

**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 184

Held at :

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

Thursday, January 17 2008

Tenue à:

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

Jeudi, le 17 janvier 2008

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Raija Pulkkinen	Commission Counsel
Ms. Mary Simms	
Mr. Peter Manderville	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
M ^e Claude Rouleau	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Darrell Kloeze	Attorney General for Ontario
Mr. Terry Mazerolle	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. Michael Neville	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. John Westdal	Mr. Jos Van Diepen
Mr. Frank T. Horn	Coalition for Action
Mr. Ian Paul	

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1 --- Upon commencing at 9:35 a.m./

2 L'audience débute à 9h35

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

6 Please be seated. Veuillez vous asseoir.

7 **THE COMMISSIONER:** Thank you. Good morning.
8 Mr. Engelmann, how are you doing today?

9 **MR. ENGELMANN:** Good morning, sir. Good.
10 I am here with my colleague, Mary Simms.

11 **THE COMMISSIONER:** Yes, good morning.

12 **MR. ENGELMANN:** Who will be presenting the
13 Malcolm MacDonald ODE.

14 **THE COMMISSIONER:** Yes.

15 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. PETER ENGELMANN:

16 **MR. ENGELMANN:** As well, sir, as a new face
17 in the counsel tables, Terry Mazerolle, who is here for the
18 Children's Aid Society in place of Mr. Chisholm.

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

20 **MR. ENGELMANN:** Sir, the witness chair is
21 empty because we intended to start with an Overview of
22 Documentary Evidence this morning.

23 After the morning break, if things are done,
24 we'll be leading the evidence of Jos van Diepen, who's
25 recently left the probation service after a long career

1 here with the Ministry of Corrections.

2 **THE COMMISSIONER:** Right.

3 **MR. ENGELMANN:** The ODE this morning deals
4 with Malcolm MacDonald. You've heard that name on many
5 occasions, sir, for many reasons. He is, as you will see,
6 was involved as counsel for both Father Charles MacDonald,
7 for Ken Seguin, for many others who have been involved in
8 this matter. He was a local Crown prosecutor, then a
9 federal agent for the federal Crown.

10 He, of course, gets charged and pleads
11 guilty to attempt obstruct justice as a result of the
12 illegal settlement. He also gets charged as a result of
13 investigations by the OPP during their Project Truth
14 inquiry. He's named as a member of an alleged clan or ring
15 of pedophiles, et cetera. So my colleague, Ms. Simms, will
16 lead that ODE.

17 This will be the fifth occasion, I believe,
18 that Commission counsel is attempting to file an ODE, the
19 first, as you know, being used back in April of this year.
20 You gave a decision in that one, moniker C-3. Other ODEs
21 have not been objected to until this week, and you gave us
22 some very brief reasons for accepting. I know there's a
23 decision to follow with respect to C-2.

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

25 **MR. ENGELMANN:** In this particular case,

1 like in others, Commission counsel sent drafts of the ODE
2 to all of the parties. In this case, it is my
3 understanding that all of the comments that we received
4 were incorporated.

5 I had thought until Friday afternoon we had
6 a complete consensus on this particular ODE. I got a very
7 brief email message from Mr. Sherriff-Scott late on Friday
8 afternoon, and it referred to both this ODE and the ODE for
9 C-2, and it said something like, I have checked; I don't
10 like the narrative; I don't like the Commission's spin; or
11 words to that effect. But no reasons set out.

12 Just the other day when Mr. Neville objected
13 to the filing of the ODE for C-2, Mr. Sherriff-Scott
14 supported that but didn't give reasons. So that was the
15 only notice I had of any possible objection. I was advised
16 this morning, just this -- a few minutes ago when Mr.
17 Neville arrived that he had some concerns about a portion
18 of the ODE, and I'm not sure if he's objecting to the
19 admission of the document itself into evidence or if he
20 simply wants a couple of paragraphs removed, and I think
21 that's his objection, so maybe I'll let him speak to that.

22 But I just wanted to say, as I said earlier,
23 in this particular situation, it's my understanding -- I
24 stand to be corrected, but all of the suggestions that were
25 made were incorporated and we thought we had a consensus

1 moving forward on this particular ODE.

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

3 Mr. Neville?

4 **MR. NEVILLE:** Good morning, Mr.

5 Commissioner.

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

7 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MICHAEL NEVILLE:

8 **MR. NEVILLE:** I had spoken with Mr.

9 Sherriff-Scott last week about these two issues and,
10 frankly, as of yesterday, I thought he would be here this
11 morning, and he may well be just detained.

12 I don't think you have a copy. I have very
13 brief comments to make, but you'll need a copy for that.

14 **THE COMMISSIONER:** Madam Clerk, can I have a
15 copy of the ODE please? Thank you. Okay.

16 **MR. NEVILLE:** You, Mr. Commissioner, have
17 ruled directly in the case of C-3 and implicitly with
18 reasons to come for C-2 as to the justifications and bases
19 for ODEs, so I'm not going to revisit that. I have some
20 concern about them in principle and, as I've said before,
21 where in my view an alternative source or a live witness is
22 available, that is the preferable way. However, in the
23 case of this person he, of course, is deceased and meets
24 one of the basic criteria on that grounds alone.

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

1 **MR. NEVILLE:** If I can refer you to the last
2 portion with the heading "Allegations of Sexual Abuse"?

3 **THE COMMISSIONER:** Yes.

4 **MR. NEVILLE:** And my concern simply stated,
5 sir, is this.

6 In the paragraph -- I'll make sure I'm
7 looking at the same version -- I guess it would be -- does
8 your paragraph, sir, under the heading "Allegations of
9 Sexual Abuse" is your first number 35?

10 **THE COMMISSIONER:** Yes, it is.

11 **MR. NEVILLE:** All right. So if you would,
12 and perhaps I'll just wait a brief moment and let you read
13 for yourself 35, 36 through to 38.

14 **THE COMMISSIONER:** All right. Give me a
15 moment then.

16 **(SHORT PAUSE/COURTE PAUSE)**

17 **THE COMMISSIONER:** Okay.

18 **MR. NEVILLE:** So my basic position and
19 concern, Mr. Commissioner, is this.

20 Just by way of brief background, whatever
21 was going on prior to approximately March of 1996, I had no
22 direct knowledge other than media and no involvement in, in
23 terms of any connection with Malcolm MacDonald. So there's
24 no reason and I have no personal grief for him or his
25 family.

1 My concern is that in those paragraphs there
2 are, in my respectful submission, unnecessary details. The
3 man is deceased. You know, I think, maybe you don't, but I
4 thought it came out, that he was a lifelong bachelor.
5 There is nobody standing for him.

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

7 **MR. NEVILLE:** And in my respectful view,
8 these kinds of details are unnecessary for any purpose
9 that's within your mandate and it serves nothing but to
10 embarrass his memory, such as it is.

11 And the other specific concern is paragraph
12 35, of course, and it's premise being that of Mr. Leroux
13 who, under cross-examination by my friend, Professor
14 Manson, recanted that entire premise.

15 Now, I appreciate it's introduced or
16 coloured by the word "alleged".

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

18 **MR. NEVILLE:** But that alleged or allegation
19 is no longer on the table based on Mr. Leroux's evidence.
20 So that's another concern and, of course, Mr. Leroux is
21 beyond further cross-examination on grounds of medical
22 incapacity.

23 So that, in a nutshell, is my concern. The
24 details are unnecessary. In fact, if you look at paragraph
25 39 ---

1 **THE COMMISSIONER:** Yes.

2 **MR. NEVILLE:** --- that's the kind of
3 specific that I would -- and I'm not taking issue with,
4 because that's a matter of public record.

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

6 **MR. NEVILLE:** Those charges were laid. They
7 were part of the 1998 group and were publicized in the
8 media and the like and, indeed, the fact that he had a date
9 set was a matter of public record and what happened on the
10 day of withdrawal, for obvious reasons. All of that is
11 public record and does not have any personal stigma and the
12 personal stigma, in my respectful view, is not necessary.

13 **THE COMMISSIONER:** All right, thank you.

14 Mr. Engelmann, did in fact Mr. Leroux
15 retract the allegation as against Malcolm MacDonald?

16 **MR. ENGELMANN:** No. What he did was he
17 obviously recanted some of the allegations he made.
18 Certainly the word "clan"; he did the VIP meeting that the
19 cottage -- that -- I think it's more appropriate perhaps if
20 I let other counsel speak to this.

21 **THE COMMISSIONER:** All right.

22 **MR. ENGELMANN:** And then I will speak to why
23 I believe this should stay in.

24 **THE COMMISSIONER:** Okay.

25 Mr. Manson, do you have any comments on this

1 matter?

2 **MR. MANSON:** Yes, yes, I do, Mr.

3 Commissioner and then I will speak to why I believe they
4 should stay in.

5 **THE COMMISSIONER:** Okay.

6 Mr. Manson, do you have any comments on this
7 matter?

8 **MR. MANSON:** Yes, yes I do, Mr.
9 Commissioner.

10 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. ALLAN MANSON:

11 **MR. MANSON:** With the possible exception of
12 a need to reword paragraph 35, which I will address in a
13 second, I'm not even sure that's required, we support
14 including these paragraphs.

15 I think it's clear, based on evidence that
16 we've already heard, and of course subject to your findings
17 of fact, but based on the evidence there are allegations
18 that Mr. MacDonald was an essential participant in a number
19 of the underlying events of the Cornwall story. That's
20 number one.

21 Number two, your Honour has ruled, and we
22 agree with that ruling, that subject to the *res judicata*
23 effect of judicial findings, the truth or falsehood of
24 allegations are not within the Commission's mandate. But,
25 the fact that allegations have been made is relevant to how

1 you assess institutional responses.

2 And that's what paragraph 36, 37 and 38 are.
3 They are allegations and they are allegations of fact and I
4 support their inclusion.

5 With respect to paragraph 35, I think Mr.
6 Engelmann got it right. The recantation of where "clan"
7 came from, or at least that tag, there was some backing off
8 of that by Mr. Leroux. He suggested it was a joke that he
9 made because of the Scottish heritage, et cetera, and
10 there's even -- well, that's that. But as far as meetings,
11 he clearly recanted the September 1993 VIP meeting that
12 was, I believe, was paragraph 27 of his affidavit. I could
13 be wrong about the number. He read it and said "That
14 didn't happen."

15 Maybe the best solution would be to just end
16 the sentence with "would meet at various locations" period.
17 He did speak about people who came and visited Malcolm
18 MacDonald. He recanted many of the names that appeared in
19 the material but he did speak about some visitors. There
20 were other witnesses as well, Mr. C-8, who spoke about
21 visitors.

22 The value of that testimony, Mr.
23 Commissioner, is up to you to assess at the end of the day.

24 So, it may well be that with the exception
25 of the word "clan" and including Malcolm MacDonald's summer

1 residence and in Fort Lauderdale, we could revise paragraph
2 35, but I certainly support the inclusion of 36, 37 and 38
3 as they read.

4 **THE COMMISSIONER:** Thank you.

5 Mr. Paul.

6 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. IAN PAUL:

7 **MR. PAUL:** Mr. Commissioner, I'll be brief.
8 I'll just indicate that our perspective would be that
9 paragraphs as they exist now simply refer to the
10 allegations and they don't necessarily dwell or get into
11 the validity or whether the allegations are true.

12 So, in that sense, I would suggest that they
13 are accurate and should be left as is, so we support the
14 wording of the present document.

15 **THE COMMISSIONER:** Thank you.

16 Mr. Lee?

17 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. DALLAS LEE:

18 **MR. LEE:** Good morning.

19 We also support the wording of the present
20 document and agree that the key point here is that the
21 allegations are exactly that and allegations are what we're
22 here to look at and whether or not they're true or not is
23 not particularly an issue here.

24 We think that the wording of the ODE as
25 drafted -- I believe this is the third or fourth version

1 that -- it's struck the appropriate balance at this point.

2 I should also mention, sir, Mr. Neville said
3 to you that the allegations made by Mr. Leroux originally
4 are now off the table as a result of his recantation here.
5 I don't agree with that. As far as I know, there's been no
6 decision yet made by you as to what to do with Mr. Leroux's
7 evidence here. It's open to you at this point to reject
8 his testimony in its entirety if you think that's the way
9 to go.

10 And nothing that happened here in any way is
11 taking anything that Mr. Leroux has done or said in the
12 past off the table, in my submission.

13 Thank you.

14 **THE COMMISSIONER:** Thank you.

15 Mr. Mazerolle, do you wish to comment?

16 **MR. MAZEROLLE:** I have no questions.

17 **THE COMMISSIONER:** Thank you.

18 Maitre Rouleau?

19 **Me ROULEAU:** We have no position.

20 **THE COMMISSIONER:** Thank you.

21 Mr. Kloeze?

22 **MR. KLOEZE:** No submissions. Thank you.

23 **THE COMMISSIONER:** Thank you.

24 Mr. Sherriff-Scott is not here. Mr.

25 Manderville?

1 **MR. MANDERVILLE:** Nothing to add on this
2 point, Mr. Commissioner.

3 **THE COMMISSIONER:** Thank you.
4 Mr. Kozloff?

5 **MR. KOZLOFF:** Nothing, sir.

6 **THE COMMISSIONER:** All right.
7 Mr. Wallace?

8 **MR. WALLACE:** Nothing, sir.

9 **THE COMMISSIONER:** Thank you.
10 Mr. Engelmann?

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

12 **MR. ENGELMANN:** Sir, paragraphs -- the
13 paragraphs in question all ---

14 **THE COMMISSIONER:** Mr. Engelmann, I'm sorry
15 to interrupt you. I really don't need to hear from you
16 unless -- after Mr. Neville's reply on 36, 37, 38.

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

18 **THE COMMISSIONER:** I really just need to
19 hear from you on 35.

20 **MR. ENGELMANN:** Paragraph 35, as it stands,
21 is -- deals with an allegation that was made, some of which
22 has been recanted here.

23 This evidence was -- whether we use the word
24 "clan" or "ring" or "group" evidence has been given by
25 others about this as well. Two that I can think of off the

1 top of my head are Gerry Renshaw and C-8 suggesting that
2 Mr. MacDonald was part of a group of men including Father
3 MacDonald, Ken Seguin, and some others who may have engaged
4 or allegedly engaged in sexual activity with young males.

5 So, it can either stay it as it is or we can
6 say if you took out the first sentence and we say, "several
7 individuals have alleged that Malcolm MacDonald was part of
8 a group of paedophiles who would meet at various
9 locations," it could be worded that way, "including his
10 summer residence on Stanley Island and in Fort Lauderdale."

11 Since it's not just Mr. Leroux who's made
12 that comment, there were others so that could be a
13 suggested wording. I'm reluctant to tinker because, as I
14 say, this has gone through three or four drafts and
15 everybody accepted it but if we were to do that, that might
16 be a suggested wording.

17 **THE COMMISSIONER:** Thank you very much.

18 Mr. Neville? The last word is yours.

19 **MR. NEVILLE:** I have nothing to add, sir.

20 **THE COMMISSIONER:** Thank you.

21 **---RULING BY/DÉCISION PAR JUSTICE NORMAND GLAUDE:**

22 I have reviewed the paragraphs and it will
23 remain as is. With respect to paragraphs 36, 37, and 38,
24 they are consistent with the practice that I have permitted
25 in the sense that they outline what facts in the sense of

1 what was stated to the police as a barebones of sexual
2 abuse, or whatever, it does not go into any of the details
3 and I think that they, as a matter of course, should stay.

4 With respect to paragraph 35, it raises some
5 interesting comments. First of all, nothing is off the
6 table at this point and I'm not immune to newspaper
7 articles that say, "well, if Mr. Leroux recanted it's all
8 over and we should all go home."

9 There is no decision that has been made in
10 that regard and I will, as I've asked members of the
11 public, wait until all of the evidence is heard before I
12 come to any decision on any aspects of the facts in this
13 case.

14 And so to say that because Ron Leroux may or
15 may not have recanted, that we should affect the way in
16 which the wording of what otherwise would be a proper
17 sentence -- to alter that would be, in my mind,
18 predetermining and a narrow view of what should be done.

19 In my view, paragraph 35 should be open-
20 ended. It should be fair in the sense that it accurately
21 reflects what Mr. Leroux or any witness, for that matter,
22 has said with respect to another individual.

23 Accordingly, the wording will stand exactly
24 as it is and so long as it has its foundation in exhibits
25 and transcripts, what the purpose of the ODE is to serve as

1 an introduction; a way in which the reader, including
2 myself, can look at all of the documents and find some
3 thread of some theme by which I can analyze and review the
4 evidence.

5 So, accordingly, that's where we stand on
6 that matter. Thank you. We will proceed now.

7 **MR. ENGELMANN:** Thank you.

8 **THE COMMISSIONER:** Good morning.

9 **MS. SIMMS:** Good morning.

10 Before we continue with this ODE on Malcolm
11 MacDonald ---

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

13 **MS. SIMMS:** --- there's a small housekeeping
14 matter ---

15 **THE COMMISSIONER:** Yes.

16 **MS. SIMMS:** --- with respect to Nelson
17 Barque's ODE.

18 **THE COMMISSIONER:** Yes.

19 **MS. SIMMS:** There was a reference filed in
20 that -- or there was a reference in that ODE which had been
21 filed as Exhibit 866 ---

22 **THE COMMISSIONER:** Yes.

23 **MS. SIMMS:** --- that inadvertently was not
24 marked as an exhibit.

25 **THE COMMISSIONER:** Oh, okay.

1 MS. SIMMS: So ---

2 THE COMMISSIONER: Eight-six-six (866)?

3 MS. SIMMS: Yes.

4 THE COMMISSIONER: Okay, go ahead. What
5 page?

6 MS. SIMMS: It's paragraph 55 of the ODE.

7 THE COMMISSIONER: You are correct. Okay
8 because I have the -- I have marked 915 and 342.

9 MS. SIMMS: That's right, 342 was an error.

10 THE COMMISSIONER: Right, okay ---

11 MS. SIMMS: That document was not previously
12 an exhibit.

13 THE COMMISSIONER: Right.

14 MS. SIMMS: So I'm going to ask that we mark
15 it today as the next exhibit.

16 THE COMMISSIONER: All right and that -- and
17 so those are the handwritten notes of Dupuis, Doc Number
18 733614?

19 MS. SIMMS: And it's an extract ---

20 THE COMMISSIONER: It's an extract ---

21 MS. SIMMS: Yes, Bates page 7131322.

22 THE COMMISSIONER: All right. So we should
23 put in an errata there and have a note made that
24 handwritten notes of Dupuis are Exhibit 1153.

25 MS. SIMMS: Thank you.

1 **---EXHIBIT NO./PIÈCE NO. P-1153:**

2 (733614) Extract: 7131322 Handwritten notes
3 of Dupuis - June 18, 1998

4 **MS. SIMMS:** So we've just had a discussion
5 on the Malcolm MacDonald ODE and we will be seeking to
6 introduce it as an exhibit ---

7 **THE COMMISSIONER:** Yes.

8 **MS. SIMMS:** --- as well as the supporting
9 documents.

10 **THE COMMISSIONER:** Okay.

11 **MS. SIMMS:** And just to be clear, as always,
12 if there is a conflict between the documents filed in
13 support of this ODE and the ODE itself, the documents
14 should prevail.

15 **THE COMMISSIONER:** Yes.

16 **MS. SIMMS:** And you will, of course, weigh
17 the documents with the other evidence you receive.

18 **THE COMMISSIONER:** And the -- we should put
19 in the Manderville objection ---

20 **MS. SIMMS:** Yes.

21 **THE COMMISSIONER:** --- that this does not
22 preclude them from -- from any party from objecting to any
23 further ODEs being filed.

24 Is there anything else, Mr. Manderville,
25 under that -- forgot something ---

1 **MR. MANDERVILLE:** I really couldn't have
2 said it better, but I would add -- which I have in the past
3 -- that the reason that you cannot use the ODE as a basis
4 for a finding of misconduct or a partial basis, nor for the
5 issuance of 52 notices.

6 **THE COMMISSIONER:** Your objection is noted.

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

8 **THE COMMISSIONER:** Thank you. All right.

9 **MS. SIMMS:** So if we could proceed in the
10 absence of any further objection to ---

11 **THE COMMISSIONER:** Don't invite any, just --
12 -

13 **MS. SIMMS:** --- naming the ODE of Angus
14 Malcolm MacDonald as the next exhibit.

