CHAFE:** That's right.

12 **MR. DUMAIS:** --- had passed away.

13 **MS. CHAFE:** Yeah.

14 **MR. DUMAIS:** So there's no requirement for
15 your services.

16 **MS. CHAFE:** There was no immediate
17 requirement in February.

18 **MR. DUMAIS:** Okay.

19 **MS. CHAFE:** In May, I agreed to provide
20 services again, even though -- but we'll come to that, I
21 guess.

22 **MR. DUMAIS:** Yes, okay, all right.

23 **MS. CHAFE:** Okay.

24 **THE COMMISSIONER:** I know, Mr. Dumais, that
25 we've just -- you've just started your examination, but

1 it's been a long day for us, and I'd like a five or 10-
2 minute health break.

3 **MR. DUMAIS:** Yes.

4 **THE COMMISSIONER:** I'm sorry about that.
5 Thank you.

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

8 This hearing will resume at 3:20 p.m.

9 --- Upon recessing at 3:07 p.m./

10 L'audience est suspendue à 15h07

11 --- Upon resuming at 3:22 p.m./

12 L'audience est reprise à 15h22

13 **COSETTE CHAFE:** Resumed/Sous le même serment

14 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.**
15 **DUMAIS (Cont'd/Suite):**

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

18 **MR. DUMAIS:** All right.

19 So Cosette, we are in February of 2000, you
20 are having some email exchanges with the Director, Cathy
21 Finley, and she is attempting to get this special
22 prosecution designation, correct?

23 **MS. CHAFE:** She is attempting to get
24 approval for resources and funding for services in the
25 Project Truth cases.

1 Where I refer to special prosecution -- and
2 I put it in quotations in the email for a reason ---

3 **MR. DUMAIS:** Yes.

4 **MS. CHAFE:** --- that's what I am thinking at
5 the time, but what she wanted, designation, no designation,
6 it doesn't matter. She wanted approval for services and
7 funding.

8 **MR. DUMAIS:** Okay. And you're familiar with
9 the term "special prosecutions" because you've been
10 involved in the drafting of the Policies and Procedures
11 Manual. Is that fair?

12 **MS. CHAFE:** Yes, and I was also involved in
13 the St. Joseph's Training School prosecutions, which we
14 always referred to as a special prosecution.

15 **MR. DUMAIS:** Yes. And as far as you know,
16 that investigation had received this designation in the
17 funds that accompany such designation?

18 **MS. CHAFE:** We certainly got the funds and
19 resources, and we referred to it as a special prosecution.
20 I don't know if it was ever an official designation by the
21 Ministry, okay, I don't know.

22 **THE COMMISSIONER:** Could we just talk about
23 funding and resources then. Let's forget this ---

24 **MS. CHAFE:** Yeah, because we're getting
25 stuck on this and I ---

1 **MR. DUMAIS:** Okay.

2 **MS. CHAFE:** Thank you.

3 **MR. DUMAIS:** All right.

4 So who makes that decision, Cosette?

5 **THE COMMISSIONER:** The funding decision.

6 **MR. DUMAIS:** The funding.

7 **MS. CHAFE:** The funding decision? Powers
8 higher than the Director of the Victim/Witness Assistance
9 Program.

10 When you are funded for a program such as
11 the Victim/Witness Assistance Program in government, you
12 are funded for a specific number of positions. If you
13 require additional positions, there's a whole process you
14 have to go through to get those approved.

15 **MR. DUMAIS:** Okay, because each and every
16 office has to submit a budget each and every year. Is that
17 correct?

18 **MS. CHAFE:** Absolutely.

19 **MR. DUMAIS:** And there is nothing in your
20 budget for incidentals for these types of prosecutions
21 within your jurisdiction. Is that correct?

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

23 **MR. DUMAIS:** All right.

24 And for you to get involved in such a
25 prosecution, you need more money?

1 **MS. CHAFE:** Okay. Can I just clarify my
2 last answer?

3 **MR. DUMAIS:** Yes.

4 **MS. CHAFE:** The victim/Witness Assistance
5 Program managers do not do a budget. The budget is done.
6 Certainly in '99 was done at corporate office. Okay? So
7 they did all the budgeting, all the business plans. The
8 budgeting was controlled at corporate office.