15 **THE COMMISSIONER:** Yes, 1154?

16 **MS. SIMMS:** Eleven-fifty-four (1154).

17 **---EXHIBIT NO./PIÈCE NO. P-1154:**

18 Overview of Documentary Evidence - Angus
19 Malcolm MacDonald

20 **MS. SIMMS:** Many of the documents referenced
21 are already exhibits so we have a short list of exhibits to
22 be entered today.

23 The first document is Document Number
24 103366.

25 **THE COMMISSIONER:** Yes.

1 **MS. SIMMS:** It's a letter from Malcolm
2 MacDonald to Constable Fagan dated June 21st, 1994.

3 **THE COMMISSIONER:** Exhibit 1155

4 **MS. SIMMS:** And also an enclosed statement
5 of Malcolm MacDonald.

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

7 **---EXHIBIT NO./PIÈCE NO. P-1155:**

8 (103366) Letter of A.M. MacDonald to Cst.
9 Mike Fagan - June 21, 1994 and enclosed
10 statement of A.M. MacDonald - June 20, 1994

11 **MS. SIMMS:** The next is Document Number
12 111168.

13 **THE COMMISSIONER:** Yes, thank you. And what
14 is that?

15 **MS. SIMMS:** And this is a list of charges
16 against Malcolm Angus MacDonald (sic).

17 **THE COMMISSIONER:** All right. It will be
18 Exhibit 1156.

19 **---EXHIBIT NO./PIÈCE NO. P-1156:**

20 (111168) Charges against Angus Malcolm
21 MacDonald

22 **MS. SIMMS:** The next is Document Number
23 112628.

24 **THE COMMISSIONER:** Thank you and that's ---

25 **MS. SIMMS:** This should be subject to a

1 publication ban.

2 **THE COMMISSIONER:** Yes.

3 So that is an audio-taped interview report
4 of Malcolm MacDonald dated the 18th of November, 1998;
5 Exhibit 1157.

6 **---EXHIBIT NO./PIÈCE NO. P-1157:**

7 (112628) Transcript of OPP interview of
8 Malcolm MacDonald - November 18, 1998

9 **MS. SIMMS:** The next is Document Number
10 118481.

11 **THE COMMISSIONER:** This is a transcript of
12 withdrawal of charges; a transcript of a court appearance
13 before the Honourable Mr. Justice McPhee; Exhibit 1158.

14 **---EXHIBIT NO./PIÈCE NO. P-1158:**

15 (118481) Transcript of *R. v. Malcolm*
16 *MacDonald*

17 **MS. SIMMS:** The next document is 701109.
18 It should also be subject to a publication ban.

19 **THE COMMISSIONER:** Thank you.

20 So this is a letter addressed to the Ontario
21 Provincial Police from David Sinclair, a lawyer for C-10.

22 **MS. SIMMS:** This ---

23 **THE COMMISSIONER:** Exhibit 1159.

24 **---EXHIBIT NO./PIÈCE NO. P-1159:**

25 (701109) Letter from David Sinclair to OPP

1 Records Department - June 3, 2002

2 **MS. SIMMS:** The next document is Document
3 Number 702395 -- or sorry, 396.

4 **THE COMMISSIONER:** This is a proof of death
5 certificate of Angus Malcolm MacDonald dated -- I'm sorry;
6 Exhibit 1160.

7 **---EXHIBIT NO./PIÈCE NO. P-1160:**

8 (702396) Death Certificate of Angus Malcolm
9 MacDonald

10 **MR. NEVILLE:** I have one observation, sir --

11 -

12 **THE COMMISSIONER:** Yes.

13 **MR. NEVILLE:** --- and I won't repeat the
14 name, but the name just cited by yourself is actually a
15 monikered person.

16 **THE COMMISSIONER:** What are you talking
17 about. Oh, yes. I'm -- thank you very much, sir.

18 **MR. NEVILLE:** Any time.

19 **THE COMMISSIONER:** Can the record be
20 changed, please, and the appropriate moniker because if I
21 put the moniker then it will continue so if I voice that
22 moniker we'll advise -- the clerk will advise the reporters
23 as to what the correct moniker is?

24 **MR. NEVILLE:** As is another one, sir, C-5.

25 **THE COMMISSIONER:** Thank you very much.

1 Okay.

2 **MS. SIMMS:** Sorry, we just entered the proof
3 of death certificate.

4 **THE COMMISSIONER:** Yes, we did.

5 **MS. SIMMS:** The next document is 703949.

6 **THE COMMISSIONER:** Thank you.

7 This is a letter to Monsignor Donald
8 McDougald from Angus Malcolm MacDonald dated December 21st,
9 1992.

10 **---EXHIBIT NO./PIÈCE NO. P-1161:**

11 (703949) Letter from Angus Malcolm MacDonald
12 to Monsignor McDougald - December 21, 1992

13 **MS. SIMMS:** The next document is a
14 transcript of a monikered individual. So it starts at
15 Number 709119.

16 **THE COMMISSIONER:** Okay.

17 **MS. SIMMS:** It should be subject to a
18 publication ban and the monikered individual is C-21.

19 **THE COMMISSIONER:** All right.

20 And date of interview was 16th -- it's a
21 video-taped interview report dated the 16th day of December,
22 1998; 1162 is the Exhibit Number.

23 **---EXHIBIT NO./PIÈCE NO. P-1162:**

24 (709119) Transcript of OPP interview of C-21
25 - December 16, 1998

1 **MS. SIMMS:** The next document is 713555.
2 It should be subject to a publication ban as well.

3 **THE COMMISSIONER:** Thank you.

4 It's an interview report dated the 2nd day of
5 September, 1998; Exhibit 1163.

6 **---EXHIBIT NO./PIÈCE NO. P-1163:**

7 (713555) Report of interview of OPP Officer
8 Steve McDougald - September 2, 1998

9 **MS. SIMMS:** The next document is 714916.

10 **THE COMMISSIONER:** Thank you. And this is a
11 Crown synopsis is it?

12 **MS. SIMMS:** It is.

13 **THE COMMISSIONER:** All right. Crown
14 synopsis and Exhibit 1164.

15 **---EXHIBIT NO./PIÈCE NO. P-1164:**

16 (714916) Synopsis of Investigation re:
17 Allegations of Obstruction of Justice

18 **MS. SIMMS:** The next document is 716637.

19 **THE COMMISSIONER:** Thank you.

20 These are a plea of guilty of -- a
21 transcript of the court proceedings with *Her Majesty the*
22 *Queen and Angus Malcolm MacDonald* dated the 12th day of
23 September, 1995; Exhibit 1165.

24 **---EXHIBIT NO./PIÈCE NO. P-1165:**

25 (716637) Transcript of Malcolm MacDonald

1 Plea of Guilty - September 12, 1995

2 **MS. SIMMS:** And the final document is a
3 transcript of an interview with a monikered individual.

4 **THE COMMISSIONER:** Thank you, yes.

5 **MS. SIMMS:** C-5.

6 **THE COMMISSIONER:** C-5.

7 **MS. SIMMS:** The Document Number is 721296.

8 **THE COMMISSIONER:** And it's an audio-taped
9 interview report, date of the interview is 30th of
10 September, 1997; Exhibit 1166.

11 **MS. SIMMS:** And, of course, that's subject
12 to publication ban.

13 **THE COMMISSIONER:** Thank you.

14 ---EXHIBIT NO./PIÈCE NO. P-1166:(721296) Transcript of OPP
15 Interview of C-5 - September 30, 1997

16 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MS. MARY SIMMS (ODE
17 FOR MALCOM MACDONALD):

18 **MS. SIMMS:** So those are the documents and
19 I will proceed to read in the overview.

20 "Angus Malcolm MacDonald, and we will refer to him as
21 Malcolm MacDonald, was born in Cornwall on March 24th,
22 1930. The reference is Exhibit is 1160.

23 Malcolm MacDonald was called to the Bar in June, 1955. He
24 worked for one year with the provincial government under
25 the Provincial Secretaries Offices Corporation section.

1 On June 1st, 1956, he opened a private practice in Cornwall,
2 Ontario. From the late 1950's until 1967 or 1968 he worked
3 part-time as an Assistant Crown Attorney in Cornwall,
4 Ontario while maintaining his private practice.

5 In 1968 he was appointed fulltime Crown Attorney for the
6 United Counties of Stormont, Dundas and Glengarry.

7 In 1971 he returned to fulltime practice. In 1985 while
8 continuing his private practice he was appointed special
9 agent for the Attorney General of Canada for Federal
10 Prosecutions, and as of October 1994 he was still a
11 standing agent for the Attorney General of Canada.

12 While in private practice Malcolm MacDonald also worked as
13 a criminal defense lawyer."

14 The reference is Exhibit 863.

15 "From 1956 to 1957 up to the mid-1980's Malcolm MacDonald
16 owned a cottage property on Stone House Point. A few years
17 after selling the Stone House Point property his sister-in-
18 law gave him another cottage property on Stanley Island."

19 The reference is Exhibit 1157.

20 "In an interview with the Ontario Provincial Police on
21 November 18th, 1998 Malcolm MacDonald stated that he met Ken
22 Seguin in 1967, when Ken Seguin was a probation officer and
23 Malcolm MacDonald was appointed Crown Attorney.

24 Malcolm MacDonald stated that he and Ken Seguin became very
25 good and very close friends. According to Malcolm

1 MacDonalld, the two worked together at the courts a lot.
2 When Ken Seguin moved to the mainland near Malcolm
3 MacDonalld's cottage on Stanley Island, he began attending
4 Malcolm MacDonalld's cottage on a regular basis, and Malcolm
5 MacDonalld would drop by Ken Seguin's residence on his way
6 to the Marina.

7 According to Malcolm MacDonalld every year, for about ten
8 years, he and Ken Seguin would drive to Florida for a
9 vacation together. In addition, he had done real estate
10 work for Ken Seguin."

11 The exhibit is 1157.

12 "During the November 18th, 1998 interview, Malcolm MacDonalld
13 advised that Claude Shaver had not been in Florida while in
14 was there."

15 Exhibit 1157.

16 "In the November 18th, 1998 interview Malcolm MacDonalld
17 described Father Charles MacDonalld as a good friend of Ken
18 Seguin's and stated that he knew Father MacDonalld well.
19 Father MacDonalld would attend Malcolm MacDonalld's cottage
20 once or twice a summer accompanied by Ken Seguin. During
21 the time of the Silmsler complaint against Father MacDonalld,
22 Malcolm MacDonalld went to St. Andrew's Parish House for
23 dinner with Ken Seguin and Father MacDonalld about six
24 times."

25 The Exhibit is reference 1157.

1 "Also, in the November 18th, 1998 interview Malcolm
2 MacDonald noted that Ron Leroux was a neighbour of Ken
3 Seguin and stated that in the late 1980's and early 1990's
4 Leroux attended Malcolm MacDonald's cottage a few times a
5 year in the company of Ken Seguin.

6 Malcolm MacDonald also drove down to Florida with Leroux on
7 one occasion and on another occasion both Leroux and C-8.
8 On one occasion Leroux and C-8 attended St. Andrew's Parish
9 House for dinner with Malcolm MacDonald, Ken Seguin and
10 Father MacDonald."

11 The reference is Exhibit 1157.

12 "On February 9th, 1993 prior to the OPP executing a search
13 warrant at Leroux's residence, Constable Steve MacDougald
14 called Malcolm MacDonald in MacDonald's capacity as
15 Leroux's lawyer. Leroux had advised Constable MacDonald
16 (sic) that Malcolm MacDonald was representing him with
17 respect to a property dispute between Leroux and C-8.

18 According to Constable MacDonald -- or sorry MacDougald, he
19 asked Malcolm MacDonald to attend the Leroux residence
20 during the execution of the warrant but Malcolm MacDonald
21 refused.

22 In the November 18th, 1998 interview regarding the resulting
23 charges, Malcolm MacDonald stated:

24 'I know he pleaded to the gun charges. I
25 think in Alexandria Court. I don't know if

1 I ever did anything or not on that. I think
2 it was...'

3 And the conclusion of the sentence is
4 inaudible.

5 "According to a statement made by Leroux, Malcolm MacDonald
6 represented Leroux with respect to a charge of Unsafe
7 Storage of a Fire Arm."

8 The references are Exhibit 572A, 1163 and
9 1157.

10 "According to Malcolm MacDonald he and Ron Wilson had been
11 good friends since Wilson was a police officer. Malcolm
12 MacDonald did all of Ron Wilson's legal work for him. Ron
13 Wilson attended Malcolm MacDonald's cottage at Stone House
14 Point a couple of times but had not been to the Stanley
15 Island cottage."

16 The reference is Exhibit 1157.

17 "According to Malcolm MacDonald he and Monsignor Donald
18 McDougald were friends, having first met when he was a
19 student and Monsignor McDougald was still a seminarian.
20 Malcolm MacDonald also attended St. Columban's Church where
21 McDougald was a Pastor for a number of years. He stated
22 that he knew Monsignor McDougald very well, but that
23 Monsignor McDougald had never been to his cottage."

24 It's Exhibit 1157.

25 "Malcolm MacDonald also knew Father Kevin Maloney and did

1 legal work for him. Maloney was the Chaplain at the
2 Knights of Columbus when Malcolm MacDonald was Grand
3 Knight. He stated that although invited, Father Maloney
4 had never attended the Stanley Island cottage."

5 That's Exhibit 1157.

6 "During the November 18th, 1998 interview, Malcolm MacDonald
7 answered numerous questions relating to whom he socialized
8 with at his cottage and elsewhere in addition to the above-
9 noted individuals. He named a number of other visitors to
10 the Stanley Island cottage including his bridge group,
11 retired friends, relatives, Jos van Diepen and his family
12 and Monsignor R.J. MacDonald who's described as an old
13 family friend.

14 Malcolm MacDonald stated that Claude Shaver had never
15 attended at his cottage at any time. He also stated that
16 he had never witnessed any sexual improprieties involving
17 young boys at the Stanley Island cottage. Further, he
18 advised that there had never been young boys at his cottage
19 and he didn't recall having photographs of nude boys.
20 During this interview he stated that he knew who Stuart
21 McDonald was but that he never had any social functions
22 with him and that Stuart McDonald had never attended at his
23 cottage."

24 **MR. MANDERVILLE:** Mr. Commissioner, a very
25 minor point but one that is important to Stuart McDonald,

1 his surname is misspelled in this document. It's M-C.

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

3 All right. Thank you.

4 **MS. SIMMS:** So the reference to that
5 paragraph was 1157.

6 **THE COMMISSIONER:** Yes.

7 **MS. SIMMS:** "On December 9th, 1992 David
8 Silmsler complained to the Cornwall Community Police Service
9 that Father MacDonald and Ken Seguin had sexually abused
10 him. In an interview by the OPP of Malcolm MacDonald on
11 October 28th, 1994 in the investigation of obstruction of
12 justice, Malcolm MacDonald stated that he was first made
13 aware of the Silmer complaint when Father MacDonald came in
14 to see him with a letter he had received from Monsignor
15 McDougald. The following morning he and Father MacDonald
16 met with Monsignor McDougald."

17 Reference is Exhibit 863.

18 "According to a letter from Malcolm MacDonald to Monsignor
19 McDougald dated December 21st, 1992, Malcolm MacDonald was
20 present at a meeting between Father MacDonald and Monsignor
21 McDougald on December 17th, 1992. In the letter, Malcolm
22 MacDonald confirmed that he was retained by Father
23 MacDonald and advised that Father MacDonald denied the
24 allegations, would cooperate in any investigation to the
25 fullest extent and was prepared to under go a polygraph

1 test concerning his response to the allegations.
2 He suggested that Silmsers be asked if he was willing to
3 submit to a polygraph. Malcolm MacDonald advised that they
4 required a detailed sworn statement from Silmsers in order
5 for Father MacDonald to answer the allegations.
6 He further noted that both Monsignor McDougald and
7 Monsignor Schonenbach were aware that Silmsers had a lengthy
8 criminal record, and specifically referred to three
9 offences.
10 In a postscript, Malcolm MacDonald noted that he had spoken
11 to Bishop Larocque and had brought him up to date on, 'What
12 we are doing,' and that Bishop Larocque had indicated that
13 Malcolm MacDonald should continue dealing with Monsignor
14 McDougald until advised otherwise."

15 Reference is Exhibit 1161.

16 "According to Malcolm MacDonald he had contact with the CPS
17 about the progress of the investigation and they kept him
18 apprised of some of what was going on. He also stated that
19 he had contact with, 'Constable Heidi,' who mentioned that
20 she was looking for more information from Silmsers and that
21 he had made several appointments which he had failed to
22 keep and that Silmsers had implied he was in a hurry to give
23 the police full details.

24 In her police notes Constable Heidi Sebalj of the CPS made
25 an entry on August 23rd, 1993 to the effect that she had

1 received a telephone call from Malcolm MacDonald who had
2 stated that his file was diarised for that date and he was
3 looking for an update. Constable Sebalj advised him that
4 she was waiting to meet with Crown. Malcolm MacDonald
5 asked that his client be summonsed and indicated he would
6 escort his client as opposed his being 'handcuffed, et
7 cetera'. He also asked to be kept abreast of the
8 situation.'

9 The exhibits are 863 and 295.

10 "According to a written statement prepared by Malcolm
11 MacDonald on June 20th, 1994 at the request of the OPP, the
12 question of compensation for Silmsler was first raised in
13 the early summer of 1993 in a call from Silmsler to
14 Monsignor McDougald and the matter was then discussed
15 between Malcolm MacDonald, Father MacDonald and Jacques
16 Leduc, at which time Malcolm was asked to contact Silmsler
17 to see what he was looking for in the way of compensation."

18 The exhibit is 1155.

19 "According to Malcolm MacDonald's statement in the October
20 28th, 1994, interview, the question of compensation being
21 paid to Silmsler was first raised in the early part of 1993.
22 He stated:

23 'If I recall correctly, I think,
24 Silmsler called Monsignor McDougald and
25 said, 'I want an apology for starts and

1 I guess he said, well, what do you mean
2 then by for starts' and he said to me,
3 he implied that as far as I was
4 concerned, that he wanted money.'" "

5 Reference is 863.

6 "In the October 28th, 1994, interview, Malcolm MacDonald
7 indicated that sometime later that spring, after Silmsers
8 had been interviewed by the diocese, he was asked if he
9 would contact Silmsers.

10 Malcolm MacDonald stated that Jacques Leduc had reported
11 back to him what had happened at the interview and that
12 later the question of money arose again and Malcolm
13 MacDonald was asked to contact Silmsers, possibly by
14 Monsignor McDougald, to find out what Silmsers meant by an
15 apology and what else he wanted.

16 In the November 18th, 1998, interview, Malcolm MacDonald
17 stated he had attended a meeting with Jacques Leduc, Bishop
18 Larocque and Monsignor McDougald, wherein they discussed a
19 nuisance settlement. Malcolm MacDonald stated that
20 Monsignor McDougald wondered how much Silmsers wanted and it
21 was agreed that Malcolm MacDonald would call and find out
22 because Leduc said he couldn't talk to Silmsers and
23 McDougald didn't want to."

24 The references are Exhibits 863 and 1157.

25 "In the October 28th, 1994 interview, Malcolm MacDonald

1 stated that he called Silmsler, explained that he was acting
2 for Father MacDonald and that he had been asked by the
3 diocese to find out what Silmsler wanted. According to
4 Malcolm MacDonald, Silmsler advised that he had gone through
5 a certain amount of money for treatment and needed further
6 treatment. With respect to quantum, Malcolm MacDonald
7 stated:

8 'And that came to something like
9 \$22,000 he thought he needed, at least
10 \$12,000, he thought he needed \$20,000,
11 like, for compensation.'

12 Malcolm MacDonald stated that some time passed and he
13 relayed that information to both Monsignor McDougald and
14 Jacques Leduc."

15 The reference is Exhibit 863.

16 "In the October 28th, 1994 interview, Malcolm MacDonald
17 stated that he was asked by a representative of the
18 diocese, either Monsignor McDougald or Mr. Leduc, to call
19 Silmsler again about the settlement. He further stated that
20 before he called he met with Crown Attorney, Murray
21 MacDonald and 'explained the whole situation to him'.
22 According to Malcolm MacDonald, Murray MacDonald:

23 '...said to him virtually, well, that's
24 fine. Do what you want to do.'

25 When asked in the October 28th, 1994 interview whether it

1 was made clear to Murray MacDonald that the settlement
2 would cover both the civil and criminal proceedings,
3 Malcolm replied:

4 'I don't think I said specifically, you
5 know, civil and criminal, you know. I
6 think -- I think that it was clear to
7 him that he wouldn't proceed with
8 anything, put it that way.'"

9 The exhibit is 863.

10 "According to the June 28th, 1994 statement, after speaking
11 with Murray MacDonald, Malcolm MacDonald met with Bishop
12 Larocque and Jacques Leduc. Jacques Leduc advised the
13 bishop to pay the settlement amount. According to Malcolm
14 MacDonald, he stated at that meeting that he, himself, was
15 against this type of payment, however, since the diocese
16 was putting up most of the money, Father MacDonald would
17 reluctantly agree. Also according to a statement of June
18 20th, 1994, Malcolm MacDonald advised the bishop at this
19 meeting that:

20 'There would be no problem getting
21 acquittal if charges were laid against
22 the priest.'

23 Malcolm MacDonald then contacted Silmsner and told him that
24 the diocese was willing to pay."

25 Reference is Exhibit 1155.

1 "In the October 28th, 1994 interview, Malcolm MacDonald
2 stated that he was asked by the diocese to draw the
3 settlement agreement, and Jacques Leduc faxed him a sample
4 agreement that Leduc had used in the past. The draft
5 agreement that Malcolm MacDonald prepared included a clause
6 stating that Silmser was undertaking not to take any legal
7 proceedings, civil or criminal, against the parties to the
8 agreement and that any actions in process would be
9 terminated immediately.

10 According to Malcolm MacDonald's statement in the October
11 28th, 1994 interview, he believed that all of that clause
12 was from the precedent. The draft agreement was faxed to
13 Leduc who made 'minor cosmetic' changes to it and sent it
14 back to Malcolm MacDonald."

15 The exhibits are 863 and 263.

16 "A copy of the sample release provided to Malcolm
17 MacDonald, which was originally written in French, and a
18 copy of the English translation were filed jointly as a
19 Exhibit 1 when Malcolm MacDonald plead guilty to the charge
20 of attempt to obstruct justice. Crown Attorney Flanagan
21 made the following comments when entering the documents
22 into evidence:

23 'Your Honour will see from the full
24 release and undertaking not to disclose
25 that paragraph 2 of that release, first

1 of all, the release does not resemble
2 the sample release that Your Honour has
3 as Exhibit 1.' "

4 It's Exhibit 1165.

5 "In the October 28th, 2004 interview, Malcolm MacDonald
6 stated that Jacques Leduc sent him a cheque from the
7 Diocese of Alexandria-Cornwall in the amount of \$32,000,
8 payable to Malcolm MacDonald in Trust, and he deposited the
9 cheque into his trust account. When asked if Father
10 MacDonald paid any portion of the settlement, Malcolm
11 MacDonald replied:

12 'He said he didn't -- he, not to my
13 knowledge, he didn't.'

14 When advised by the investigator that the indication from
15 the bishop and the diocese was that Father MacDonald paid
16 \$5,000 of the settlement monies, Malcolm MacDonald stated
17 that after the settlement was all over, into the new year,
18 Father MacDonald came to him and stated that he had some
19 monies owing to the diocese, and Malcolm MacDonald:

20 'Transferred some cheques over to
21 him.' "

22 It's Exhibit 863.

23 "Malcolm MacDonald indicated in the June 20th, 1994
24 statement that he arranged to have Sean Adams act as
25 independent legal counsel for Silmsler. On September 2nd,

1 1993, Adams and Silmsers came to his office. He introduced
2 the two and left the room. About one-half to three-
3 quarters of an hour later, they called him back in and said
4 that they were ready to sign the full release and
5 undertaking not to disclose, the certificate of independent
6 legal advice, and the acknowledgement; all documents which
7 he had prepared."

8 References are Exhibits 1155, 863, 263 and
9 264.

10 "Once the settlement documentation was signed, Malcolm
11 MacDonald gave Sean Adams a letter dated September 2nd,
12 1993, enclosing a trust cheque payable to Silmsers in the
13 amount of \$32,000. The letter advised that the cheque was
14 to be held by Adams in escrow until the city police advised
15 that Silmsers had attended the police station and told the
16 police that he did not want to proceed with any of the
17 charges."

18 The exhibit is 268.

19 "On September 3rd, 1993, Malcolm MacDonald sent a letter
20 addressed to Detective Sergeant Luc Brunet enclosing the
21 direction signed by Silmsers and witnessed by Sean Adams.
22 The letter indicated Brunet had advised Adams that Silmsers
23 was to speak with Constable Sebalj personally and that
24 Sebalj was away until sometime the following week. Malcolm
25 MacDonald advised in the letter that Silmsers would be

1 available to meet with Sebalj who had stated that his file
2 was diarised for that date and he was looking for an
3 update. Constable Sebalj advised him that she was waiting
4 to meet with Crown. Malcolm MacDonald asked that his
5 client be summonsed and indicated he would escort his
6 client as opposed his being 'handcuffed, et cetera'. He
7 also asked to be kept abreast of the situation.'

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10 MacDonald on June 20th, 1994 at the request of the OPP, the
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13 Monsignor McDougald and the matter was then discussed
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15 Leduc, at which time Malcolm was asked to contact Silmsler
16 to see what he was looking for in the way of compensation."

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19 28th, 1994, interview, the question of compensation being
20 paid to Silmsler was first raised in the early part of 1993.
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22 'If I recall correctly, I think,
23 Silmsler called Monsignor McDougald and
24 said, 'I want an apology for starts and
25 I guess he said, well, what do you mean

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2 he implied that as far as I was
3 concerned, that he wanted money.'"

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6 indicated that sometime later that spring, after Silmsers
7 had been interviewed by the diocese, he was asked if he
8 would contact Silmsers.

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10 back to him what had happened at the interview and that
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12 MacDonald was asked to contact Silmsers, possibly by
13 Monsignor McDougald, to find out what Silmsers meant by an
14 apology and what else he wanted.

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17 Larocque and Monsignor McDougald, wherein they discussed a
18 nuisance settlement. Malcolm MacDonald stated that
19 Monsignor McDougald wondered how much Silmsers wanted and it
20 was agreed that Malcolm MacDonald would call and find out
21 because Leduc said he couldn't talk to Silmsers and
22 McDougald didn't want to."

23 The references are Exhibits 863 and 1157.

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25 stated that he called Silmsers, explained that he was acting

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3 Malcolm MacDonald, Silmsler advised that he had gone through
4 a certain amount of money for treatment and needed further
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16 stated that he was asked by a representative of the
17 diocese, either Monsignor McDougald or Mr. Leduc, to call
18 Silmsler again about the settlement. He further stated that
19 before he called he met with Crown Attorney, Murray
20 MacDonald and 'explained the whole situation to him'.

21 According to Malcolm MacDonald, Murray MacDonald:

22 '...said to him virtually, well, that's
23 fine. Do what you want to do.'

24 When asked in the October 28th, 1994 interview whether it
25 was made clear to Murray MacDonald that the settlement

1 would cover both the civil and criminal proceedings,
2 Malcolm replied:

3 'I don't think I said specifically, you
4 know, civil and criminal, you know. I
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6 him that he wouldn't proceed with
7 anything, put it that way.'"

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10 with Murray MacDonald, Malcolm MacDonald met with Bishop
11 Larocque and Jacques Leduc. Jacques Leduc advised the
12 bishop to pay the settlement amount. According to Malcolm
13 MacDonald, he stated at that meeting that he, himself, was
14 against this type of payment, however, since the diocese
15 was putting up most of the money, Father MacDonald would
16 reluctantly agree. Also according to a statement of June
17 20th, 1994, Malcolm MacDonald advised the bishop at this
18 meeting that:

19 'There would be no problem getting
20 acquittal if charges were laid against
21 the priest.'

22 Malcolm MacDonald then contacted Silmser and told him that
23 the diocese was willing to pay."

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1 stated that he was asked by the diocese to draw the
2 settlement agreement, and Jacques Leduc faxed him a sample
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4 agreement that Malcolm MacDonald prepared included a clause
5 stating that Silmser was undertaking not to take any legal
6 proceedings, civil or criminal, against the parties to the
7 agreement and that any actions in process would be
8 terminated immediately.

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10 28th, 1994 interview, he believed that all of that clause
11 was from the precedent. The draft agreement was faxed to
12 Leduc who made 'minor cosmetic' changes to it and sent it
13 back to Malcolm MacDonald."

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16 MacDonald, which was originally written in French, and a
17 copy of the English translation were filed jointly as a
18 Exhibit 1 when Malcolm MacDonald plead guilty to the charge
19 of attempt to obstruct justice. Crown Attorney Flanagan
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22 'Your Honour will see from the full
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24 that paragraph 2 of that release, first
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1 the sample release that Your Honour has
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6 Diocese of Alexandria-Cornwall in the amount of \$32,000,
7 payable to Malcolm MacDonald in Trust, and he deposited the
8 cheque into his trust account. When asked if Father
9 MacDonald paid any portion of the settlement, Malcolm
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12 knowledge, he didn't.'

13 When advised by the investigator that the indication from
14 the bishop and the diocese was that Father MacDonald paid
15 \$5,000 of the settlement monies, Malcolm MacDonald stated
16 that after the settlement was all over, into the new year,
17 Father MacDonald came to him and stated that he had some
18 monies owing to the diocese, and Malcolm MacDonald:

19 'Transferred some cheques over to
20 him.' "

21 It's Exhibit 863.

22 "Malcolm MacDonald indicated in the June 20th, 1994
23 statement that he arranged to have Sean Adams act as
24 independent legal counsel for Silmsler. On September 2nd,
25 1993, Adams and Silmsler came to his office. He introduced

1 the two and left the room. About one-half to three-
2 quarters of an hour later, they called him back in and said
3 that they were ready to sign the full release and
4 undertaking not to disclose, the certificate of independent
5 legal advice, and the acknowledgement; all documents which
6 he had prepared."

7 References are Exhibits 1155, 863, 263 and
8 264.

9 "Once the settlement documentation was signed, Malcolm
10 MacDonald gave Sean Adams a letter dated September 2nd,
11 1993, enclosing a trust cheque payable to Silmsler in the
12 amount of \$32,000. The letter advised that the cheque was
13 to be held by Adams in escrow until the city police advised
14 that Silmsler had attended the police station and told the
15 police that he did not want to proceed with any of the
16 charges."

17 The exhibit is 268.

18 "On September 3rd, 1993, Malcolm MacDonald sent a letter
19 addressed to Detective Sergeant Luc Brunet enclosing the
20 direction signed by Silmsler and witnessed by Sean Adams.
21 The letter indicated Brunet had advised Adams that Silmsler
22 was to speak with Constable Sebalj personally and that
23 Sebalj was away until sometime the following week. Malcolm
24 MacDonald advised in the letter that Silmsler would be
25 available to meet with Sebalj anytime she wanted to meet

1 him. The direction signed by Silmsers indicated that he had
2 received a civil settlement to his satisfaction and
3 received independent legal advice before accepting the
4 settlement.

5 In the direction Silmsers indicated that he no longer wanted
6 to proceed further with criminal charges. He requested
7 that police close the file and stop further proceedings.
8 The references are to Exhibit 299 and 266A.

9 **THE COMMISSIONER:** Can we take a short
10 break, please, and come back in 10?

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

13 This hearing will resume at 10:45 a.m.

14 --- Upon recessing at 10:26 p.m. /L'audience est suspendue
15 à 10h26

16 --- Upon resuming at 10:47 a.m. /L'audience est reprise à
17 10h47

18 **THE REGISTRAR:** The hearing is now resumed.
19 Please be seated. Veuillez vous asseoir.

20 **THE COMMISSIONER:** Thank you. Sorry about
21 that.

22 **MS. SIMMS:** Mr. Commissioner, just before we
23 resume I should note that the ODE itself, which is Exhibit
24 1154, should have been marked as "subject to publication
25 ban."

1 **THE COMMISSIONER:** Thank you.

2 **MS. SIMMS:** On December 21st, 1993, Detective
3 Constables Millar and MacDonald of the OPP Lancaster
4 detachment interviewed Malcolm MacDonald with respect to
5 Ken Seguin's death on November 22th, 1993.

6 In a signed statement, dated December 21st, 1993 Malcolm
7 MacDonald indicated that he had spoken to Ken Seguin about
8 the Father MacDonald and Silmsers matter. In the October
9 28th, 1994 interview, Malcolm MacDonald stated that he was
10 acting for Ken Seguin before his death and acted for his
11 estate following his death. The references are Exhibit 973
12 and 863.

13 In the December 21st, 1993 statement Malcolm MacDonald wrote
14 that he had been advised by Ken Seguin in January 1993 that
15 Silmsers had called him and made "certain allegations." Ken
16 Seguin advised Malcolm MacDonald of further calls from
17 Silmsers in February, August, and September 1993.

18 According to the December 21st, 1993 statement Ken Seguin
19 approached Malcolm MacDonald on November 15th, 1993 and
20 advised that Silmsers had called him that morning. Malcolm
21 MacDonald requested that Ken Seguin provide him with
22 documentation, "as to his story," and to document the times
23 he received calls from Silmsers. Ken Seguin provided him
24 with documentation. The reference is Exhibit 973.

25 Malcolm MacDonald stated in the December 21st, 1993

1 statement that he was trying to convince Ken Seguin to lay
2 charges against Silmser for extortion or to tell his
3 employer about Silmser. In the afternoon of November 15th,
4 1993 Malcolm MacDonald telephoned Silmser who advised him
5 that he wanted money and that if he didn't get it he would
6 go to the Ministry with a complaint.

7 Malcolm advised he would get back to him at the end of the
8 week. The reference is Exhibit 973.

9 On November 19th, 1993 according to the December 21st, 1993
10 statement, Malcolm MacDonald spoke to Silmser and they
11 discussed the amount of \$10,000 per year for 10 or 20
12 years. On the Monday before Ken Seguin's death, Malcolm
13 MacDonald met with Ken Seguin and discussed the matter. He
14 advised that the dollar figure proposed by Silmser was out
15 of the question and that Ken Seguin wouldn't lose anything
16 if he fought it.

17 He spoke to Ken Seguin again the Wednesday before his
18 death. Malcolm MacDonald learned of Ken Seguin's death
19 late Thursday afternoon. He received a call from Silmser
20 on Friday morning asking about the settlement and advised
21 him that Ken Seguin was dead. The reference is Exhibit
22 973.

23 In 1994, OPP Detective Inspector Tim Smith and Detective
24 Constable Mike Fagan commenced an investigation into
25 allegations of obstruction of justice in relation to the

1 settlement with Silmsers. On October 28th, 1994 Detective
2 Inspector Smith and Detective Constable Fagan interviewed
3 Malcolm MacDonald regarding his role in the settlement.
4 References are Exhibits 1164 and 863.

5 On September 12th, 1995 Malcolm MacDonald plead guilty to
6 the offence of unlawfully attempting to obstruct justice,
7 Section 139(2) of the *Criminal Code*, by arranging for a
8 monetary payment to Silmsers in order to dissuade him from
9 participating in the Father MacDonald investigation.

10 The Crown was represented by Curt Flanagan and Malcolm
11 MacDonald was represented by R. Wakefield.

12 After hearing submissions on the joint position as to
13 sentence, the presiding judge, the Honourable Mr. Justice
14 Brian Lennox, granted Malcolm MacDonald an absolute
15 discharge and consequently no conviction was registered
16 against him. The reference is Exhibit 1165.

17 On February 7th, 1997 OPP Detective Constables Cathy Bell
18 and Dan Anthony interviewed Ron Leroux. At that time,
19 Leroux alleged that Malcolm MacDonald was part of a "clan"
20 of paedophiles who would meet at various locations
21 including Malcolm MacDonald's summer residence on Stanley
22 Island and in Fort Lauderdale.

23 He also alleged that Malcolm MacDonald had taken nude
24 photographs of minors and that Malcolm MacDonald kept the
25 photographs at his office. The reference is Exhibit 572A.

1 On September 30th, 1997 OPP Detective Constable Steve Seguin
2 and Joe Dupuis interviewed C-5. C-5 alleged that when he
3 was approximately 12 or 13 years of age, Ken Seguin had
4 sexually abused him. He alleged that Seguin had introduced
5 him to Malcolm MacDonald when he was 13 or 14 and that
6 Malcolm MacDonald had also sexually abused him. He further
7 alleged that Malcolm MacDonald bought him cocaine, took
8 nude pictures of him, and that C-5 "found boys" for him.
9 The reference is Exhibit 1166.

10 On February 3rd, 1998 OPP Detective Constables Don Genier
11 and Steven Seguin interviewed C-10. He alleged that Ken
12 Seguin had sexually abused him and that when he had needed
13 a lawyer, Seguin told him to see Malcolm MacDonald. He
14 alleged that when he was between 15 and 17 years of age,
15 Malcolm MacDonald had sexually abused him in MacDonald's
16 office located on the third floor of the Criminal Court
17 building. This is Exhibit 377.

18 On December 16th, 1998 OPP Detective Constables Don Genier
19 and Steve Seguin interviewed C-21. He alleged that Jean-
20 Luc Leblanc had sexually abused him when he was between 11
21 and 15 years of age. He also alleged that Malcolm
22 MacDonald had sexually assaulted him when he was in Grade 8
23 at a cottage owned by Leblanc's parents in Quebec. The
24 reference is Exhibit 1162.

25 On March 11th, 1999 as part of OPP Project Truth

1 investigation, Malcolm MacDonald was charged with indecent
2 assault and gross indecency against C-5 and with indecent
3 assault against C-10. The references are Exhibit 390 and
4 1156.

5 On December 23rd, 1999 Malcolm MacDonald died of a
6 cardiovascular disease in Fort Lauderdale, Florida. The
7 exhibit is 1160.

8 On January 11th, 2000 the Crown withdrew all charges against
9 Malcolm MacDonald. The charges had been scheduled to
10 proceed to a preliminary inquiry on January 17th, 2000. The
11 reference is Exhibit 1158.

12 In 2002, C-10 was involved in litigation against the estate
13 of Angus Malcolm MacDonald, and the reference there is
14 Exhibit 1159.

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

16 So I understand that we are to take a short
17 break to have the next witness come in, so we'll take
18 another short break and we will be back very shortly.

19 **MS. SIMMS:** Thank you, Mr. Commissioner.

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

22 This hearing will resume at 11:10 a.m.

23 --- Upon recessing at 10:55 p.m. /L'audience est suspendue
24 à 10h26

25 --- Upon resuming at 11:10 a.m. /L'audience est reprise à

1 11h10

2 **THE REGISTRAR:** The hearing is now resumed.
3 Please be seated. Veuillez vous asseoir.

4 **MR. ENGELMANN:** Sir, the next witness for
5 the Commission is Mr. Jos Van Diepen.

6 **THE COMMISSIONER:** Thank you.

7 **MR. ENGELMANN:** He may just be outside, sir.
8 Mr. Westdal is here.

9 **THE COMMISSIONER:** Yes, good morning.

10 **MR. ENGELMANN:** You've met before and I know
11 his client is in the building. I think he will be with us
12 momentarily, sir, if I could just have a moment?

13 **THE COMMISSIONER:** No.

14 (SHORT PAUSE/COURTE PAUSE)

15 **THE COMMISSIONER:** Good morning sir; if you
16 could come forward.

17 Madam Clerk?

18 **JOS VAN DIEPEN:** Sworn/ Assermenté

19 **THE COMMISSIONER:** Thank you.

20 Good morning, sir.

21 **MR. VAN DIEPEN:** Good morning, Your Honour.

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

23 **MR. VAN DIEPEN:** Good.

24 **THE COMMISSIONER:** All right.

25 A few ground rules. This is the microphone;

1 I'd ask you to speak into it. Answer questions to the best
2 of your ability by vocalizing them because everything has
3 to be transcribed. You have some fresh water in a glass,
4 there. No doubt you'll be seeing some documents; we'll
5 give you hard copies and on the screen if you prefer.

6 More importantly, please listen to the
7 question as it's asked and give me your best answer. If
8 you don't understand the question, please let me know.

9 If there's something you feel uncomfortable
10 about, I know that your lawyer is here and the Ministry is
11 here, but I also have a function to make sure that you
12 understand what's going on and you feel comfortable with
13 the process.

14 **MR. VAN DIEPEN:** Thank you.