9 The Victim/Witness Program managers knew
10 what positions they had but they did not do the budgeting.

11 **MR. DUMAIS:** Okay. And then am I correct in
12 understanding that in that budget the only incidental
13 that's provided for is for one additional position for the
14 entire province of Ontario?

15 **MS. CHAFE:** I can't answer that. I can say
16 that in the Policies and Procedures Manual that was revised
17 in 2006 ---

18 **MR. DUMAIS:** Yes.

19 **MS. CHAFE:** --- section 5.14 does say that
20 only one resource would be available province-wide at any
21 given time. It's in that section 5.14.

22 **MR. DUMAIS:** So there's this one additional
23 resource per year, one additional staff ---

24 **MS. CHAFE:** Yes.

25 **MR. DUMAIS:** --- that's budgeted per year.

1 Is that correct?

2 MS. CHAFE: At one time, I know that there
3 was. I don't know if that still exists. Okay?

4 MR. DUMAIS: All right.
5 --- that's budgeted per year; is that
6 correct?

7 MS. CHAFE: At one time I know that there
8 was. I don't know if that still exists, okay? But if it -
9 --

10 MR. DUMAIS: It's certainly still in the
11 Policy and Procedure Manual 2006?

12 MS. CHAFE: Yes.

13 MR. DUMAIS: All right.

14 And if I understand that correctly then, if
15 there's a major investigation in one corner of the province
16 and it's accepted as such and there is one additional
17 resources that's proof for that, that's it for the province
18 for that year; am I correct?

19 MS. CHAFE: That's what is stated in this
20 manual; that is correct.

21 MR. DUMAIS: All right.

22 If I can just then ask Madam Clerk to put to
23 you Document Number 123733.

24 THE COMMISSIONER: Thank you. Exhibit 3108
25 is an email correspondence from Cosette Chafe to Cathy

1 Finley dated February 14th, 2000.

2 --- EXHIBIT NO./PIÈCE NO. P-3108:

3 123733) - E-mail from Cosette Chafe to Cathy
4 Finley re: Cornwall dated 14 Feb 00

5 MR. DUMAIS: Okay. So this email follows
6 the one that you sent a couple of days before and it's in
7 response to an email that Cathy sent you, and I'm just
8 looking at the bottom part first, four lines from the
9 bottom:

10 "Remember we talked about hiring
11 someone involved in the Men's Project
12 that you could work with? Needless to
13 say, Shelley is anxious for our support
14 and would like to start working with
15 whomever soon while she begins to
16 prepare the eight complainants. As you
17 know, we have no money to present.
18 However, April 1st is a new year."

19 MS. CHAFE: Now, it's becoming clear to me
20 why you're wondering about the relationship between the
21 Men's Project and the Victim/Witness Program.

22 MR. DUMAIS: Well, there's a number of
23 references to the Men's Project in there.

24 MS. CHAFE: Okay. Yes, I see this email.

25 MR. DUMAIS: Okay.

1 MS. CHAFE: Okay.

2 MR. DUMAIS: All right.

3 So do you know whether or not that went
4 anywhere, this additional resource from the Men's Project?

5 MS. CHAFE: Okay. You will see -- if you
6 look to my response at the top.

7 MR. DUMAIS: Yes.

8 MS. CHAFE: I'm not sure about my
9 availability, et cetera:

10 "Mark Holmes, who is seconded to Sol
11 Gen in Toronto, might be available on a
12 per diem basis."

13 I do not recall any discussions with Cathy
14 about her getting someone involved in the Men's Project.

15 MR. DUMAIS: Okay.

16 MS. CHAFE: What I recall Mark Holmes works
17 for the New Directions program in Ottawa. It's a program
18 for male abusers and domestic violence. He was one of the
19 three people that worked for me in the St. Joseph's
20 Training School prosecutions.

21 MR. DUMAIS: Yes.

22 MS. CHAFE: He had experience in those
23 prosecutions. And my recollection is that we had
24 discussions about the possibility of getting Mark. He
25 would have been ideal to work on these.

1 **MR. DUMAIS:** But it appears from your email
2 that the issue was whether or not funds would be allocated;
3 is that correct?