15 **THE COMMISSIONER:** So if at any time you
16 have any problems, just look over and ask me. All right?

17 **MR. VAN DIEPEN:** Thank you, Your Honour.

18 **THE COMMISSIONER:** Thank you.

19 Mr. Engelmann.

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

21 **PETER ENGELMANN :**

22 **MR. ENGELMANN:** Mr. van Diepen, good
23 morning.

24 **MR. VAN DIEPEN:** Good morning.

25 **MR. ENGELMANN:** If you can't hear me at all

1 at any time, you also have a small speaker just to your
2 right -- just right of the screen.

3 And, as the Commissioner has said, you will
4 be getting, from-time-to-time, hard copies of documents and
5 they'll also appear on the screen.

6 Sir, I understand that you worked for the
7 Ministry of Corrections for many years?

8 **MR. VAN DIEPEN:** That's correct.

9 **MR. ENGELMANN:** And that you've just
10 recently retired?

11 **MR. VAN DIEPEN:** That's correct.

12 **MR. ENGELMANN:** If my memory is correct, you
13 started in approximately September of 1975?

14 **MR. VAN DIEPEN:** That's correct.

15 **MR. ENGELMANN:** And you would have retired
16 this past November, November of 2007?

17 **MR. VAN DIEPEN:** Yes.

18 **MR. ENGELMANN:** So you would have worked
19 with the ministry approximately 32 years and a bit?

20 **MR. VAN DIEPEN:** Yes.

21 **MR. ENGELMANN:** All right. Now, before
22 going elsewhere, I want to just ask you a few questions
23 about your background. I understand you were born in
24 Holland?

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** And that your family
2 immigrated when you were six or seven?

3 **MR. VAN DIEPEN:** Yes.

4 **MR. ENGELMANN:** And did they move to the
5 Cornwall area?

6 **MR. VAN DIEPEN:** Yes.

7 **MR. ENGELMANN:** And can you tell us where?

8 **MR. VAN DIEPEN:** St. Andrews West.

9 **MR. ENGELMANN:** So that's just north and a
10 bit west of the city -- or, north of the City of Cornwall
11 on the 138?

12 **MR. VAN DIEPEN:** Yes.

13 **MR. ENGELMANN:** All right. And is that
14 where you were raised, sir?

15 **MR. VAN DIEPEN:** Yes.

16 **MR. ENGELMANN:** And can you tell us
17 approximately how large a community that is, or was?

18 **MR. VAN DIEPEN:** It's a hamlet ---

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

20 **MR. VAN DIEPEN:** --- probably less than 100
21 houses in the village itself.

22 **MR. ENGELMANN:** Did you go to school there,
23 sir, or did you go to school in Cornwall?

24 **MR. VAN DIEPEN:** Went to Grade 12 at a now
25 dysfunctional high school in St. Andrews. Grade 13 at --

1 in Cornwall.

2 MR. ENGELMANN: All right. So just very
3 quickly, can you tell us the schools you attended, sir? I
4 didn't -- you would have started in about Grade 2 or 3?

5 MR. VAN DIEPEN: I started in Grade 1.

6 MR. ENGELMANN: Here in -- okay.

7 MR. VAN DIEPEN: Very last part of Grade 1
8 in what was then called St. Andrew's School. It became St.
9 Joseph's Elementary School; went to St. Andrew's High
10 School to Grade 12.

11 MR. ENGELMANN: Okay.

12 MR. VAN DIEPEN: Then went to Cornwall
13 Collegiate Vocational School to get Grade 13.

14 MR. ENGELMANN: All right; thank you.
15 And, sir, I understand you are married?

16 MR. VAN DIEPEN: Yes.

17 MR. ENGELMANN: And you have three children?

18 MR. VAN DIEPEN: Yes.

19 MR. ENGELMANN: Boys, girls?

20 MR. VAN DIEPEN: Boy, girl, boy.

21 MR. ENGELMANN: Okay. And are they all
22 adults now?

23 MR. VAN DIEPEN: Yes.

24 MR. ENGELMANN: Sir, I understand that after
25 completing Grade 13 here in the City of Cornwall -- and

1 that would have been in approximately 1969?

2 MR. VAN DIEPEN: Yes.

3 MR. ENGELMANN: Can you try and help with
4 this?

5 MR. VAN DIEPEN: Yes.

6 MR. ENGELMANN: I understand there's an old
7 Curriculum ---

8 MR. VAN DIEPEN: Yeah.

9 MR. ENGELMANN: --- Vitae of yours in your
10 records?

11 MR. VAN DIEPEN: Yeah.

12 MR. ENGELMANN: Madam Clerk, it's Document
13 Number 101231. It's identified in the cross documents.
14 If that could be the next exhibit, Mr.
15 Commissioner?

16 THE COMMISSIONER: Yes, sir. Thank you.

17 Exhibit Number 1167 is a Curriculum Vitae of
18 Jos van Diepen.

19 --- EXHIBIT NO./PIÈCE NO. P-1167:

20 (101231) Curriculum Vitae of Jos van Diepen

21 MR. ENGELMANN: Sir, do you have a copy of
22 this exhibit now?

23 MR. VAN DIEPEN: Yes.

24 MR. ENGELMANN: All right. And just before
25 I ask you a few more questions about your educational

1 background, do you know approximately when this CV was
2 prepared?

3 MR. VAN DIEPEN: No idea.

4 MR. ENGELMANN: All right. The last
5 reference -- do you know when you would have last seen it
6 until just recently?

7 MR. VAN DIEPEN: I just -- I saw it about 10
8 minutes ago.

9 MR. ENGELMANN: Okay. The last course
10 reference under "Special Courses" on the third page is
11 1979.

12 Do you know if you would have been applying
13 for any type of a job either within the department or
14 outside the department ---

15 MR. VAN DIEPEN: Don't know.

16 MR. ENGELMANN: --- or shortly thereafter?
17 All right.

18 This is an old Curriculum Vitae of yours,
19 however, is it not?

20 MR. VAN DIEPEN: It appears to be.

21 MR. ENGELMANN: Right. And at the time,
22 presumably, you would have made an effort to make sure the
23 information in it was accurate?

24 MR. VAN DIEPEN: Yes.

25 MR. ENGELMANN: All right. So just going

1 back then to your schooling, it appears after you graduated
2 from Cornwall Collegiate and Vocational School in June of
3 '69 you did some university education?

4 MR. VAN DIEPEN: Yes.

5 MR. ENGELMANN: And you've listed Faculty of
6 Arts and Science, University of Windsor, and you obtained a
7 Bachelor of Arts in -- within two years?

8 MR. VAN DIEPEN: Yes.

9 MR. ENGELMANN: And that would have been in
10 May of 1971 and -- is that correct?

11 MR. VAN DIEPEN: Yes.

12 MR. ENGELMANN: And then you did some
13 graduate studies at Queen's University in Kingston?

14 MR. VAN DIEPEN: Yes.

15 MR. ENGELMANN: All right. You did not
16 finish a Master's program I presume?

17 MR. VAN DIEPEN: I did not.

18 MR. ENGELMANN: All right. And, sir, after
19 that you've listed a number of courses that you had taken,
20 under "Special Courses"?

21 MR. VAN DIEPEN: Yes.

22 MR. ENGELMANN: And these would have been
23 courses while you were employed by the Ministry? Am I
24 correct?

25 MR. VAN DIEPEN: I'm just looking them over.

1 Yes.

2 **MR. ENGELMANN:** Okay. And, sir, some of
3 your employment record is indicated in the CV, including
4 the fact that you worked for approximately three years as
5 an insurance officer with the Cornwall Unemployment
6 Insurance Commission?

7 **MR. VAN DIEPEN:** Yes.

8 **MR. ENGELMANN:** Would that have been part of
9 what was then known as CEIC -- the Federal Canada
10 Employment Immigration Commission?

11 **MR. VAN DIEPEN:** No. At that time it was
12 called the Unemployment Insurance Commission.

13 **MR. ENGELMANN:** Okay. But was that a
14 federal entity?

15 **MR. VAN DIEPEN:** Yeah.

16 **MR. ENGELMANN:** All right. And after that,
17 you've listed your employment as a Probation and Parole
18 Pfficer and it says:

19 "From September '76 to present,
20 Probation and Parole Officer in
21 Cornwall."

22 And it also includes a reference to one year
23 as a Probation and Parole Officer in Kingston?

24 **MR. VAN DIEPEN:** Yes.

25 **MR. ENGELMANN:** All right. And in Kingston,

1 did you -- it appears you had occasion to work in Cornwall
2 according to the CV in any event?

3 MR. VAN DIEPEN: Yes.

4 MR. ENGELMANN: Can you explain that, sir?

5 MR. VAN DIEPEN: I was hired as a
6 replacement in Kingston to fill a vacant -- a vacancy.
7 However, Cornwall was experiencing a workload influx and
8 almost from the day I started, I would come down -- in
9 addition to my duties in Kingston, I would come down one
10 week a month and help with the backlog of pre-sentence
11 reports.

12 MR. ENGELMANN: All right. I'll go into the
13 whole employment issue just a bit later. But I just
14 noticed that on the CV so I wanted to ask you about it.

15 So getting back to your upbringing here then
16 in the Cornwall area, you attended local schools. Did your
17 family attend any type of religious institution?

18 MR. VAN DIEPEN: You mean church?

19 MR. ENGELMANN: Church.

20 MR. VAN DIEPEN: Yes.

21 MR. ENGELMANN: And what denomination sir?

22 MR. VAN DIEPEN: Roman Catholic.

23 MR. ENGELMANN: All right. Do you remember
24 what parish it would have been?

25 MR. VAN DIEPEN: St. Andrew's.

1 **MR. ENGELMANN:** All right. Sir, were you
2 ever an altar boy?

3 **MR. VAN DIEPEN:** Yes.

4 **MR. ENGELMANN:** And do you remember what
5 ages approximately?

6 **MR. VAN DIEPEN:** From Grade 1.

7 **MR. ENGELMANN:** Okay. Until?

8 **MR. VAN DIEPEN:** I don't know, I don't
9 recall exactly but it would have been until you get to that
10 awkward age, I guess.

11 **MR. ENGELMANN:** Twelve (12), 13, 14?

12 **MR. VAN DIEPEN:** Yeah.

13 **MR. ENGELMANN:** All right. Have you
14 continued to practice religion in your adult life?

15 **MR. VAN DIEPEN:** I presently don't go to
16 church.

17 **MR. ENGELMANN:** Okay. Were you ever
18 involved in the Knights of Columbus as an adult, sir?

19 **MR. VAN DIEPEN:** No.

20 **MR. ENGELMANN:** All right. Sir, I just want
21 to ask you a few questions about preparation for giving
22 your evidence today. And I just want to ask you if you've
23 had an opportunity to review some evidence or statements;
24 in particular, there were statements you gave to the OPP in
25 1994 and 1998. Would you have had an opportunity to review

1 those?

2 MR. VAN DIEPEN: Yes.

3 MR. ENGELMANN: All right. And, sir, there
4 was also apparently an interview done with you in 1995 by
5 an OPP officer, or some brief notes; would you have had an
6 opportunity to review those?

7 MR. VAN DIEPEN: Yes.

8 MR. ENGELMANN: All right. And I'll ask you
9 about your recollection about these various things. There
10 was a statement you gave to Mr. Downing, a Paul Downing, in
11 the fall of 2000?

12 MR. VAN DIEPEN: Yes.

13 MR. ENGELMANN: There are a number of other
14 documents relating to you and your colleagues concerning
15 these matters. Some may only have been provided to your
16 counsel this week, some earlier. Have you had an
17 opportunity to review some other documents?

18 MR. VAN DIEPEN: Yes.

19 MR. ENGELMANN: All right. And if you
20 haven't when I ask you questions, or other counsels, please
21 just indicate and you'll have an opportunity to review
22 them. Whether you have or not, if you could let us know if
23 you have.

24 And have you had any chance to review any
25 transcripts of evidence of some of the other witnesses?

1 MR. VAN DIEPEN: Yes.

2 MR. ENGELMANN: Okay. And I don't know if
3 you've had occasion to be here in person or to view some of
4 this on the website?

5 MR. VAN DIEPEN: No.

6 MR. ENGELMANN: All right. Have you had any
7 opportunity or have you spoken to individuals who've given
8 evidence here or colleagues, et cetera?

9 MR. VAN DIEPEN: No.

10 MR. ENGELMANN: All right. And sir, much of
11 what I'm going to ask you about takes place many years ago;
12 some of it late '70s, early '80s so as long as almost 30
13 years. And what we'll try and do is refresh your memory by
14 taking you to some documents.

15 I presume you'd agree with me that
16 statements or -- statements that you may have given in '94,
17 for example, about incidents that would have occurred
18 shortly before might be more accurate than your memory
19 today?

20 MR. VAN DIEPEN: Yes.

21 MR. ENGELMANN: And, sir, when you give
22 statements to the police or to a special investigator like
23 Mr. Downing, you would have understood the importance of
24 being truthful?

25 MR. VAN DIEPEN: Yes.

1 **MR. ENGELMANN:** And being complete and
2 accurate in those types of statements and interviews?

3 **MR. VAN DIEPEN:** Yes.

4 **MR. ENGELMANN:** All right. And just to
5 follow up on that, it is my understanding that you would
6 have never been interviewed by prosecutors in preparation
7 for any type of prosecution dealing with allegations of
8 sexual abuse of children involving the Cornwall Probation
9 and Parole Office?

10 **MR. VAN DIEPEN:** I have not.

11 **MR. ENGELMANN:** Right. And you never
12 attended court as a witness for example ---

13 **MR. VAN DIEPEN:** No, I ---

14 **MR. ENGELMANN:** --- in any of the
15 prosecutions ---

16 **MR. VAN DIEPEN:** No.

17 **MR. ENGELMANN:** --- arising from Project
18 Truth of otherwise?

19 **MR. VAN DIEPEN:** None.

20 **MR. ENGELMANN:** All right. So can you give
21 us examples, you've indicated in your employment background
22 that you worked for the Unemployment Insurance Commission?

23 **MR. VAN DIEPEN:** Yes.

24 **MR. ENGELMANN:** Just give us a sense, is
25 that at all related to the work you then did as a probation

1 and parole officer?

2 MR. VAN DIEPEN: No.

3 MR. ENGELMANN: All right. And would that
4 office have been coordinated or connected with other
5 federal agencies in the City of Cornwall?

6 MR. VAN DIEPEN: I don't understand your
7 question.

8 MR. ENGELMANN: Would there be several
9 federal departments that would have had offices or agencies
10 together here in the City of Cornwall when you worked for
11 the UIC?

12 MR. VAN DIEPEN: You mean were they
13 physically located?

14 MR. ENGELMANN: Yes.

15 MR. VAN DIEPEN: No.

16 MR. ENGELMANN: All right. So did you have
17 any interactions with people working for Manpower, for
18 example?

19 MR. VAN DIEPEN: Yes, we did.

20 MR. ENGELMANN: All right.

21 MR. VAN DIEPEN: But most of them by
22 telephone.

23 MR. ENGELMANN: All right. So they weren't
24 located in the same office?

25 MR. VAN DIEPEN: They were -- yeah, they

1 were separate buildings all together.

2 **MR. ENGELMANN:** And what kind of contacts
3 would you have had with people working for Canada Manpower?

4 **MR. VAN DIEPEN:** Ninety-nine (99) percent
5 telephone.

6 **MR. ENGELMANN:** All right. Concerning?

7 **MR. VAN DIEPEN:** Employment issues.

8 **MR. ENGELMANN:** Okay. Would you have any
9 interaction with a fellow by the name of Richard Hickerson

10 ---

11 **MR. VAN DIEPEN:** Yes.

12 **MR. ENGELMANN:** --- who worked there?

13 **MR. VAN DIEPEN:** Yes.

14 **MR. ENGELMANN:** Can you describe those
15 interactions either professional or otherwise?

16 **MR. VAN DIEPEN:** He was the employment
17 counsellor; he -- at one time, he was the go-to person to
18 obtain labour marketing information.

19 **THE COMMISSIONER:** Did you ever see him on a
20 social basis?

21 **MR. VAN DIEPEN:** Never.

22 **MR. ENGELMANN:** I'll just be a moment.

23 After you were already working at Probation,
24 did you sometime later receive information about Mr.
25 Hickerson from a probationer?

1 **MR. VAN DIEPEN:** That I don't recall. If
2 you're asking me did I receive information about Mr.
3 Hickerson vis-à-vis breach of trust issues?

4 **MR. ENGELMANN:** Yes.

5 **MR. VAN DIEPEN:** Yes. From whom, I don't
6 recall and when, I don't recall.

7 **MR. ENGELMANN:** And when you say, "breach of
8 trust issues," you mean being in a position of authority
9 and perhaps having sexual relationship with ---

10 **MR. VAN DIEPEN:** Yes.

11 **MR. ENGELMANN:** --- a young person?

12 **MR. VAN DIEPEN:** Yes.

13 **MR. ENGELMANN:** All right. Can you comment
14 on when you first met him?

15 **MR. VAN DIEPEN:** I first met Mr. Hickerson
16 when I was -- when I finished my university education. I
17 was looking for a job and I believe he may have been the
18 one that steered me to the job prospect with the Employment
19 Insurance Commission.

20 **MR. ENGELMANN:** You're sure it was him?

21 **MR. VAN DIEPEN:** Oh, I'm not sure, no, but I
22 know that I did meet with him when I was post-university.

23 **MR. ENGELMANN:** All right.

24 **MR. VAN DIEPEN:** And that's how I first knew
25 of him.

1 **MR. ENGELMANN:** All right. And the issue
2 regarding a breach of trust as you called it, do you recall
3 when it would have been during your employment with
4 Corrections that you would have heard that allegation?

5 **MR. VAN DIEPEN:** No, I really, really don't
6 know.

7 **MR. ENGELMANN:** We understand that he
8 committed suicide in approximately 1998 following
9 allegations that had been made against him about alleged
10 sexual abuse of young persons, so it would have been before
11 then. Do you have any sense as to how long before then?

12 **MR. VAN DIEPEN:** No, I'm trying to draw a
13 mental image of the circumstance -- I don't even -- I can't
14 even recall the circumstances.

15 **MR. ENGELMANN:** All right. But it involved
16 a probationer?

17 **MR. VAN DIEPEN:** Again, I don't know.

18 **MR. ENGELMANN:** All right.

19 **MR. VAN DIEPEN:** And it may not have been a
20 probationer just ---

21 **MR. ENGELMANN:** I was just assuming that
22 because of your employment but you're saying you could have
23 found out about this outside the work place.

24 **MR. VAN DIEPEN:** Oh yeah, yeah.

25 **MR. ENGELMANN:** All right. So you start in

1 1975 with the Ministry and your title is that of a
2 probation and parole officer. Correct?

3 MR. VAN DIEPEN: Yes.

4 MR. ENGELMANN: And, you indicated that you
5 worked out of the Kingston office for the first year?
6 You have to say yes or no.

7 MR. VAN DIEPEN: Yes.

8 MR. ENGELMANN: And while you were in
9 Kingston you worked in Cornwall and that varied from
10 perhaps a day or two up to a full week per month?

11 MR. VAN DIEPEN: No, a week a month.

12 MR. ENGELMANN: A week a month. Okay. So
13 during that year you would have come to know your
14 colleagues in the Cornwall office?

15 MR. VAN DIEPEN: That's correct.

16 MR. ENGELMANN: And, as I understand it the
17 two probation officers, well, maybe there were more but the
18 two probation officers in the Cornwall office at the time
19 were Nelson Barque and Ken Seguin?

20 MR. VAN DIEPEN: Yes.

21 MR. ENGELMANN: Were there any others, to
22 your knowledge?

23 MR. VAN DIEPEN: At that time the Ministry
24 had divorced -- or as we call it, they were separated; the
25 Juvenile had it's own management structures separate

1 division and the Adult division had it's own separate
2 structure and management. However, the -- both Juvenile
3 probation and Aftercare officers were -- as they were
4 called then, were still in the same office.

5 **MR. ENGELMANN:** All right. So in the
6 Cornwall office at the time Messrs. Barque and Seguin would
7 be working with those people 16 and up.

8 **MR. VAN DIEPEN:** That's correct.

9 **MR. ENGELMANN:** And there would have been
10 others who would have been assigned to work with younger
11 people?

12 **MR. VAN DIEPEN:** Yes.

13 **MR. ENGELMANN:** And that would have happened
14 shortly before you started with Probations, sir, this
15 separation?

16 **MR. VAN DIEPEN:** Yeah, that -- I believe
17 that would have been in early '74.

18 **MR. ENGELMANN:** And until that time people
19 would deal with both juveniles and adults.

20 **MR. VAN DIEPEN:** Yes. Now my knowledge of
21 that is a little bit muddy but they also had -- they also
22 had an aftercare officer who looked -- people post-
23 institution and I'm not quite sure how that worked.

24 **MR. ENGELMANN:** All right. And I
25 understand, sir, and we'll come to it later but in or

1 around 1984, '85 with the introduction of the *Young*
2 *Offenders Act* you and your colleagues continued to deal
3 with probationers who were 16 and up but the ones that were
4 16 and 17 were no longer referred to as adults.

5 MR. VAN DIEPEN: That's correct.

6 MR. ENGELMANN: Can you give us a sense,
7 sir, during that first year what your responsibilities
8 were?

9 MR. VAN DIEPEN: In terms of?

10 MR. ENGELMANN: Your job. What did you do?

11 MR. VAN DIEPEN: I was a probation and
12 parole officer.

13 MR. ENGELMANN: All right. So that entailed
14 preparation of pre-sentence reports.

15 MR. VAN DIEPEN: Pre-sentence reports, pre-
16 parole reports, supervision of probationers, supervision of
17 parolees, enforcement of probation and parole; that would
18 be the most of it.

19 MR. ENGELMANN: All right. Well, at that
20 time ---

21 MR. VAN DIEPEN: Temporary -- we also used
22 to do with some temporary absences.

23 MR. ENGELMANN: Okay. At that time your
24 title would have been, Level I, PPO if I can use the term?

25 MR. VAN DIEPEN: Yes.

1 **MR. ENGELMANN:** And were you promoted to a
2 Level II PPO after about two years of service?

3 **MR. VAN DIEPEN:** Yes.

4 **MR. ENGELMANN:** All right. And does that
5 involve any change in duties or expansion of duties? Or
6 did it for you?

7 **MR. VAN DIEPEN:** No, not for me.

8 **MR. ENGELMANN:** All right. So the work you
9 did that first year is the work that you did the next year
10 and the year and the year -- that's the work you did?

11 **MR. VAN DIEPEN:** That's correct.

12 **MR. ENGELMANN:** All right. You may have
13 done it in different geographical areas, or with different
14 courts, but the work remained essentially the same?

15 **MR. VAN DIEPEN:** That's correct.

16 **MR. ENGELMANN:** Okay. Was there such a
17 thing as a Level III PPO?

18 **MR. VAN DIEPEN:** Yes.

19 **MR. ENGELMANN:** And what's the distinction
20 between the Level II and a Level III?

21 **MR. VAN DIEPEN:** You better ask the Ministry
22 that one because ---

23 **MR. ENGELMANN:** All right ---

24 **MR. VAN DIEPEN:** --- my understanding of it
25 is there is no -- even though there's a position on paper,

1 the positions are not filled.

2 MR. ENGELMANN: All right. Was there ever
3 such a position while you worked in the Cornwall Office?

4 MR. VAN DIEPEN: Yes.

5 MR. ENGELMANN: Okay.

6 MR. VAN DIEPEN: They were -- I to this --
7 probably you could describe them as a lead hand.

8 MR. ENGELMANN: All right. And was there
9 anybody in that type of a position when you joined the
10 Cornwall Office in 1976?

11 MR. VAN DIEPEN: Yes.

12 MR. ENGELMANN: And who was that?

13 MR. VAN DIEPEN: Kevin Connolly, maybe, but
14 he was in Kingston.

15 MR. ENGELMANN: Okay. Anybody in the
16 Cornwall office?

17 MR. VAN DIEPEN: No.

18 MR. ENGELMANN: And during your employment
19 there, did anybody fill that role?

20 MR. VAN DIEPEN: In Cornwall?

21 MR. ENGELMANN: Yes.

22 MR. VAN DIEPEN: No.

23 MR. ENGELMANN: All right. Well, we've
24 heard that Mr. Seguin had a -- some kind of special role
25 when you came in '76 because there was no on-site

1 supervisor.

2 MR. VAN DIEPEN: That's correct.

3 MR. ENGELMANN: Was he fulfilling that
4 responsibility as a PPO II?

5 MR. VAN DIEPEN: Yeah, he was ---

6 MR. ENGELMANN: To your knowledge.

7 MR. VAN DIEPEN: --- the designated go-to
8 person.

9 MR. ENGELMANN: All right. So he had some
10 responsibilities over and above those of a normal probation
11 officer?

12 MR. VAN DIEPEN: Yes.

13 MR. ENGELMANN: All right. And did that
14 change when you got an on-site supervisor in or around
15 1981?

16 MR. VAN DIEPEN: Oh yes, yeah.

17 MR. ENGELMANN: All right. Just briefly,
18 when you started -- and I'm going to take you through some
19 org charts about who your colleagues were at the time.
20 We've looked at them before with some of your colleagues,
21 but I want to take you through them.

22 Had you known Mr. Seguin before you started
23 working with him in '75?

24 MR. VAN DIEPEN: Yes.

25 MR. ENGELMANN: Right. And can you describe

1 how you knew him, and from when?

2 **MR. VAN DIEPEN:** I was still in school at
3 the time; I don't know how old I was. I'm gonna -- I'm
4 guessing 18, 19 and we were hitchhiking into Cornwall on
5 one evening, weekend evening and Ken Seguin gave us a ride
6 in an old beat up black Volkswagen Beetle and that's how I
7 first met him.

8 **MR. ENGELMANN:** Did he live in St. Andrews
9 at that time?

10 **MR. VAN DIEPEN:** That I don't know. He
11 certainly if he did he would not have lived in St. Andrews
12 in the village. He may have lived at his -- with his
13 mother ---

14 **MR. ENGELMANN:** Yes.

15 **MR. VAN DIEPEN:** --- which would have been
16 approximately two and a half miles east of St. Andrews.

17 **MR. ENGELMANN:** All right. So that would
18 have been in the late '60s, if you were about 18.

19 **MR. VAN DIEPEN:** Yeah. Yeah.

20 **MR. ENGELMANN:** All right. Just to -- yeah.
21 And I -- what kind of a relationship developed between you
22 from then until the time you knew him as a probation
23 officer in '75?

24 **MR. VAN DIEPEN:** I believe I may have met
25 him once in that interim, but other than that no contact.

1 **MR. ENGELMANN:** Right. Well, do you
2 remember how it was you came to know of the job being
3 available through the Ministry of Corrections in 1975?

4 **MR. VAN DIEPEN:** Through Ken Seguin.

5 **MR. ENGELMANN:** All right. So how did that
6 happen, sir?

7 **MR. VAN DIEPEN:** Probably -- I -- my best
8 guesstimate on that would be bumped into each other on the
9 street.

10 **MR. ENGELMANN:** Okay, well you were working
11 at UIC?

12 **MR. VAN DIEPEN:** Yes.

13 **MR. ENGELMANN:** He was working at
14 Corrections?

15 **MR. VAN DIEPEN:** Yeah.

16 **MR. ENGELMANN:** Were they located close to
17 one another?

18 **MR. VAN DIEPEN:** Same building.

19 **MR. ENGELMANN:** Oh, you were in the same
20 building. Okay.

21 **MR. VAN DIEPEN:** Yes.

22 **MR. ENGELMANN:** Okay, so you'd see each
23 other from time to time at work?

24 **MR. VAN DIEPEN:** Yes.

25 **MR. ENGELMANN:** All right. And -- what did

1 he tell you about Corrections? Why would it have
2 interested you?

3 MR. VAN DIEPEN: Well, I -- I was looking
4 for a change.

5 MR. ENGELMANN: That's it? That's all?
6 Nothing special about doing that type of work, or ---

7 MR. VAN DIEPEN: I -- it appeared to be more
8 challenging.

9 MR. ENGELMANN: All right. Had you known
10 Mr. Barque before you started working at the Ministry of
11 Corrections in 1975?

12 MR. VAN DIEPEN: No, I didn't.

13 MR. ENGELMANN: All right. So you only came
14 to know him as a colleague?

15 MR. VAN DIEPEN: Yes.

16 MR. ENGELMANN: And I understood he lived in
17 the St. Andrews area.

18 MR. VAN DIEPEN: Yeah.

19 MR. ENGELMANN: All right. Did he live in
20 the hamlet as you described it?

21 MR. VAN DIEPEN: Yes.

22 MR. ENGELMANN: All right so you didn't know
23 him from there?

24 MR. VAN DIEPEN: No, I didn't.

25 MR. ENGELMANN: Would you have ever spoken

1 to Mr. Robert who became one of your managers, I believe in
2 about '85, about your knowledge or your relationship with
3 either Mr. Seguin or Mr. Barque?

4 **MR. VAN DIEPEN:** You'll have to rephrase
5 that question. I don't follow your question.

6 **MR. ENGELMANN:** Sir, do you remember ever
7 sharing information with Mr. Robert about living in the
8 same area as Nelson Barque or knowing him at all from
9 outside the office?

10 **MR. VAN DIEPEN:** Did I tell Mr. Robert that
11 I knew Mr. Barque?

12 **MR. ENGELMANN:** Yes, from St. Andrew's.

13 **MR. VAN DIEPEN:** Well, Mr. Robert didn't
14 start 'til well after Mr. Barque left the Ministry.

15 **MR. ENGELMANN:** Yes.

16 **THE COMMISSIONER:** So I don't -- and I
17 didn't know Mr. Robert when Nelson Barque was with the
18 Ministry.

19 **MR. ENGELMANN:** Yes.

20 **THE COMMISSIONER:** So I ---

21 **THE COMMISSIONER:** Regardless of the
22 timelines, I guess what he's asking you is, understanding
23 that Barque came well before Mr. Robert, did you ever have
24 a conversation with Mr. Robert about Mr. Barque saying, "Oh
25 yeah, I remember he came from St. Andrews and" ---

1 **MR. VAN DIEPEN:** Oh, I'm sure there were. I
2 mean ---

3 **MR. ENGELMANN:** Did you ever say anything to
4 him about you, Ken and Nelson knowing each other from
5 there? Growing up together, hanging out together, anything
6 like that?

7 **MR. VAN DIEPEN:** Mr. -- no -- Mr. Barque was
8 not from St. Andrews. He might ---

9 **MR. ENGELMANN:** Do you know when he moved
10 there?

11 **MR. VAN DIEPEN:** When I was in university.

12 **MR. ENGELMANN:** Okay.

13 **MR. VAN DIEPEN:** I believe.

14 **MR. ENGELMANN:** All right. During your time
15 as a Probation and Parole Officer in the Cornwall office,
16 you would have supervised individuals who were 16 years of
17 age and older?

18 **MR. VAN DIEPEN:** Yes.

19 **MR. ENGELMANN:** And after as I said, about
20 '84, '85, some of those would have been classified as -- I
21 forget the term, a type of young offender?

22 **MR. VAN DIEPEN:** Phase II young offenders.

23 **MR. ENGELMANN:** Would you have had occasion
24 to supervise both Phase II young offenders and adults
25 offenders?

1 **MR. VAN DIEPEN:** Yes.

2 **MR. ENGELMANN:** And was there any breakdown
3 in the office between who supervised the Phase II young
4 offenders and who supervised the adults or was it based on
5 other criteria?

6 **MR. VAN DIEPEN:** Well, that changed over the
7 years, a number of different ways and different fits, by
8 geography, by assignment, by individuals, so there was no
9 consistency there other than Ron Gendron. When he started
10 or with the implementation with the *Young Offenders Act*, he
11 was designated as the young offender officer at some point
12 subsequent to that for the Cornwall office -- for the
13 Cornwall court.

14 **MR. ENGELMANN:** For the Cornwall court?

15 **MR. VAN DIEPEN:** Yes.

16 **MR. ENGELMANN:** Do you remember
17 approximately when that might have been?

18 **MR. VAN DIEPEN:** No, I don't.

19 **MR. ENGELMANN:** If the witness could be
20 shown Exhibit 1061. These are some org charts, Mr. van
21 Diepen.

22 Now, just so we're clear. These were
23 prepared after the fact by Ministry officials so I'm
24 assuming they're accurate, but if there is something you
25 see that you don't agree with, please feel free to let us

1 know.

2 MR. VAN DIEPEN: M'hm.

3 MR. ENGELMANN: Okay. So just looking at
4 the page with "Cornwall 1974, 340 Pitt Street" on it, it's
5 Bates page 1107894. Do you have that page, sir?

6 MR. VAN DIEPEN: No, I don't.

7 MR. ENGELMANN: It says "Cornwall 1974, 340
8 Pitt Street".

9 MR. VAN DIEPEN: Yes, I see that one but
10 there's no -- I don't see -- there's no page number on it.

11 MR. ENGELMANN: Oh, don't worry about that.
12 That's very small print at top. That's because of our
13 electronic system.

14 MR. VAN DIEPEN: Okay.

15 MR. ENGELMANN: Yeah, it's the one on the
16 screen.

17 MR. VAN DIEPEN: Yes.

18 MR. ENGELMANN: Do you have that?

19 MR. VAN DIEPEN: Yes.

20 MR. ENGELMANN: All right. So this is
21 before you start?

22 MR. VAN DIEPEN: Yes.

23 MR. ENGELMANN: You mentioned a Mr. Mitchell
24 in the Kingston office?

25 MR. VAN DIEPEN: Yes.

1 **MR. ENGELMANN:** You mentioned a Mr. Connolly

2 ---

3 **MR. VAN DIEPEN:** Yes.

4 **MR. ENGELMANN:** --- who was responsible for
5 Cornwall, I guess, at that time?

6 **MR. VAN DIEPEN:** Yes.

7 **MR. ENGELMANN:** And then you see Mr.
8 Seguin's listed, Mr. Barque, and there's a couple of
9 others?

10 **MR. VAN DIEPEN:** M'hm.

11 **MR. ENGELMANN:** Do you know if they were
12 doing the juvenile work at that time, the others or not, or
13 were they there when you arrived?

14 **MR. VAN DIEPEN:** When I arrived one week a
15 month in 1975, Hector Lavoie and Brenda Wisenthal were the
16 juvenile probation after-care officers and they were
17 reporting to a different management structure than shown
18 here.

19 **MR. ENGELMANN:** All right. So the two that
20 were dealing with the same kind of work that you were would
21 have been Seguin and Barque?

22 **MR. VAN DIEPEN:** Yes.

23 **MR. ENGELMANN:** All right. And you see two
24 support staff listed there?

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** And those would be
2 individuals that you would have come to know when you
3 started in 1975 as well?

4 **MR. VAN DIEPEN:** Yes.

5 **MR. ENGELMANN:** And they carried on for some
6 time?

7 **MR. VAN DIEPEN:** Yes.

8 **MR. ENGELMANN:** All right. So then if we
9 look at the next org chart that we have available, 1977?

10 **MR. VAN DIEPEN:** Yes.

11 **MR. ENGELMANN:** We're still at 340 Pitt
12 Street and that's the court building; right?

13 **MR. VAN DIEPEN:** That's correct.

14 **MR. ENGELMANN:** That's what it was known as,
15 the Cornwall Police Service was there ---

16 **MR. VAN DIEPEN:** Yes.

17 **MR. ENGELMANN:** --- and you were there and
18 there may have been some other -- was there an actual
19 courthouse in the building?

20 **MR. VAN DIEPEN:** Yes.

21 **MR. ENGELMANN:** A courtroom?

22 **MR. VAN DIEPEN:** Yes.

23 **MR. ENGELMANN:** And we're still showing Mr.
24 Mitchell, Mr. Connolly, and the three probation officers
25 located here in Cornwall are you, Ken Seguin, and Nelson

1 Barque?

2 MR. VAN DIEPEN: Yes.

3 MR. ENGELMANN: Correct? And, of course,
4 the two support staff, so you're five here in the office?

5 MR. VAN DIEPEN: Yes.

6 MR. ENGELMANN: And this is a time when
7 there was no on-site supervision?

8 MR. VAN DIEPEN: That's correct.

9 MR. ENGELMANN: Can you describe -- this
10 situation would have continued until approximately 1981?

11 MR. VAN DIEPEN: Yes.

12 MR. ENGELMANN: Can you sort of describe the
13 work atmosphere in the office during those first few years?

14 MR. VAN DIEPEN: Good.

15 MR. ENGELMANN: Relationships were
16 collegial?

17 MR. VAN DIEPEN: Yes.

18 MR. ENGELMANN: People got along?

19 MR. VAN DIEPEN: Yes.

20 MR. ENGELMANN: Any difficulty if you had
21 work problems relying on a colleague to assist?

22 MR. VAN DIEPEN: No.

23 MR. ENGELMANN: All right. Nothing
24 remarkable that you can think of as far as work issues?

25 MR. VAN DIEPEN: No. We were right next

1 door to the court and -- so we were just part of a larger
2 justice ---

3 MR. ENGELMANN: Yes.

4 MR. VAN DIEPEN: --- family, I guess you
5 could call, it right across the hall from the Justice of
6 the Peace and, you know, all on the same floor.

7 MR. ENGELMANN: Yes. Right. And would it
8 be fair to say that you and your colleagues would get to
9 know other people working in the justice system?

10 MR. VAN DIEPEN: Well, absolutely.

11 MR. ENGELMANN: And can you give me a sense
12 as to who they would be or their titles? For example,
13 would you get to know the Justice of the Peace?

14 MR. VAN DIEPEN: Oh, yes.

15 MR. ENGELMANN: All right. I think at the
16 time the Justice of the Peace was also the court
17 administrator?

18 MR. VAN DIEPEN: Yes.

19 MR. ENGELMANN: Was that a Mr. Jodoin?

20 MR. VAN DIEPEN: Yes. Keith Jodoin.

21 MR. ENGELMANN: Yeah. So you'd all know
22 him?

23 MR. VAN DIEPEN: Yes.

24 MR. ENGELMANN: All right. Would there be
25 other court officials and/or police officers that you'd get

1 to know just from day-to-day meetings and ---

2 MR. VAN DIEPEN: Oh, yes, yes.

3 MR. ENGELMANN: And would they be
4 exclusively Cornwall police or would you get to know some
5 of the local OPP officers as well?

6 MR. VAN DIEPEN: Local OPP as well.

7 MR. ENGELMANN: All right. And would these
8 be mainly constables, corporals, non-commissioned officers
9 of the police or would there also be dealings with -- and
10 officials that are a bit higher up in the police force?

11 MR. VAN DIEPEN: Well, mostly the police
12 officers who are involved in active investigations.

13 MR. ENGELMANN: Because they would be
14 dealing with some of the same people that you'd be dealing
15 with?

16 MR. VAN DIEPEN: Exactly.

17 MR. ENGELMANN: All right. And depending on
18 the nature of the investigation, some of them could be
19 members of the Criminal Investigation Bureau if it was a
20 more serious crime?

21 MR. VAN DIEPEN: Yes.

22 MR. ENGELMANN: All right.

23 So you'd get to know many of these people on
24 a first-name basis, presumably?

25 MR. VAN DIEPEN: Yes.

1 **MR. ENGELMANN:** What about the -- what about
2 the CAS? Did you have any regular interaction or
3 interaction with either officers or management from
4 Children's Aid Society?

5 **MR. VAN DIEPEN:** Indirectly so, because the
6 CAS were in regular contact with the Juvenile probation
7 officers. So we got to know them and they would have cases
8 in court and so they would be in there.

9 Our office was sort of the drop-in centre.
10 We had a little coffee machine in the back and so we got to
11 meet a lot of people.

12 **MR. ENGELMANN:** All right. And so people
13 like -- would they be officers or would they be more senior
14 people, the CAS -- to your knowledge?

15 **MR. VAN DIEPEN:** Officers, yeah.

16 **MR. ENGELMANN:** And would you also get to
17 know people involved in the school system -- high school,
18 particularly.

19 **MR. VAN DIEPEN:** Through -- you mean --

20 **MR. ENGELMANN:** Through your work.

21 **MR. VAN DIEPEN:** Through my work, yes.

22 **MR. ENGELMANN:** And that would be in both
23 the Catholic and public school systems.

24 **MR. VAN DIEPEN:** There was no Catholic high
25 schools then.