4 **MS. CHAFE:** Yes. I mean, that was still
5 outstanding.

6 **MR. DUMAIS:** All right.
7 So am I correct then that Mr. Holmes was
8 never retained or his services were never retained?

9 **MS. CHAFE:** They were not.

10 **MR. DUMAIS:** All right.

11 **MS. CHAFE:** I realized that he was not
12 bilingual and I believe that -- I don't recall if I ever
13 actually had a conversation with Mark but I did realize at
14 some point that he was not bilingual.

15 **MR. DUMAIS:** All right.

16 And am I correct in understanding that
17 you're looking here at your availability and how much time
18 you can give to the Cornwall prosecutions. You're saying
19 essentially one or two days per week; is that correct?

20 **MS. CHAFE:** That's right. In the absence of
21 any additional resources ---

22 **MR. DUMAIS:** All right.

23 **MS. CHAFE:** --- I'm saying I could be
24 available one to two weeks.

25 **MR. DUMAIS:** Because this would be over and

1 above the work that you have ---

2 **MS. CHAFE:** That's right. Can I also point
3 to the last sentence in Cathy's email that says:

4 "As you know, we have no money at
5 present. However, April 1st is a new
6 year."

7 **MR. DUMAIS:** Yes.

8 **MS. CHAFE:** And a new fiscal year and the
9 case we were talking about was going to be in May. So you
10 know, I was responding that, yes, I could be available one
11 to two days a week, also hoping that there would possibly
12 be additional resources.

13 **MR. DUMAIS:** Okay. And, clearly, the emails
14 appear to indicate that from now until the end of March
15 there will not be any money.

16 **MS. CHAFE:** Pretty clear, yeah.

17 **MR. DUMAIS:** Okay, all right.

18 If you can then have a look at Document
19 Number 123734?

20 **THE COMMISSIONER:** Thank you. Exhibit 3109
21 is an email correspondence from Shelley Hallett to Cosette
22 Chafe, April 27th, 2000.

23 --- **EXHIBIT NO./PIÈCE NO. P-3109:**

24 123734) - E-mail from Shelley Hallett to
25 Cosette Chafe re: Project Truth dated 27

1 Apr 00

2 MR. DUMAIS: Now, just before we get into
3 the contents of the email, Cosette, you indicated just a
4 few minutes ago that there was this upcoming court
5 appearance or trial that had been set; is that correct?

6 MS. CHAFE: It was in May.

7 MR. DUMAIS: In May of 2000; correct?

8 MS. CHAFE: Yes, I was agreeing to assist as
9 I could for a trial that was expected to take four to six
10 weeks, commencing May 1st.

11 MR. DUMAIS: All right.

12 And then shortly before you got involved in
13 this trial you learned that it had been adjourned; is that
14 correct?

15 MS. CHAFE: That's right.

16 MR. DUMAIS: All right.

17 And this is an email that you're sending to
18 Shelley and you're indicating -- I'm looking at the second
19 paragraph, the third line. I'm sorry; it's an email from
20 Shelley to you. She's responding to yours and she is
21 indicating:

22 "I should have contacted you when the
23 adjournment was granted."

24 And that's in response to your initial
25 comment at the bottom that reads as follows:

1 "Cathy heard on CBC earlier this week
2 that the MacDonald trial is being
3 adjourned due to the possibility of new
4 charges. Could you please confirm this
5 for me as soon as possible?"

6 **MS. CHAFE:** Right.

7 **MR. DUMAIS:** All right.

8 So my first question is at this time -- so
9 at the end of April 2000 -- had you had any involvement
10 with any of the victims, had you met anybody?

11 **MS. CHAFE:** I don't believe so, but to be
12 sure I'd have to go through all my files.

13 **MR. DUMAIS:** Okay.

14 **MS. CHAFE:** I don't believe so.

15 **MR. DUMAIS:** All right.

16 So then Cathy learns from CBC that the trial
17 is being adjourned. So presumably she checks with you
18 whether or not you're aware of that, and you're not, so
19 then you check with Shelley?

20 **MS. CHAFE:** Right.

21 **MR. DUMAIS:** All right.

22 And just in terms of communications with
23 respect to adjournment and such things, how is that usually
24 worked out between the Crown's office and your office?

25 **MS. CHAFE:** Having the Ottawa office provide

1 services on a case outside of its jurisdiction provided --
2 meant challenge in terms of court dates. For instance, let
3 me use the Ottawa program.

4 The Ottawa program has access to -- the
5 acronym is ICON. It's the computer system to update all
6 criminal offences.

7 **THE COMMISSIONER:** Yes.

8 **MS. CHAFE:** I have no idea what the acronym
9 stands for.

10 So in Ottawa in cases that Ottawa was
11 involved in, if a case was in court this morning by
12 tomorrow morning that ICON system would be updated and all
13 Ottawa Victim/Witness Program has to do is check ICON, get
14 the updates and you don't need communication with Crowns or
15 police for updates.

16 We, in Ottawa, did not have access to cases
17 where charges were laid in Cornwall so we had to rely on
18 police and Crown information for those updates.

19 **MR. DUMAIS:** Okay. And have those lines of
20 communication been set up?

21 **MS. CHAFE:** We hadn't had a meeting yet. We
22 did have a meeting on May 10th, I believe, in the
23 Victims/Witness Program but at this time I don't believe we
24 had.

25 **MR. DUMAIS:** And I think she -- Ms. Hallett

1 refers to that meeting in that third paragraph so she's
2 planning a meeting either on May 9th or May 10th. Am I
3 correct that this would have been the first meeting that
4 you would have had with a Crown involving the Project Truth
5 prosecution?

6 **MS. CHAFE:** Yes, I believe it was.

7 **MR. DUMAIS:** All right.

8 And as well, there's a reference there in
9 the last paragraph that it would be a chance for you to
10 meet with some of the victims and a chance for you to meet
11 the officer in charge Joe Dupuis of the OPP.

12 **MS. CHAFE:** Right.

13 **MR. DUMAIS:** Is that correct? All right.

14 And she refers to herself as one?

15 **MS. CHAFE:** Right.

16 **MR. DUMAIS:** All right.

17 If you can then just have a look at the next
18 paragraph; the third line starts with "I have concerns."

19 **MS. CHAFE:** Okay.

20 **MR. DUMAIS:** Do you see that?

21 **MS. CHAFE:** Tell me again. The third
22 paragraph?

23 **MR. DUMAIS:** So the next paragraph.

24 **MS. CHAFE:** Okay.

25 "Even if I have concerns..."

1 Okay. I have it.

2 **MR. DUMAIS:** So this is what Ms. Hallett is
3 saying:

4 “So I have concerns about you being
5 present for any substantive discussion
6 of the allegations by the Crown with
7 the victims, but I would be pleased to
8 chat about this.”

9 **MS. CHAFE:** Yes.

10 **MR. DUMAIS:** All right.

11 So what is she saying here? What does she
12 mean by that?

13 **MS. CHAFE:** I’m not sure if the two notes
14 relating to this in my handwriting will be entered as
15 exhibits, but in March of 2000 I got a call from someone
16 named N.J. Bridge. You’ll see her name on my note. She
17 was Crown counsel working with the Victim/Witness
18 Assistance Program in Toronto at that time and my note
19 indicates she contacted me to say that police were
20 concerned about Victim/Witness Program sitting in on
21 interviews, possible discussion of evidence, et cetera.

22 So she had a discussion with whoever raised
23 the concern with her explaining that Victim/Witness
24 Assistance Program does not discuss evidence. Their role,
25 when sitting in on interviews, is one of support for the

1 victims. You don't take notes, et cetera.

2 So I am assuming that this concern of
3 Shelley's may have been raised by the police officers
4 involved.

5 **MR. DUMAIS:** Okay. I mean, and that
6 conversation -- this M.J. Bridges ---

7 **MS. CHAFE:** Right.

8 **MR. DUMAIS:** --- and the conversation that
9 you had with her, was it specific to the Cornwall
10 investigations or was ---

11 **MS. CHAFE:** It was.

12 **MR. DUMAIS:** --- or was it just -- all
13 right.

14 **MS. CHAFE:** It was.