1 MR. ENGELMANN: All right.

2 MR. VAN DIEPEN: We only dealt with 16 and
3 up, so it would be high schools.

4 MR. ENGELMANN: Yeah.

5 MR. VAN DIEPEN: So it would be public high
6 schools.

7 MR. ENGELMANN: Like La Citadelle and others

8 ---

9 MR. VAN DIEPEN: Yes.

10 MR. ENGELMANN: --- here in Cornwall?
11 Okay. And would you have dealings with people from the
12 local Crown's office?

13 MR. VAN DIEPEN: Yes.

14 MR. ENGELMANN: All right. And do you
15 recall who they were at the time?

16 MR. VAN DIEPEN: I'm just trying to think
17 who was the Crown in 1975.

18 Certainly recall Don Johnson.

19 MR. ENGELMANN: Yes.

20 MR. VAN DIEPEN: And I believe he was there
21 in '75 ---

22 MR. ENGELMANN: Yes.

23 MR. VAN DIEPEN: --- but I could be
24 corrected.

25 MR. ENGELMANN: And then later on, it would

1 have been Murray MacDonald?

2 MR. VAN DIEPEN: Yes.

3 MR. ENGELMANN: All right.

4 So you'd have regular interaction with these
5 individuals?

6 MR. VAN DIEPEN: Yes.

7 MR. ENGELMANN: Would there be others in the
8 criminal justice system that you'd be involved with?

9 MR. VAN DIEPEN: Yeah.

10 THE COMMISSIONER: Sir, and just out of
11 point of interest, was Malcolm Macdonald the Crown Attorney
12 in or about that time?

13 MR. ENGELMANN: He was the Crown Attorney
14 until '71 and then, after that, he was -- the federal
15 agents ---

16 THE COMMISSIONER: Okay.

17 MR. ENGELMANN: --- who would have done
18 federal prosecutions.

19 THE COMMISSIONER: All right.

20 So did you come across Malcolm Macdonald as
21 a special prosecutor in those early days for federal --
22 drugs, I suppose, UIC and tax matters?

23 MR. VAN DIEPEN: Malcolm Macdonald was my
24 solicitor.

25 MR. ENGELMANN: Is that the only

1 relationship you would have had with Malcolm Macdonald?

2 MR. VAN DIEPEN: I got to know Mr. MacDonald
3 through our work.

4 MR. ENGELMANN: All right. And did you
5 become friends with him, you and your family?

6 MR. VAN DIEPEN: Yes.

7 MR. ENGELMANN: All right. And do you know
8 approximately when that friendship would have started?

9 MR. VAN DIEPEN: No, I don't.

10 MR. ENGELMANN: Okay. Could it have been
11 when you moved here from Kingston?

12 MR. VAN DIEPEN: Oh, it would be after that.

13 MR. ENGELMANN: All right. Well, at about
14 that time?

15 MR. VAN DIEPEN: Possibly.

16 MR. ENGELMANN: And did you meet him through
17 your colleague, Mr. Seguin?

18 MR. VAN DIEPEN: Yes.

19 MR. ENGELMANN: All right.

20 MR. VAN DIEPEN: And he was a friend of
21 Ken's?

22 MR. VAN DIEPEN: Yes.

23 MR. ENGELMANN: All right. So you got to
24 know him as a friend. You also got to know him, as you
25 said, as a solicitor. It was not through your work as a

1 probation officer.

2 **MR. VAN DIEPEN:** You mean ---

3 **MR. ENGELMANN:** It was not through your work
4 as a probation officer, that you got to know him?

5 **MR. VAN DIEPEN:** Yes -- well, I don't know
6 exactly. I mean, it was -- he was representing some
7 clients, you know.

8 **MR. ENGELMANN:** Okay. So you'd get to know
9 him that way, as well.

10 **MR. VAN DIEPEN:** Yes, yeah.

11 **MR. ENGELMANN:** All right. Just to follow
12 through on the exhibit if I can, for a minute, Mr. van
13 Diepen.

14 In 1980, we still have you at 340 Pitt
15 Street. We've got an area manager from Kingston, by the
16 name of Bill Groten or Groten.

17 **MR. VAN DIEPEN:** Groten.

18 **MR. ENGELMANN:** Okay. And there seems to be
19 a fourth probation officer added, Mr. Rousseau.

20 **MR. VAN DIEPEN:** M'hm.

21 **MR. ENGELMANN:** Was he doing full probation
22 officer duties at that time?

23 **MR. VAN DIEPEN:** In 1988, I don't believe
24 so.

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

1 And he'd come over from a different part of
2 the Ministry; is that correct?

3 **MR. VAN DIEPEN:** Yes.

4 **MR. ENGELMANN:** And then, the next org chart
5 is from '82, when we have you moving to 502 Pitt Street.

6 **MR. VAN DIEPEN:** Yes.

7 **MR. ENGELMANN:** And this is now a block or
8 two away from the court building?

9 **MR. VAN DIEPEN:** Yes.

10 **MR. ENGELMANN:** All right; presumably a bit
11 further north on Pitt Street?

12 **MR. VAN DIEPEN:** Yes.

13 **MR. ENGELMANN:** And who was located in that
14 building, sir, when your office moved there?

15 **MR. VAN DIEPEN:** CMHC were on the same floor
16 as us. There was a private financial counsellor investment
17 individual on our floor.

18 The RCMP moved -- very shortly after us
19 moved in on -- we were on the second floor. The RCMP were
20 on the first floor and there were a number of lawyers --
21 Malcolm Macdonald and I think it was Mike Astley. Was it
22 Mike Astley? It was another lawyer, and I believe another
23 financial agency were down in the basement.

24 **MR. ENGELMANN:** Okay. And they were there
25 when you moved? They didn't come afterwards; they were

1 there when you moved in?

2 **MR. VAN DIEPEN:** Who?

3 **MR. ENGELMANN:** The lawyers in the basement?

4 **MR. VAN DIEPEN:** That was sort of a mixed
5 bag, I believe. I -- if memory serves me right, Mr. Astley
6 was -- I think that was his name, he was there. And
7 coincident with us moving, that financial agency moved in.
8 Malcolm Macdonald would have moved in quite a bit later.

9 **MR. ENGELMANN:** He moved in after you?

10 **MR. VAN DIEPEN:** Yeah.

11 **MR. ENGELMANN:** Where -- do you know where
12 his office had been located, before then?

13 **MR. VAN DIEPEN:** We had a -- believe he had
14 an office on Fourth Street.

15 **MR. ENGELMANN:** Within a couple of years, by
16 the mid-'80s he was in the building; is that fair?

17 **MR. VAN DIEPEN:** Yes.

18 **MR. ENGELMANN:** But in the basement?

19 **MR. VAN DIEPEN:** Yes.

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

21 And did you come to know of another
22 individual who shared or rented space from him, in the mid
23 to late '80s? And he's identified here with a moniker and
24 I don't know if the witness has a ---

25 **THE COMMISSIONER:** No; I think what we

1 should be doing is just writing the name down.

2 MR. ENGELMANN: Yeah, that's -- yeah.

3 C-8.

4 MR. VAN DIEPEN: My understanding of C-8 was
5 that he was there very briefly, and towards the end of Mr.
6 MacDonald's practice.

7 MR. ENGELMANN: Okay. So ---

8 THE COMMISSIONER: So can you just confirm -
9 - just look at that ---

10 MR. VAN DIEPEN: Yes.

11 THE COMMISSIONER: And that's who you state
12 is C-8?

13 MR. VAN DIEPEN: Yes.

14 THE COMMISSIONER: Yeah, all right.

15 MR. ENGELMANN: And sir, by 1982, we note
16 that Peter Sirrs is the area manager in Cornwall.

17 MR. VAN DIEPEN: Yes.

18 MR. ENGELMANN: So he's an on-site
19 supervisor?

20 MR. VAN DIEPEN: Yes.

21 MR. ENGELMANN: My understanding is, he
22 arrived some time the previous year, in 1981.

23 MR. VAN DIEPEN: No, I believe he arrived --
24 he arrived coincident with -- pretty much coincident with
25 our relocation.

1 **MR. ENGELMANN:** Okay; well he's given
2 evidence that he was in the office in the court building
3 for a few months just before the move.

4 **MR. VAN DIEPEN:** No, I don't believe so.
5 He never -- he visited Cornwall perhaps a
6 day or two before our relocation.

7 **MR. ENGELMANN:** Do you remember when in 1981
8 you relocated?

9 **MR. VAN DIEPEN:** No, I don't.

10 **MR. ENGELMANN:** Okay.
11 The staff that came over though, is it the
12 staff that's listed on the org chart for 1982?

13 **MR. VAN DIEPEN:** It would have been the same
14 people.

15 **MR. ENGELMANN:** Right.

16 **MR. VAN DIEPEN:** You have -- yeah. The
17 addition of Lise Bourgon that would have been -- yeah.

18 **MR. ENGELMANN:** You're not sure if she was
19 with you before the move or not?

20 **MR. VAN DIEPEN:** She didn't come over with
21 the move.

22 **MR. ENGELMANN:** All right. So she was hired
23 post-move.

24 **MR. VAN DIEPEN:** Well, what happened was
25 that Marcelle Leger became Peter Sirrs' administrative

1 clerk and that would have been post-move. And that created
2 the vacancy for -- as a support staff, and Lise Bourgon was
3 hired.

4 **MR. ENGELMANN:** Sir, I note, and I don't
5 think you mentioned this, but there were people from COMSOC
6 with you at 502 Pitt?

7 **MR. VAN DIEPEN:** Yes. They had their own --
8 they had their own office space.

9 **MR. ENGELMANN:** Was it more separate than it
10 had been before?

11 **MR. VAN DIEPEN:** Yes, it was, see, they had
12 their own -- they had their own entrance, but there was a
13 cross walkway between the two.

14 **MR. ENGELMANN:** Right.

15 **MR. VAN DIEPEN:** And they had some kind of --
16 -- the ministries had some kind of a sharing of expenses,
17 photocopier and stuff like that.

18 **MR. ENGELMANN:** All right. So then in late
19 1984 -- I'm looking at the next org chart '84 -- we have
20 Leo White as the Area Manager?

21 **MR. VAN DIEPEN:** Yes.

22 **MR. ENGELMANN:** Would your agree, sir, that
23 Mr. Sirrs left in approximately December of 2004 -- sorry,
24 1984, there's a typo on the document?

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** All right. And, again, at
2 this point, you seem to have additional probation officers.
3 For example, at this point, we see Mr. Gendron's name?

4 **MR. VAN DIEPEN:** Yes.

5 **MR. ENGELMANN:** And also someone by the name
6 of Terry McDonald?

7 **MR. VAN DIEPEN:** Yes.

8 **MR. ENGELMANN:** And you had Nelson Barque
9 replaced by Carole Cardinal?

10 **MR. VAN DIEPEN:** Yes.

11 **MR. ENGELMANN:** And, sir, then the next org
12 chart 1985, the change we see is we don't have Mr. White
13 any longer. We have Emile Robert as the Area Manager;
14 correct?

15 **MR. VAN DIEPEN:** Yes.

16 **MR. ENGELMANN:** And we see a similar
17 organization in 1988 and then again in 1991. And in 1993,
18 we have an illegible -- part of it is illegible, and I
19 understand that Mr. Seguin is listed in that part. You are
20 listed in that part with one or two others as being in the
21 Cornwall probation office, again at 502 Pitt Street?

22 **MR. VAN DIEPEN:** Yeah, I can -- neither my
23 copy or your ---

24 **MR. ENGELMANN:** Yes.

25 **MR. VAN DIEPEN:** --- screen show the

1 individuals, but ---

2 MR. ENGELMANN: Yes, they were identified to
3 us at one time and I can't remember off the top of my head.

4 MR. VAN DIEPEN: Okay.

5 MR. ENGELMANN: One of them was Don Billard,
6 I think.

7 MR. VAN DIEPEN: Don Billard, yes.

8 MR. ENGELMANN: Sorry? Billard?

9 MR. VAN DIEPEN: Billard.

10 MR. ENGELMANN: Okay. Sir, you continue to
11 be listed on the org chart -- sorry, yes, Jos van Diepen,
12 Ken Seguin, Don Billard and Ron Gendron are the four names?

13 MR. VAN DIEPEN: Okay.

14 MR. ENGELMANN: And you are all probation or
15 parole officers?

16 MR. VAN DIEPEN: Yes.

17 MR. ENGELMANN: So we've seen considerable
18 expansion of the staff?

19 MR. VAN DIEPEN: Yes.

20 MR. ENGELMANN: Is that fair?

21 MR. VAN DIEPEN: Yes.

22 MR. ENGELMANN: And then in 1999, again we
23 show eight probation and parole officers, but we have a new
24 Area Manager now, that being Claude Legault?

25 MR. VAN DIEPEN: Yes.

1 **MR. ENGELMANN:** And he would have also been
2 a manager for you then?

3 **MR. VAN DIEPEN:** Yes -- yes.

4 **MR. ENGELMANN:** In 2001, you're shown as
5 being replaced by a Veronique Vaillant? Do you see that?
6 The middle column?

7 **MR. VAN DIEPEN:** Oh, Veronique Vaillant?

8 **MR. ENGELMANN:** Yes.

9 **MR. VAN DIEPEN:** Yes.

10 **MR. ENGELMANN:** And at that point, you were
11 working elsewhere for the Ministry. Is that fair?

12 **MR. VAN DIEPEN:** Yes.

13 **MR. ENGELMANN:** Not in Cornwall?

14 **MR. VAN DIEPEN:** Yes.

15 **MR. ENGELMANN:** And the same is true of the
16 org chart for 2002?

17 **MR. VAN DIEPEN:** I was not in Cornwall at
18 that time.

19 **MR. ENGELMANN:** But by 2006, you are back in
20 Cornwall?

21 **MR. VAN DIEPEN:** Yes.

22 **MR. ENGELMANN:** There's some reference to a
23 Claire Roy, and Jos van Diepen, it says, accommodation, but
24 you're on staff in Cornwall in 2006?

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** All right. And Mr. Legault
2 continues to be the Area Manager; correct?

3 **MR. VAN DIEPEN:** Yes.

4 **MR. ENGELMANN:** So of all of the probation
5 officers that we've had testify, and we have had your
6 colleagues like Carole Cardinal and Ron Gendron testify,
7 you would be the longest serving of the three?

8 **MR. VAN DIEPEN:** Yes.

9 **MR. ENGELMANN:** And, in addition, you would
10 have worked with Mr. Barque from 1975 until he left in
11 1982?

12 **MR. VAN DIEPEN:** Yes.

13 **MR. ENGELMANN:** And you would have worked
14 with Mr. Seguin from 1975 until the end of November of '93,
15 when he died?

16 **MR. VAN DIEPEN:** Yes.

17 **MR. ENGELMANN:** Can you give us a sense,
18 sir, over the period of time you've worked in the office,
19 would the atmosphere in the office change from time-to-
20 time?

21 **MR. VAN DIEPEN:** Yes.

22 **MR. ENGELMANN:** And you talked about
23 collegiality and a good working relationship in the late
24 '70s?

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** Did that change at all in
2 the early '80s with the advent of an on-site supervisor?

3 **MR. VAN DIEPEN:** At times there were
4 strained relationships in the Cornwall office with Mr.
5 Sirrs as their supervisor. When we had Leo White as the
6 supervisor, that -- things were quite amicable. And then
7 Mr. Robert came and things deteriorated again.

8 **MR. ENGELMANN:** So there were ups and downs?

9 **MR. VAN DIEPEN:** Yes.

10 **MR. ENGELMANN:** Ebbs and flows?

11 **MR. VAN DIEPEN:** And day-to-day.

12 **MR. ENGELMANN:** What about the camaraderie
13 within the office? Would people socialise outside of the
14 office?

15 **MR. VAN DIEPEN:** Generally -- generally not.
16 There ---

17 **MR. ENGELMANN:** Let's talk about different
18 timeframes maybe, because it's a long time.

19 **MR. VAN DIEPEN:** Right.

20 **MR. ENGELMANN:** Over 30 years.

21 **MR. VAN DIEPEN:** Right.

22 **MR. ENGELMANN:** That first timeframe, '75 to
23 '81, when you were fairly close-knitted, if I can use the
24 term. There was just five of you. There's no on-site
25 supervisor. Would you socialise at all the five of you

1 outside of the office?

2 MR. VAN DIEPEN: The five of us, no.

3 MR. ENGELMANN: Well, parts of the five of
4 you?

5 MR. VAN DIEPEN: The only -- we used to work
6 late at night -- well, late at night. We'd have clients
7 reporting in the evenings and we would have a -- so we
8 would be open in the evenings to accommodate those people
9 to report and ---

10 MR. ENGELMANN: Would that, again, be one
11 evening a week or would it be more often?

12 MR. VAN DIEPEN: It was generally, if my
13 memory serves me right, it was the last Thursday of the
14 month.

15 MR. ENGELMANN: So just once a month?

16 MR. VAN DIEPEN: Well, it changed ---

17 MR. ENGELMANN: Or would there be some ---

18 MR. VAN DIEPEN: --- it changed, but back
19 then it was the last Thursday of the month. And after
20 those, on some occasions, Ken Seguin and I would go for a
21 beer at a local hotel.

22 MR. ENGELMANN: Would you, when you worked
23 evenings, would it just be two of you or would there be
24 more people from the office? Was there some kind of
25 protocol?

1 MR. VAN DIEPEN: Everybody was there.

2 MR. ENGELMANN: Everybody?

3 MR. VAN DIEPEN: Yeah.

4 MR. ENGELMANN: Okay.

5 MR. VAN DIEPEN: Generally, there was --

6 you're talking back in ---

7 MR. ENGELMANN: Yeah, the first part, '75 to

8 '81.

9 MR. VAN DIEPEN: Yeah, the three of us would

10 be in the office, seeing clients reporting in the evening.

11 MR. ENGELMANN: All right.

12 MR. VAN DIEPEN: No support staff and no

13 juvenile probation officers.

14 MR. ENGELMANN: Would there also be evening

15 appointments from time-to-time to accommodate some of these

16 probationers?

17 MR. VAN DIEPEN: That's what that Thursday

18 night was for.

19 MR. ENGELMANN: Once a month?

20 MR. VAN DIEPEN: Yes.

21 MR. ENGELMANN: No other meetings that you

22 knew of that took place in the evenings with probationers?

23 MR. VAN DIEPEN: No.

24 MR. ENGELMANN: All right. Are you speaking

25 for yourself or are you speaking for yourself and your

1 colleagues when you say that?

2 MR. VAN DIEPEN: Well, there is subsequent
3 to -- or later, I've been made aware of certain events that
4 I was not aware of at the time, but I certainly did not --
5 I was not aware of any kind of use of the office outside of
6 the designated timeframes, and I didn't use the office
7 outside those designated timeframes.

8 MR. ENGELMANN: So what were the designated
9 timeframes that you thought were in place?

10 MR. VAN DIEPEN: The Thursday -- last
11 Thursday of the month.

12 MR. ENGELMANN: All right. Otherwise,
13 people were done seeing probationers at what time?

14 MR. VAN DIEPEN: When the office closed.

15 MR. ENGELMANN: Which was?

16 MR. VAN DIEPEN: A quarter-to-five, and, you
17 know, when I say a quarter-to-five, you're in the middle of
18 an interview that may take you to five-thirty or a quarter-
19 to-six, and you may be the last person leaving the office,
20 but generally business hours.

21 MR. ENGELMANN: So you learned subsequently
22 that one or more of your colleagues would see probationers
23 after hours more routinely?

24 MR. VAN DIEPEN: I didn't use the word more
25 routinely. I just -- I -- I was made aware of incidents

1 where there were probation officers -- or that Mr. Barque
2 was in the probation office with, I believe, clients at
3 other times.

4 **MR. ENGELMANN:** And how would you have
5 become aware of that, sir?

6 **MR. VAN DIEPEN:** I believe it's just that
7 rumour mill.

8 **THE COMMISSIONER:** Is that while Mr. Barque
9 was still working there?

10 **MR. VAN DIEPEN:** Yes.

11 **THE COMMISSIONER:** M'hm. So what was the
12 rumour?

13 **MR. VAN DIEPEN:** Mr. Barque was with a
14 client in the -- in his office and the janitor came in to
15 clean and the janitor apparently gave some evidence to the
16 police regarding finding Mr. Barque in his office with no -
17 - with a client and no one else there.

18 **MR. ENGELMANN:** Is there any more to it than
19 that? Any comments about whether he was fully clothed;
20 issues of that nature?