15 Just to note, we had never -- I had never
16 worked with any of the -- Joe Dupuis, Don Genier. I can't
17 remember the other police officers. I had not worked with
18 any of them in the past, and I don't know if any of them
19 had ever worked with Victim/Witness Assistance Program
20 before.

21 **MR. DUMAIS:** Okay.

22 **MS. CHAFE:** So their concern and scepticism,
23 if you want, it's legitimate. They didn't know we didn't
24 discuss evidence, at that point.

25 **MR. DUMAIS:** All right.

1 But clearly that's always been your
2 position?

3 **MS. CHAFE:** Absolutely.

4 **MR. DUMAIS:** If I can then just ask you to
5 look at Document Number 123735?

6 **THE COMMISSIONER:** Thank you.

7 Exhibit 3110 is a note dated May 10th, 2000.

8 **--- EXHIBIT NO./PIÈCE NO. P-3110:**

9 (123735) - Notes of Cosette Chafe re:
10 Meeting with Shelley Hallett and Joe Dupuis
11 dated 10 May 00

12 **MR. DUMAIS:** So are these the notes that you
13 made at or following that meeting?

14 **MS. CHAFE:** Following the meeting, yes.

15 **MR. DUMAIS:** Okay. And you make reference
16 here to the meeting with Shelley Hallett and Joe Dupuis,
17 and I guess you set out what everyone's role is and what
18 everyone agreed to do following that meeting.

19 Do I have that right?

20 **MS. CHAFE:** No, this is a reflection of the
21 discussion that we had at that meeting.

22 **MR. DUMAIS:** Okay. Fair enough.

23 So you discuss, firstly, the fact that you
24 provided them with information with respect to V/WAP
25 services. Is that correct?

1 MS. CHAFE: Correct.

2 MR. DUMAIS: All right.

3 And then you had with you at the time the
4 protocol for multi-victim/multi-perp prosecutions.

5 MS. CHAFE: Right.

6 MR. DUMAIS: And that's the protocol that we
7 looked at earlier today or ---

8 MS. CHAFE: That's correct.

9 MR. DUMAIS: Is that correct?

10 Now, if you look at the second bullet, it
11 reads as follows:

12 "I will explore the possibility of
13 implementing a V/WAP in Cornwall."

14 MS. CHAFE: Can I just go back to the other
15 point?

16 MR. DUMAIS: Certainly.

17 MS. CHAFE: I had the protocol, but I only
18 provided pages 18 to 24 of that protocol because those were
19 the pages that dealt with information services and support
20 services.

21 In my view, at the time, because of the
22 status of those cases, if you want, the other sections of
23 the protocol did not apply.

24 MR. DUMAIS: Okay.

25 MS. CHAFE: So it was the services sections

1 that I gave them.

2 MR. DUMAIS: And the other sections
3 essentially deal with a meeting and setting up services
4 that are upcoming, right?

5 MS. CHAFE: A lot of operational, practical
6 things.

7 MR. DUMAIS: Yes.

8 MS. CHAFE: Yes.

9 MR. DUMAIS: And -- all right.

10 So if I can then just ask you to look at the
11 second bullet. So you're exploring -- you indicate that
12 you will explore the possibility of implementing a V/WAP
13 office in Cornwall?

14 MS. CHAFE: Yes.

15 MR. DUMAIS: All right.

16 MS. CHAFE: And what I meant was I would
17 explore the possibility with my Director.

18 MR. DUMAIS: Okay.

19 MS. CHAFE: Okay?

20 MR. DUMAIS: And did you do that?

21 MS. CHAFE: I did.

22 MR. DUMAIS: All right.

23 And what was the outcome of that?

24 MS. CHAFE: It eventually became clear that
25 it would not be possible to establish a regular

1 Victim/Witness Program in Cornwall in time to be of any use
2 in these prosecutions, if you want.

3 MR. DUMAIS: Okay. Was it an issue of
4 timing or was it an issue of budget concerns?

5 MS. CHAFE: Maybe both.

6 MR. DUMAIS: All right.

7 And what you mean by timing is by the time
8 that you're able to physically set up an office and train
9 people, one would think that the prosecutions would be
10 over?