21 **MR. VAN DIEPEN:** I don't remember.

22 **THE COMMISSIONER:** All right. So as a
23 result of that rumour, was there any discussion about that
24 amongst your colleagues.

25 **MR. VAN DIEPEN:** Well, this is post -- this

1 is post ---

2 **MR. ENGELMANN:** Yes, I should clarify that,
3 Your Honour. This was post Barque's departure from the
4 Ministry.

5 **THE COMMISSIONER:** Okay, well, we'll deal
6 with that whenever ---

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

8 **THE COMMISSIONER:** You deal with it when you
9 want.

10 **MR. ENGELMANN:** So just -- just so that I've
11 got it clear then, so these first six years when there were
12 just the five of you in the office and the three probation
13 officers, the only time you would socialize with any of
14 them was a beer sort of once a month with Seguin?

15 **MR. VAN DIEPEN:** Well, and it wouldn't be
16 once a month. It would be -- it would be occasionally and
17 it would be with Mr. Barque only, and the only other social
18 interaction we had was the Christmas party.

19 **MR. ENGELMANN:** With Mr. Barque only or with
20 Mr. Seguin only? I'm sorry, I missed -- you said initially
21 that you'd have a beer after the Thursday night with Mr.
22 Seguin.

23 **MR. VAN DIEPEN:** Seguin.

24 **MR. ENGELMANN:** Now you said with Mr.
25 Barque.

1 **MR. VAN DIEPEN:** Oh, I'm sorry. I meant
2 Seguin, yes. Mr. Barque never -- didn't socialize with us
3 and neither did the other staff go out for a beer with us
4 and the only other engagement was, like I say, Christmas
5 party.

6 **MR. ENGELMANN:** All right. So you didn't
7 socialize with anybody except Mr. Seguin and it was rare.

8 **MR. VAN DIEPEN:** Yes.

9 **MR. ENGELMANN:** That's your evidence?

10 **MR. VAN DIEPEN:** Yes.

11 **MR. ENGELMANN:** And what about from 1981
12 until 1985 when Mr. Robert comes in as your manager, any --
13 how would you describe the situation at that time with
14 respect to whether the staff would do anything together
15 after hours.

16 **THE COMMISSIONER:** Are we talking about when
17 Mr. Sirrs was the manager?

18 **MR. ENGELMANN:** Yes.

19 **MR. VAN DIEPEN:** We generally didn't
20 socialize together. I went a couple of times after work
21 with Ron Gendron for a beer.

22 **MR. ENGELMANN:** Okay. Well, he wouldn't
23 have started until a bit later in that timeframe; right,
24 about '84?

25 **MR. VAN DIEPEN:** I'll take your word on

1 that.

2 **MR. ENGELMANN:** And Mr. Seguin, did you
3 continue to see him now and then?

4 **MR. VAN DIEPEN:** I believe that by that
5 point it would have been -- no, I don't think I was going
6 for -- he would've joined us.

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

8 **MR. VAN DIEPEN:** No.

9 **THE COMMISSIONER:** You don't believe he
10 joined us?

11 **MR. VAN DIEPEN:** No, it would be just Ron
12 and I.

13 **THE COMMISSIONER:** Oh, okay.

14 **MR. ENGELMANN:** So you didn't socialize with
15 him at all during that timeframe, '81 to ---

16 **MR. VAN DIEPEN:** Well, like I -- you know --
17 at all -- there was a transition there where I believe, if
18 memory serves me right, I was going -- before I'd go for a
19 couple of beers with Ken after -- occasionally and
20 subsequently with Ron and there might have been one or two
21 occasions where the three of us would have gone for a beer.

22 **THE COMMISSIONER:** All right.

23 **MR. ENGELMANN:** But just getting back to Mr.
24 Barque, you say that you -- no social activity outside the
25 office at all whether with him or with him and Mr. Seguin;

1 right?

2 **MR. VAN DIEPEN:** Well, I don't know about
3 the relationship between Seguin and Barque, but certainly
4 not with me and Barque; not the three of us.

5 **MR. ENGELMANN:** All right. And did you have
6 a sense of what the relationship was like between Mr.
7 Barque and Mr. Seguin?

8 **MR. VAN DIEPEN:** Cordial.

9 **MR. ENGELMANN:** Okay. Just professional?
10 Do you know if they were friends; did they socialize
11 outside the office?

12 **MR. VAN DIEPEN:** No, they did not socialize;
13 not that I'm aware of.

14 **MR. ENGELMANN:** And between 1985 and 1993,
15 Mr. Robert is your supervisor. Give us a sense as to --
16 the office is slightly larger, but you're still not a large
17 group. Do you socialize with anybody from your office
18 during that timeframe?

19 **MR. VAN DIEPEN:** Ron Gendron and Sue
20 Larivière.

21 **MR. ENGELMANN:** So Sue starts in 1990, so
22 aside from her and Mr. Gendron, you don't socialize with
23 other staff at all?

24 **MR. VAN DIEPEN:** No.

25 **MR. ENGELMANN:** Okay. And we'll get into

1 some of the working relationships with Mr. Robert a bit
2 later. So what you're saying to us is effectively after
3 1985, you're not socializing at all with Mr. Seguin?

4 **MR. VAN DIEPEN:** That -- yes.

5 **MR. ENGELMANN:** That's your evidence.

6 **MR. VAN DIEPEN:** Yes. I -- you're saying
7 1985; I mean, if you told me it would be 1986 or 1984 or
8 some other year ---

9 **THE COMMISSIONER:** Accepting that ---

10 **MR. VAN DIEPEN:** Yes.

11 **THE COMMISSIONER:** --- what you're saying is
12 that the brief encounters that you had with him previously
13 ---

14 **MR. VAN DIEPEN:** Ceased.

15 **THE COMMISSIONER:** --- declined, ceased and
16 for purposes of this Inquiry, it doesn't mean that you may
17 not have gone on one occasion in a blue moon for a beer,
18 but generally speaking, not.

19 **MR. VAN DIEPEN:** Yes.

20 **THE COMMISSIONER:** All right.

21 **MR. VAN DIEPEN:** Yes, Your Honour.

22 **MR. ENGELMANN:** All right. Your
23 relationship during the workday with Mr. Seguin, did you
24 often go for lunch with him?

25 **MR. VAN DIEPEN:** Not often.

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

2 **MR. VAN DIEPEN:** But -- but we did go for
3 lunch. I tended to join Mr. Seguin -- it was a whole group
4 of us that went for lunch on Friday noons and I would
5 occasionally go for lunch with -- join this group,
6 including Mr. Seguin, on Friday afternoons.

7 **MR. ENGELMANN:** This is at Harv's Diner?

8 **MR. VAN DIEPEN:** Yes.

9 **MR. ENGELMANN:** And can you give us a sense
10 as to who was part of the group that would have lunch
11 together?

12 **MR. VAN DIEPEN:** Oh, there'd be -- that
13 group would -- that group would vary. There were a number
14 of different players would show up.

15 **MR. ENGELMANN:** Malcolm MacDonald was a
16 regular?

17 **MR. VAN DIEPEN:** Yes.

18 **MR. ENGELMANN:** Ron Wilson was a regular?

19 **MR. VAN DIEPEN:** Ah, yes, but he wasn't
20 there -- I mean when I was there, Malcolm wasn't always
21 there, but generally was. Ron Wilson was there less
22 regularly so.

23 **MR. ENGELMANN:** Ken was there?

24 **MR. VAN DIEPEN:** Yes.

25 **MR. ENGELMANN:** C-8 was there?

1 **MR. VAN DIEPEN:** Only a couple of times.

2 **MR. ENGELMANN:** Okay, you remember. Ron
3 Leroux?

4 **MR. VAN DIEPEN:** With C-8.

5 **MR. ENGELMANN:** Okay. But you knew, did you
6 not, that he was a close friend of Mr. Seguin?

7 **MR. VAN DIEPEN:** Well, I -- my understanding
8 of what the relationship was is that they were neighbours.

9 **MR. ENGELMANN:** Yes.

10 **MR. VAN DIEPEN:** And ---

11 **MR. ENGELMANN:** From the mid-80s.

12 **MR. VAN DIEPEN:** After Mr. Seguin moved down
13 to the waterfront, yeah.

14 **MR. ENGELMANN:** You didn't understand their
15 relationship to be that of close friends?

16 **MR. VAN DIEPEN:** Yeah I -- well, I never got
17 an explanation as to whether or not there was a -- they
18 were close friends. I believed they were cordial
19 neighbours.

20 **MR. ENGELMANN:** Who were some of the other
21 people that were regulars at Harv's?

22 **MR. VAN DIEPEN:** I don't recall the names
23 offhand, but a number -- a number of local contractors and
24 businessmen, and -- yeah, contractors and businessmen.

25 **MR. ENGELMANN:** All right. When Leo White

1 was your Acting Area Manager, would he go?

2 MR. VAN DIEPEN: Yes.

3 MR. ENGELMANN: And I just want to get a
4 sense as to how often you think this happened because some
5 people certainly describe you as a regular at Harv's.

6 MR. VAN DIEPEN: Yeah, well.

7 MR. ENGELMANN: And when I say "regular", a
8 couple of times a week?

9 MR. VAN DIEPEN: Oh, no. No. It would only
10 be on -- it would only be on Fridays and it would not be
11 every Friday.

12 MR. ENGELMANN: And would you regularly --
13 you were a smoker? I don't know if you are now, but you
14 were then?

15 MR. VAN DIEPEN: Yeah.

16 MR. ENGELMANN: And you and Mr. Seguin would
17 regularly go for a cigarette together?

18 MR. VAN DIEPEN: Where?

19 MR. ENGELMANN: Well, presumably outside of
20 your office. You didn't smoke in the office?

21 MR. VAN DIEPEN: We smoked in our office.

22 MR. ENGELMANN: Okay. You didn't go outside
23 of your office at some point during the period you worked
24 with him?

25 MR. VAN DIEPEN: Oh, yeah. I'm sure we did.

1 **MR. ENGELMANN:** Because well before the end
2 of 1993, you weren't allowed to smoke in offices, certainly
3 provincial government ones.

4 **MR. VAN DIEPEN:** Yeah, well up until the
5 point where we were no longer allowed to smoke in the
6 offices, we smoked in the office.

7 **THE COMMISSIONER:** What's that?

8 **MR. ENGELMANN:** Let's get back to my
9 question.

10 **THE COMMISSIONER:** Okay, right, right, okay
11 -- just after you didn't.

12 **MR. ENGELMANN:** Back to my question ---

13 **MR. VAN DIEPEN:** No. No, no. No, we'd be -
14 - there were some very serious consequences to that, Your
15 Honour.

16 **MR. ENGELMANN:** I'm not going to ask you
17 whether you smoked in your office after you were not
18 supposed to ---

19 **THE COMMISSIONER:** No, we're not ---

20 **MR. ENGELMANN:** I simply want to ask you --
21 I simply want to ask you whether or not you would regularly
22 go for cigarettes with Ken Seguin?

23 **MR. VAN DIEPEN:** Regularly? No.

24 **MR. ENGELMANN:** He was also a smoker?

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** All right. And would you
2 regularly go with him for a coffee or coffees at Malcolm
3 MacDonald's law office?

4 **MR. VAN DIEPEN:** Regularly? No.
5 Did I or had I? Yes.

6 **THE COMMISSIONER:** Getting close to the
7 lunch hour, Mr. Engelmann, whenever you want -- a good
8 spot.

9 **MR. ENGELMANN:** Okay.
10 I'll just be a moment, sir.

11 **THE COMMISSIONER:** Yes.

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

13 **MR. ENGELMANN:** Perhaps it's a good time,
14 sir.

15 **THE COMMISSIONER:** All right. Great, thank
16 you. We will take the lunch break and come back at 2:00,
17 sir.

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

20 This hearing will resume at 2:00 p.m.

21 --- Upon recessing at 12:25 p.m./

22 L'audience est suspendue à 12h25

23 --- Upon resuming at 2:00 p.m./

24 L'audience est reprise à 14h00

25 **THE REGISTRAR:** Order; all rise. À l'ordre;

1 veuillez vous lever.

2 This hearing is now resumed. Please be
3 seated. Veuillez vous asseoir.

4 **JOS VAN DIEPEN: Resumed/Sous le même serment**

5 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
6 **ENGELMANN (Cont'd/Suite):**

7 **MR. ENGELMANN:** Good afternoon, Mr.
8 Commissioner.

9 **THE COMMISSIONER:** Good afternoon.

10 **MR. ENGELMANN:** Good afternoon, Mr. van
11 Diepen.

12 **MR. VAN DIEPEN:** Good afternoon.

13 **MR. ENGELMANN:** Mr. van Diepen, I understand
14 that on a number of occasions during the 1980s you applied
15 for an area manager position?

16 **MR. VAN DIEPEN:** Yes.

17 **MR. ENGELMANN:** And that would sort of be
18 the next level; is that fair?

19 **MR. VAN DIEPEN:** Yes.

20 **MR. ENGELMANN:** And that is the title, for
21 example, that Mr. Sirrs ---

22 **MR. VAN DIEPEN:** Yes.

23 **MR. ENGELMANN:** --- had from '81 to '84.
24 Mr. White had this; Mr. Robert and Mr. Legault. Correct?

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** And you applied for a number
2 of these job competitions, not just here in Cornwall but in
3 Ontario?

4 **MR. VAN DIEPEN:** Yes.

5 **MR. ENGELMANN:** And I'm not interested in
6 the bulk of them, I'm simply interested in the two that you
7 applied for here in Cornwall.

8 **MR. VAN DIEPEN:** Yes.

9 **MR. ENGELMANN:** And I understand that those
10 were the competitions in 1981 and in 1985. Am I correct?

11 **MR. VAN DIEPEN:** It sounds about right.

12 **MR. ENGELMANN:** Yeah, well, the one '85 may
13 have started in '84, but it was filled in '85.

14 Now, you were not successful in any of these
15 competitions.

16 **MR. VAN DIEPEN:** That's right.

17 **MR. ENGELMANN:** Correct? And that's -- you
18 maintained your status as a probation and parole officer
19 throughout your career?

20 **MR. VAN DIEPEN:** Yes.

21 **MR. ENGELMANN:** And as I said, I want to
22 focus on the two, and there were a couple of documents
23 about this, and I'll just be a moment.

24 **(SHORT PAUSE/COURTE PAUSE)**

25 **MR. ENGELMANN:** Document Number 101230. Mr.

1 Commissioner, this is a letter for Mr. van Diepen to Mr. --
2 sorry, I mispronounce the name again -- Groten.

3 MR. VAN DIEPEN: Groten.

4 MR. ENGELMANN: Yes, dated March 10th, 1981.

5 THE COMMISSIONER: Okay, Exhibit No. 1168 is
6 exactly that, a letter dated March 10th, 1981, to Mr. Groten
7 from Mr. van Diepen.

8 --- EXHIBIT NO./PIÈCE No. P-1168:

9 (101230) Letter fr Jos Van Diepen to Mr.
10 W.A. Groten - 10 Mar,81

11 MR. ENGELMANN: All right, so Mr. van
12 Diepen, this is your application for the first onsite
13 supervisor position for the Cornwall office?

14 MR. VAN DIEPEN: Yes.

15 MR. ENGELMANN: And it is my understanding
16 that your colleague, Ken Seguin, also applied?

17 MR. VAN DIEPEN: Yes.

18 MR. ENGELMANN: And we know, among others, a
19 fellow by the name of Peter Sirrs, who was a probation and
20 parole officer, I think, from somewhere in Northern
21 Ontario, applied?

22 MR. VAN DIEPEN: Yes.

23 MR. ENGELMANN: And my understanding is none
24 of you had previous management experience?

25 MR. VAN DIEPEN: I don't know about Mr.

1 Sirrs.

2 MR. ENGELMANN: All right.

3 MR. VAN DIEPEN: I believe he may have had
4 some in the military or something. I'm not sure.

5 MR. ENGELMANN: Okay, I -- my understanding
6 from his evidence is he certainly hadn't had any experience
7 managing probation officers?

8 MR. VAN DIEPEN: That's right.

9 MR. ENGELMANN: He was a parole and
10 Probation Officer Two?

11 MR. VAN DIEPEN: Yes.

12 MR. ENGELMANN: When I said "two", I mean
13 Level Two. But Mr. Seguin would have been the senior
14 officer among the three of you?

15 MR. VAN DIEPEN: Yes.

16 MR. ENGELMANN: And I'm wondering -- Mr.
17 Sirrs told us that this created some tension in his
18 management, particularly of you, but he said that the fact
19 that he had won this competition and you and Mr. Seguin had
20 not, created tension in the workplace.

21 MR. VAN DIEPEN: That would be his opinion.

22 MR. ENGELMANN: All right. You didn't share
23 that opinion, sir?

24 MR. VAN DIEPEN: Well, was I happy with the
25 -- I wasn't totally -- I wasn't doing cartwheels that I

1 didn't get the job, but I certainly, you know, accepted the
2 fact that he was the successful candidate and moved on.

3 **MR. ENGELMANN:** All right. Just one more
4 document on that competition; 101228; that's a memorandum
5 to Mr. van Diepen from a Mr. T. Kelly dated, I think, it's
6 April 22nd, 1981.

7 **THE COMMISSIONER:** Thank you. Exhibit No.
8 1169.

9 --- **EXHIBIT NO./PIÈCE No. P-1169:**

10 (101228) Letter from T. Kelly to Jos Van
11 Diepen - 22 Apr, 81

12 **MR. ENGELMANN:** Sir, this is, I believe,
13 just the letter to you at the end of the competition
14 process explaining that you were not selected for an
15 eligibility list. And it says they

16 "...identified certain developmental
17 needs for you and these will be
18 discussed with you at the feedback
19 session on your performance at the
20 Assessment Centre."

21 **MR. VAN DIEPEN:** Yes.

22 **MR. ENGELMANN:** Did that, in fact, happen?

23 **MR. VAN DIEPEN:** No.

24 **MR. ENGELMANN:** Okay. It says:

25 "You are urged to pursue your

1 individual development program in order
2 that you may qualify for the
3 eligibility list at a future date."

4 Did you take some steps to do that, sir?

5 **MR. VAN DIEPEN:** They weren't offered.

6 **MR. ENGELMANN:** All right. Sir, the other
7 job competition was in 1985 and if the witness could be
8 shown, it's document number 101157. That's an application
9 for employment form, sir, and -- I don't believe it's dated
10 but it's with respect to competition CI0950-84.

11 **THE COMMISSIONER:** Exhibit 1170.

12 ---EXHIBIT NO./PIÈCE NO P-1170:

13 (101157) Application for Employment
14 Competition CI0950-84

15 **MR. ENGELMANN:** Sir, is that a form you
16 would have filled out sometime in 1984?

17 **MR. VAN DIEPEN:** It appears to be, yes.

18 **MR. ENGELMANN:** All right. And I note, sir,
19 it indicates an attached résumé and I suspect that may have
20 been the résumé we looked at earlier. But it says under
21 "Professional qualifications", it lists two. It says the
22 Probation Officers Association of Ontario Inc. and the
23 American Probation and Parole Association. These were both
24 professional associations you were members of?

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** How long had you been
2 members of those organizations; do you recall?

3 **MR. VAN DIEPEN:** No. Very briefly for the
4 American Probation Officers Association, it had to do with
5 a conference in Niagara Falls.

6 **MR. ENGELMANN:** All right.
7 And the Probation Officers Association of
8 Ontario Inc.?

9 **MR. VAN DIEPEN:** A couple years, yes.

10 **MR. ENGELMANN:** All right.

11 Because this would have been in '84.

12 **MR. VAN DIEPEN:** Yes.

13 **MR. ENGELMANN:** So you think early 80s?

14 **MR. VAN DIEPEN:** Yeah.

15 **MR. ENGELMANN:** Was that required ---

16 **MR. VAN DIEPEN:** No.

17 **MR. ENGELMANN:** --- for probation officers?

18 **MR. VAN DIEPEN:** No.

19 **MR. ENGELMANN:** Was it recommended?