11 MS. CHAFE: Yes.

12 MR. DUMAIS: Okay. All right.

13 Now, the third bullet, Detective Constable
14 Dupuis agrees that he'll provide you with information, so a
15 list of cases, number of victims, et cetera?

16 MS. CHAFE: Yes.

17 MR. DUMAIS: And if we can look at the fifth
18 bullet, it reads as follows:

19 "If a V/WAP cannot be implemented in
20 Cornwall, Shelley will send a letter to
21 the victims in her cases to advise them
22 of the services provided by the
23 program. She will invite them to
24 contact me and will advise them that I
25 will be contacting them by telephone."

1 Is that correct?

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

3 **MR. DUMAIS:** So that was your fallback plan
4 if ---

5 **MS. CHAFE:** That's right.

6 **MR. DUMAIS:** All right.

7 And then she indicates that she would as
8 well advise the other Crowns involved in this case, so both
9 Ms. Brault and Mr. Godin, and encourage their -- send a
10 similar letter to their victims as well?

11 **MS. CHAFE:** Yes.

12 **MR. DUMAIS:** All right.

13 Now, in the next bullet you look at a number
14 of potential possible services, and then you discuss
15 additional issues for the last two or three bullets. The
16 second-last one reads:

17 "Victims need access to one-on-one
18 counselling before being ready for
19 group counselling."

20 And then:

21 "Victims who live outside of the area
22 need money for counselling (ex: one
23 victim lives in Kingston)."

24 **MS. CHAFE:** Yes. I believe they brought
25 these issues to my attention during the meeting.

1 **MR. DUMAIS:** Okay. And the one victim who
2 resided in Kingston -- and we'll talk a little bit about
3 that a little later on -- was Mr. Robert Renshaw. Is that
4 correct?

5 **MS. CHAFE:** Yes.

6 **MR. DUMAIS:** All right.

7 If I can ask you then to look at Document
8 Number 123737?

9 **THE COMMISSIONER:** Thank you.

10 Exhibit Number 3111 is a letter -- an email
11 correspondence from Cathy Finley to Louise Lamoureux. No,
12 no, this is your email, I think, Ms. Chafe?

13 **MS. CHAFE:** It is.

14 **THE COMMISSIONER:** Cosette Chafe's email to
15 Cathy Finley and to Louise Lamoureux ---

16 **MS. CHAFE:** Copied to Louise.

17 **THE COMMISSIONER:** And there's no ---

18 **MS. CHAFE:** There's no date. I appear to
19 have copied it before I sent it, so there's no date.

20 **THE COMMISSIONER:** It's okay. It's only for
21 the purposes of identifying the documents.

22 **MS. CHAFE:** Okay.

23 **THE COMMISSIONER:** Go ahead.

24 --- **EXHIBIT NO./PIÈCE NO. P-3111:**

25 (123737) - E-mail from Cosette Chafe to

1 Cathy Finley re: Project Truth - Status
2 Report dated Summer 00

3 **MR. DUMAIS:** You're correct, there is no
4 date. I'm assuming that this would have been sometime in
5 the summer of 2000, and the first line makes -- and perhaps
6 the first line will assist us in providing us a date, but
7 it says:

8 "Louise Lamoureux is assisting the
9 victims in these cases."

10 So do you recall ---

11 **MS. CHAFE:** I believe that this email would
12 have been dated the first or second week of September.

13 **MR. DUMAIS:** Okay. Why do you believe that?

14 **MS. CHAFE:** Because in the fourth paragraph

15 ---

16 **MR. DUMAIS:** Yes.

17 **MS. CHAFE:** --- I say:

18 "Louise or I have contacted all of the
19 victims who were expected to testify in
20 the four cases set to proceed in
21 September and October."

22 I believe that Louise started -- she was on
23 maternity leave and came back early from her maternity
24 leave. It was either the last week of August, first week
25 of September.

1 **MR. DUMAIS:** Okay. All right.

2 And Louise was one of your workers that was
3 on maternity leave at your Ottawa office?

4 **MS. CHAFE:** She was.

5 **MR. DUMAIS:** And she came back early from
6 her leave and was assigned to the Cornwall prosecution. Is
7 that correct?

8 **MS. CHAFE:** Yes. She came back early
9 knowing that she would be assigned. Had she -- yes, as a
10 special project.

11 **MR. DUMAIS:** All right.

12 So am I to understand then that you would
13 have received authorization for additional funding at this
14 point in time?

15 **MS. CHAFE:** Yes, I believe I received
16 authorization for a position in late June.

17 **MR. DUMAIS:** Okay. And the advantage, of
18 course, of having Louise take up that position is that she
19 was someone with some experience?

20 **MS. CHAFE:** She had two years experience and
21 because she was on mat leave, we had already backfilled her
22 position. So it didn't mean leaving the Ottawa
23 Victim/Witness Program short staffed at all while we sent
24 her out to do the Cornwall cases. It was a brainwave.

25 **MR. DUMAIS:** It was a good time?

1 MS. CHAFE: It was.

2 MR. DUMAIS: All right.

3 So then, you're looking at the second-last
4 paragraph, and you read part of that sentence. So it reads
5 as follows:

6 "Louise or I have contacted all of the
7 victims who were expected to testify in
8 the four cases set to proceed in
9 September and October."

10 And then the next line is:

11 "Most of the victims felt that they had
12 sufficient support and did not require
13 our services. They had all testified
14 at the preliminary hearing."

15 MS. CHAFE: Yes.

16 MR. DUMAIS: So am I correct then in
17 understanding that before V/WAP Services became involved,
18 most if not all of these preliminary hearings had been
19 completed?

20 MS. CHAFE: Right.

21 MR. DUMAIS: All right. And that most of
22 the victims that you would have spoken to had alternate
23 support systems and were reluctant to accept services from
24 the V/WAP office?

25 Perhaps "reluctant" is not the right word.

1 **THE COMMISSIONER:** They declined.

2 **MS. CHAFE:** Well, they'd gotten to where
3 they were without us. So, you know, I can certainly
4 understand why they may wonder why they would need us then.

5 **MR. DUMAIS:** So if you look at the second
6 paragraph then -- sorry, the last paragraph, the first
7 line:

8 "It is important to note that the
9 decision was made to keep the Project
10 Truth cases at arm's length from the
11 Cornwall Crown attorney's office."

12 **MS. CHAFE:** Yes.

13 **MR. DUMAIS:** So did you understand the
14 reason for that at that time?

15 **MS. CHAFE:** On September 7th -- and it's in a
16 note -- I had contacted Murray MacDonald. It was the
17 second time I had talked to Murray about practical things
18 related to these prosecutions, and he reminded me during
19 that conversation of September 7th, that the prosecutions
20 for Project Truth were being kept at arm's length from the
21 Crown's office and so, obviously, we were going to respect
22 that.

23 So that's ---

24 **THE COMMISSIONER:** The question was do you
25 know why?

1 **MS. CHAFE:** Did I know why?

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

3 **MS. CHAFE:** I did not know the specific
4 reason why. I did know that Murray MacDonald's father had,
5 at one point, been convicted of sexual assault on young
6 people. So I thought that might have had a -- that might
7 have been one of the reasons. I also knew about all of the
8 allegations of cover-up and -- or some allegations of
9 cover-up and, well, some of the allegations that were
10 particular to these cases. So I thought they may have had
11 a role to play in that as well.

12 **MR. DUMAIS:** Did that fact hamper your
13 delivery of services?

14 **MS. CHAFE:** Not at all.

15 **MR. DUMAIS:** All right.

16 So you indicated that you would have -- you
17 spoke to Mr. Segal on two occasions. Perhaps we can just
18 look at a letter that he would have authored during that
19 period of time. So it's Document Number 109193.

20 **THE COMMISSIONER:** Thank you. Exhibit
21 Number 3112 is a letter addressed to Constable Perry
22 Dunlop, July 12th, 2000, from Murray Segal.

23 **--- EXHIBIT NO./PIÈCE NO P-3112:**

24 (109193) - Letter from Murray Segal to Perry
25 Dunlop dated 12 Jul 00

1 **MR. DUMAIS:** And that letter is copied to
2 Garry Guzzo; to James Stewart; to Shelley Hallett, and to
3 Inspector Pat Hall. And if I can just take you to the last
4 paragraph of the first page. So it starts as follows:

5 "You have also decried the way the
6 survivors have been treated by the
7 system."

8 And then this appears to be the response of
9 Mr. Segal:

10 "However, the Ministry of the Solicitor
11 General of Ontario is providing funding
12 for special services to male survivors
13 of sexual abuse in the Cornwall area
14 through the Men's Project of Ottawa.
15 This is a counselling organization that
16 works with men who have experienced
17 sexual abuse. The services provided by
18 the Men's Project include group and
19 individual therapy for men and a
20 telephone support line. Details about
21 these services have been brought to the
22 attention of the Cornwall survivors."

23 And perhaps I'll read through the next
24 paragraph before asking you the question. Then if you look
25 at page 2, the paragraph reads as follows:

1 "The Victim/Witness Assistance Program
2 has also arranged for Ms. Cosette
3 Chafe, the Coordinator of the
4 Victim/Witness Assistance Program in
5 Ottawa, and an additional assistant to
6 provide victim/witness support for
7 witnesses in the Project Truth cases in
8 Cornwall. Ms. Chafe, who is very
9 knowledgeable and experienced in
10 assisting witnesses in criminal cases,
11 has undertaken to contact the
12 complainants who are to be witness in
13 the Project Truth cases to determine
14 the level of assistance that may
15 require in upcoming court proceedings."

16 So this appears to be Mr. Segal's response
17 to Constable Dunlop's concern about services to victims.
18 And I think -- and one of the point is it certainly appears
19 that as of July 12th, 2000, that allocations of funds have
20 been approved and I think they make reference there to the
21 position that you subsequently offered to Louise Lamoureux.
22 Is that correct?

23 **MS. CHAFE:** Correct.

24 **MR. DUMAIS:** All right.

25 And with respect to the Men's Project, is it

1 your understanding that funding was provided so that they
2 establish a branch office in the Cornwall area for the
3 specific purpose of providing services to male survivors in
4 Cornwall?

5 MS. CHAFE: Yes.

6 MR. DUMAIS: All right.

7 MS. CHAFE: Sorry, it wasn't to open a
8 branch of their office. It was to obtain space to do
9 groups and provide services.

10 MR. DUMAIS: Okay.

11 MS. CHAFE: Okay.

12 MR. DUMAIS: They were provided with
13 additional funding to deliver services in this area?

14 MS. CHAFE: I wasn't involved with the
15 funding for the Men's Project at the time. I believe that
16 to be the case.

17 THE COMMISSIONER: Was that for group
18 sessions or ---

19 MS. CHAFE: It was for group sessions and my
20 understanding is that they would do some individual
21 sessions if necessary, but the main service was the group
22 sessions.

23 THE COMMISSIONER: M'hm.

24 MR. DUMAIS: And my understanding is that
25 the initial funding was for a limited period of time. I

1 believe the funding was for one year initially?

2 **MS. CHAFE:** You know, this is not my area of
3 -- to be testifying in.

4 **MR. DUMAIS:** All right.

5 **MS. CHAFE:** I believe that Sonia Faryna
6 testified to that. My understanding is that from the
7 beginning, it's been funded on an annual basis, a limited
8 timeframe for annual.

9 **THE COMMISSIONER:** I think what Mr. Dumais
10 wanted to get at was your understanding of how things were
11 going at the time and how things came to where they were
12 today.

13 On that note, I have to leave. So I
14 understand we've made some arrangements with you to come
15 back on Monday?

16 **MR. DUMAIS:** That's correct, Mr.
17 Commissioner, at six o'clock.

18 **THE COMMISSIONER:** Six o'clock in the
19 morning? No, in the evening.

20 **MS. CHAFE:** Six in the morning, is okay with
21 me.

22 **THE COMMISSIONER:** No, not with me.
23 All right. Thank you.

24 **MS. CHAFE:** Thank you.

25 **THE COMMISSIONER:** So we'll see you then.

1 Thank you.

2 MR. DUMAIS: Thank you.

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

5 This hearing is adjourned until Monday
6 morning at 9:30 a.m.

7 --- Upon adjourning at 3:56 p.m. /

8 --- L'audience est ajournée à 15h56

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, Dale Waterman 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, Dale Waterman, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hauts sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Dale Waterman, CVR-CM