20 **MR. VAN DIEPEN:** No. It was a strictly
21 professional association that had no licensing or ---

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

23 Would you know if your colleagues in the
24 early '80s, Mr. Barque or Mr. Seguin would have been
25 members?

1 MR. VAN DIEPEN: Don't know.

2 MR. ENGELMANN: All right.

3 Would the -- would your employer pay for a
4 membership in an organization like that, to your knowledge?

5 MR. VAN DIEPEN: Definitely not.

6 MR. ENGELMANN: You're on you own?

7 MR. VAN DIEPEN: Yes.

8 MR. ENGELMANN: Okay. Sir, if we can then
9 look at Document number 101153, this is a note to file from
10 H.R. Hawkins to Mr. van Diepen, dated March 14th, 1985.

11 THE COMMISSIONER: Thank you.

12 Exhibit number 1171.

13 ---EXHIBIT NO./PIÈCE NO P-1171:

14 (101153) Note to File from H.R. Hawkins - 14
15 Mar. 85

16 MR. ENGELMANN: Sir, again, would this have
17 been a note you would have received at the end of this
18 competition from your supervisor?

19 MR. VAN DIEPEN: No. This appears to be a
20 note to Mr. -- from Mr. Hawkins to his file ---

21 MR. ENGELMANN: Oh, I see.

22 MR. VAN DIEPEN: It's not addressed to me.

23 MR. ENGELMANN: All right.

24 MR. VAN DIEPEN: It says, "I met with Mr.
25 van Diepen and Mr. White to share Mr. van Diepen the

1 outcome of his participation." It doesn't ---

2 MR. ENGELMANN: All right. Fair enough.

3 MR. VAN DIEPEN: Yeah.

4 MR. ENGELMANN: Do you recall if he did meet
5 with you and Mr. White?

6 MR. VAN DIEPEN: Yes.

7 MR. ENGELMANN: All right.

8 And he is indicating that you were advised
9 you were not the successful candidate for the position?

10 MR. VAN DIEPEN: That's correct.

11 MR. ENGELMANN: And I think there was
12 something about some disappointment in your performance on
13 an exam and you indicated you had an off day.

14 MR. VAN DIEPEN: No, there was no exam;
15 there was the ---

16 MR. ENGELMANN: Just an interview process?

17 MR. VAN DIEPEN: Yes. It was the interview
18 process; part of the interview process, they required
19 advanced French-speaking communication skills. And
20 certainly my French-speaking skills were not up to the
21 advanced level.

22 MR. ENGELMANN: Okay. I'm just reading the
23 comment here. It says:

24 "I was somewhat surprised at the lack
25 of content in the responses to his

1 questions. He indicated he had had an
2 off day and he was disappointed with
3 his own performance."

4 Do you remember that discussion? All you
5 remember is the part about French?

6 **MR. VAN DIEPEN:** There was a part, they had
7 a special person sitting in who conducted a number of
8 questions and answers in French.

9 **MR. ENGELMANN:** Okay. It says at the
10 bottom:

11 "He requested and was given some
12 information about how he may prepare
13 himself for future competitions should
14 the occasion arise."

15 Do you recall that, sir?

16 **MR. VAN DIEPEN:** I didn't get anything from
17 Mr. Hawkins or anyone else.

18 **MR. ENGELMANN:** All right.

19 Now for this particular competition, it's my
20 understanding that one of your colleagues, he wasn't an
21 immediate colleague, but he was a colleague in a satellite
22 office, a fellow by the name of Emile Robert applied and as
23 well, at least initially, your colleague Mr. Seguin.

24 **MR. VAN DIEPEN:** Yes, I believe so. Yes.

25 **MR. ENGELMANN:** My understanding, he pulled

1 out at some point.

2 MR. VAN DIEPEN: Yeah.

3 MR. ENGELMANN: Is that your recollection as
4 well?

5 MR. VAN DIEPEN: Yeah. I believe so.

6 MR. ENGELMANN: All right.

7 Presumably a number of other officers would
8 apply; they could apply from all over the province?

9 MR. VAN DIEPEN: Yeah.

10 MR. ENGELMANN: All right.

11 You don't how many people were involved?

12 MR. VAN DIEPEN: Well, all these HR issues,
13 they don't disclose those to us. They're kept behind
14 locked doors.

15 MR. ENGELMANN: All right.

16 But just on that note, I understand that you
17 were a representative for some of your colleagues ---

18 MR. VAN DIEPEN: Yes.

19 MR. ENGELMANN: --- with respect to the
20 Union ---

21 MR. VAN DIEPEN: Yes.

22 MR. ENGELMANN: --- in your workplace?

23 MR. VAN DIEPEN: Yes.

24 MR. ENGELMANN: And when did that start sir?

25 MR. VAN DIEPEN: Again, that would have been

1 over -- initially, when I first came to Cornwall; then I
2 was out of it for a little while; then I was back into it;
3 then I was out of it again. So it bounced around a little
4 bit. We shared that role on a number of different dates.

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

6 So at various times in your employment -- do
7 you remember when it would have started?

8 **MR. VAN DIEPEN:** Which?

9 **MR. ENGELMANN:** Work as a Union steward?

10 **MR. VAN DIEPEN:** Oh, I was designated Union
11 steward in the '70s. Yeah.

12 **MR. ENGELMANN:** All right.

13 **MR. VAN DIEPEN:** I don't know exactly when.

14 **MR. ENGELMANN:** So from time to time
15 throughout your employment, from the '70s until right up to
16 last year, you would have been the Union steward?

17 **MR. VAN DIEPEN:** I wasn't last year, no.

18 **MR. ENGELMANN:** Okay. No, but from time to
19 time during that timeframe.

20 **MR. VAN DIEPEN:** Oh yes. Yes.

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

22 Sir, just going back to Exhibit 1170, just
23 on the second page of the document, I don't know if you
24 have a back page? It would appear there is a date, January
25 24th, '85. Is that your signature at the bottom there?

1 **MR. VAN DIEPEN:** Yes. Yes.

2 **MR. ENGELMANN:** Okay. Thank you.

3 Now, again, it's my understanding, at least,
4 that Mr. Robert will be giving some evidence about your
5 relationship and he will indicate that you did have a
6 discussion about this, and you were concerned that you
7 didn't get the position because of a lack of French or not
8 sufficient French. You would have had that discussion with
9 him.

10 **MR. VAN DIEPEN:** May have had.

11 **MR. ENGELMANN:** Yeah. I think he'll also
12 indicate that the fact that he won the position and you
13 didn't caused tension. So similar to what we heard from
14 Mr. Sirrs.

15 **MR. VAN DIEPEN:** I could see both parties
16 feeling that way. But you know, I don't think that was the
17 ultimate outcome of the word that there were tensions but
18 that was not the source of the tension. And I can -- I'm
19 very confident in asserting that fact.

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

21 So your perspective on that is different
22 than theirs?

23 **MR. VAN DIEPEN:** Yeah. It wasn't -- yeah.
24 There were performance issues.

25 **MR. ENGELMANN:** Performance issues of yours

1 or performance issues ---

2 MR. VAN DIEPEN: No, the management --

3

4 MR. ENGELMANN: -- theirs?

5 MR. VAN DIEPEN: -- management issues, yes.

6 MR. ENGELMANN: All right.

7 Well, with respect to Mr. Sirrs, what were
8 those from your perspective?

9 MR. VAN DIEPEN: Well, there were a number
10 of issues with Mr. Sirrs. Mr. Sirrs was, you know, with --
11 in defence of Mr. Sirrs, he was very -- I think he was --
12 his integrity certainly was not to be questioned in any
13 shape or form. I certainly respected the man; he was
14 honest; he was forthcoming. However, he was, at times, a
15 bit rigid.

16 We did have a number of staffing problems in
17 the office at the time in which I represented a fellow
18 employee and that -- it was resolvable but there was a lack
19 of flexibility on the part of management to seek an
20 outcome. Ultimately, I went over everyone's head to head
21 office and the matter was resolved.

22 MR. ENGELMANN: All right.

23 He suggested to us that he had difficulties
24 in his relationship with you from pretty well start to
25 finish.

1 **MR. VAN DIEPEN:** Well, you know, staff would
2 come to me with concerns. And it was my job to bring those
3 issues forward. And if they weren't resolved successfully,
4 then, of course, there were those that would be unfinished
5 business that was left dangling.

6 **MR. ENGELMANN:** So you think that that
7 relationship was caused more because you were representing
8 staff members than anything to do with you and Mr. Sirrs?

9 **MR. VAN DIEPEN:** Well, I think that -- I
10 would think that the views from my fellow -- that my views
11 are shared by -- with the staff that were present at the
12 time, that we found him somewhat rigid and unnecessarily so
13 by times and that created problems.

14 **MR. ENGELMANN:** I just want to give you a
15 few examples, sir, because I don't want to take it out of
16 context.

17 Volume 168 of the transcript -- if we have a
18 hard copy actually available for the witness? Sometimes
19 it's hard to read on the screen, sir.

20 **REGISTRAR:** 168?

21 **MR. ENGELMANN:** Volume 168. Thank you.

22 **THE COMMISSIONER:** What page, Mr. Engelmann?

23 **MR. ENGELMANN:** Starting on page 257.

24 So it starts right at the bottom of the
25 page, sir. I say:

1 "Can you give us a description as to
2 how you were received by your staff,
3 just thinking back?"

4 Mr. Sirrs:

5 "Yeah, well, generally I think I was
6 received reasonably well although there
7 was some tension between myself and Mr.
8 van Diepen that emerged quite quickly
9 on."

10 Do you see that?

11 **MR. VAN DIEPEN:** Yes.

12 **MR. ENGELMANN:** All right. And I say:

13 "Sir, did you have a sense as to why
14 that might have started; that tension?"
15 "It was my conclusion that it was
16 because Mr. Barque or, rather, Mr. van
17 Diepen and Mr. Seguin had applied for
18 that position."

19 And then a little later on:

20 "Did you notice that same degree of
21 tension from Mr. Seguin?"

22 "No."

23 "It was just Mr. van Diepen?"

24 "Yeah. Initially Mr. Seguin felt a
25 little awkward but that passed

1 quickly."

2 Then a little later on page, I believe it's
3 259 -- yes, at about line 12:

4 "And this tension with Mr. van Diepen,
5 did that stop right away or did that
6 carry on over time?"

7 "I think it emerged from time to time."

8 "All right. And did it continue
9 throughout your tenure?"

10 "Yes."

11 "And was that then just an issue with
12 him or did that spill over and become
13 an issue with others to your
14 knowledge?"

15 "I think he was influential with some
16 of the newer staff coming on."

17 "In what sense?"

18 "Well, he was a very personable
19 individual."

20 "Yes?"

21 "He established friendships, colleague
22 relationships and some of the younger
23 staff might go to him or Ken on advice
24 on dealing with clients so I think he
25 was able to establish a rapport with

1 them."

2 Do you agree with that, sir?

3 **MR. VAN DIEPEN:** Which part?

4 **MR. ENGELMANN:** Well, you were influential
5 with some of the newer staff coming on.

6 **MR. VAN DIEPEN:** Influential in -- I gather
7 from your question that you are suggesting that I tried to
8 subvert staff against Mr. Sirrs.

9 **MR. ENGELMANN:** I'm not suggesting ---

10 **MR. VAN DIEPEN:** I would suggest to you,
11 sir, that that was not the case. I think that my fellow
12 staff were well equipped to draw their own conclusions as
13 to Mr. Sirrs management style.

14 **MR. ENGELMANN:** Sir, I'm not suggesting
15 anything. I'm just reading to what he told us.

16 **MR. VAN DIEPEN:** Yes, I know. I'm just
17 clarifying back to you sir.

18 **MR. ENGELMANN:** All right. Okay, so he
19 said, one, you were influential; two, you were personable.
20 I don't think there is negative about any of those but,
21 three, he says you, "established friendships, colleague
22 relationships; some of the younger staff might go to him
23 for advice on dealing with clients so I think we was able
24 to establish a rapport with them."

25 I don't think there's anything negative

1 about that so far.

2 MR. VAN DIEPEN: M'hm.

3 MR. ENGELMANN: Do you agree?

4 MR. VAN DIEPEN: Well, yeah, in ---

5 MR. ENGELMANN: Then what he says, though --
6 oh, sorry.

7 MR. VAN DIEPEN: No, it's his opinion and I
8 can't refute his opinion. I mean, he's entitled to it.

9 MR. ENGELMANN: But you're entitled to your
10 own.

11 MR. VAN DIEPEN: My opinion remains the
12 same. You know, there were some ongoing issues that I, as
13 a shop steward, had to bring those forward to Mr. Sirrs
14 and, you know, I was the person that was speaking with Mr.
15 Sirrs. Mr. Sirrs obviously may have reacted to that.

16 I always tried to bring them to a non-
17 personal level, you know, "This is not about you. This is
18 about improving relationships in the office. We're not
19 speaking personally." But, you know, at the end of the day
20 when things don't get resolved, you know, people don't --
21 they walk away, they're not happy and sometimes they're
22 internalized and personalized.

23 MR. ENGELMANN: All right. Well, he gives a
24 couple of other examples so just reading further on 260, he
25 says at line 12:

1 "Well, they tended to be somewhat
2 resistant and supported, if not
3 outwardly, certainly supported Jos in
4 some respects, yes."

5 A little later on the following page he
6 gives an example about assignments of probationers to
7 staff, then on page 262 and 263 he talks about a -- it's
8 Exhibit 1062. I'll just be a moment.

9 **THE COMMISSIONER:** Do you want that shown to
10 the witness?

11 **MR. ENGELMANN:** Yeah.

12 **THE COMMISSIONER:** Madam Clerk, could you
13 show 1062 please?

14 **MR. ENGELMANN:** This would have been in the
15 materials, sir. I think you've had a chance to see it.
16 The document number is 101173.

17 **MR. VAN DIEPEN:** Yes.

18 **MR. ENGELMANN:** This is an example, sir, he
19 said of some of the difficulty that he had. He -- this was
20 a complaint involving a particular probationer that we
21 shouldn't name.

22 **MR. VAN DIEPEN:** Yes.

23 **MR. ENGELMANN:** And he just -- he ends it
24 with the last two paragraphs:

25 "I do not accept your statements that your

1 ability and effectiveness in supervising
2 this case has been compromised, and will not
3 consider your request to have it transferred
4 to another officer."

5 I believe you were requesting this
6 probationer be given to someone else because of some
7 tension that had arisen.

8 **MR. VAN DIEPEN:** Yes.

9 **MR. ENGELMANN:**

10 "I'm further concerned with your
11 acknowledged lack of confidence in my
12 judgment and ability to deal
13 effectively in matters of this kind."

14 And it goes on.

15 **MR. VAN DIEPEN:** Yes.

16 **MR. ENGELMANN:** And he brought this up as an
17 example of something that happened later in his tenure ---

18 **MR. VAN DIEPEN:** Yes.

19 **MR. ENGELMANN:** --- in dealing with you.

20 I believe you responded ---

21 **MR. VAN DIEPEN:** Yes.

22 **MR. ENGELMANN:** --- with a lengthy response
23 and I'll just see if I actually have it. I believe it's in
24 the materials as well, sir.

25 **MR. VAN DIEPEN:** And, you know, to add to my

1 earlier response, this is an example of Mr. Sirrs lack of
2 flexibility in that -- where he painted himself into a
3 corner and then was forced to -- and wouldn't change.

4 And from -- my position was that for the
5 benefit of the client -- not for myself personally but for
6 the benefit of the client, he would have been much better
7 served to reassign him, and that was done on a regular
8 basis.

9 **MR. ENGELMANN:** All right, well, he had a
10 slightly different perspective.

11 **MR. VAN DIEPEN:** Well, yes.

12 **MR. ENGELMANN:** But, it's good to hear yours
13 because we've heard his. Okay?

14 **MR. VAN DIEPEN:** Yes.

15 **MR. ENGELMANN:** And if you just give me a
16 moment.

17 **(SHORT PAUSE/COURTE PAUSE)**

18 Just at the bottom of page 264, sir.

19 **THE COMMISSIONER:** It's coming up on the
20 screen.

21 **MR. ENGELMANN:** He says, for example, at
22 line 20:

23 "In my judgment, this is part of the role to
24 accept complaints and deal with clients as
25 the situation arises and emerges."

1 This was ---

2 **THE COMMISSIONER:** Just a minute; wrong
3 page, Madam Clerk.

4 **MR. ENGELMANN:** No, it's the right page.

5 **THE COMMISSIONER:** Oh, it is?

6 **MR. ENGELMANN:** Yeah.

7 **THE COMMISSIONER:** Oh, I'm sorry. Yes, it's
8 here, "in my judgment..."

9 **MR. ENGELMANN:** It's 264 of the transcript.
10 Sometimes it's not at the right electronic file, sir.

11 **THE COMMISSIONER:** All right. So, do you
12 have that?

13 **MR. VAN DIEPEN:** Yes I do, Your Honour,
14 thank you.

15 **MR. ENGELMANN:** It says:

16 "But this was an example of -- this was
17 an example of his hostility -- might be
18 too strong a word but certainly his
19 objection to my supervision of the
20 matter."

21 And then he goes on to the next page:

22 "I think he would have presumed that I
23 should -- I should just simply discount
24 the whole thing without evening
25 consulting with him."

1 And then I take him to the middle paragraph
2 where he says:

3 "In order that the credibility and
4 reputation of our service's staff is
5 maintained at the highest possible
6 level, it is most important that such
7 complaints be heard and aired without
8 any semblance of avoidance or cover-up
9 on our part."

10 Those were his words.

11 MR. VAN DIEPEN: Yes.

12 MR. ENGELMANN: All right.

13 MR. VAN DIEPEN: That wasn't the issue.

14 MR. ENGELMANN: All right. Well that was
15 part of the issue for him.

16 MR. VAN DIEPEN: Yes.

17 MR. ENGELMANN: Fair enough. So there was
18 some tension between the two of you, clearly.

19 MR. VAN DIEPEN: Yes. Yes.

20 MR. ENGELMANN: All right. And I said --
21 and this is again page 267 now.

22 And were these problems just between you and
23 Mr. van Diepen or you and others? I wanted to know what
24 the situation was like. This is at line 10 and at about
25 line 12 he says:

1 "Well, I was concerned with the influence
2 to the other staff, so it was a total
3 office session that we held at a resort
4 just down the way on the St. Lawrence
5 River and so even the staff from
6 L'Original and Brockville attended."

7 This was apparently, sir, because of the situation in the
8 office; he brought in an outside facilitator to try and
9 ease the tension; do you recall that?

10 **MR. VAN DIEPEN:** I don't believe he -- I
11 don't believe he did. I believe senior management did.

12 **MR. ENGELMANN:** Oh, okay. And -- and why
13 was that?

14 **MR. VAN DIEPEN:** Because the -- because of
15 the staff complaints.

16 **MR. ENGELMANN:** And so you and others were
17 complaining about Sirrs to senior management?

18 **MR. VAN DIEPEN:** Yes.

19 **MR. ENGELMANN:** Is that what you're saying?

20 **MR. VAN DIEPEN:** Yes.

21 **MR. ENGELMANN:** Okay. And then I -- at the
22 following page, 268, when he's describing it, in the first
23 few lines about what the facilitator did I ask him,

24 "So that would have helped with your
25 ability to manage at least some of your

1 staff?"

2 And he says:

3 "Yes. There was still tension afterwards
4 with [he says] with Mr. van Diepen,
5 yeah."

6 "All right, did you ever involve your
7 Regional Manager in dealing with this
8 tension issue in trying to resolve
9 things?"

10 And then he says:

11 "It was a course of discussion at our
12 Regional meetings."

13 "Were you given some advice as to how
14 to handle the problem?"

15 "No, but they concurred with my request
16 to have this session."

17 So he seems to be suggesting that it was
18 he who requested the session through senior management.
19 But you're saying that it was really another way ---

20 **MR. VAN DIEPEN:** Well ---

21 **MR. ENGELMANN:** --- in your view?

22 **MR. VAN DIEPEN:** I mean -- I wasn't privy to
23 the -- to the meetings he had with the region. All I can
24 tell you is from what I know from my end, and that was that
25 staff did complain to the region and the ultimate outcome

1 of that was this -- this session with a facilitator and the
2 outcome of that was that Mr. Sirrs was transferred to
3 Ottawa.

4 **MR. ENGELMANN:** Okay. And sir, despite any
5 tensions or difficulties he had with your work, my
6 understanding is he did give you positive references when
7 you applied for area manager's positions during the term of
8 his supervision of you.

9 **MR. VAN DIEPEN:** Yes.

10 **MR. ENGELMANN:** I can take you to some of
11 them but I don't think it is necessary, but ---

12 **MR. VAN DIEPEN:** No, no that's fine.

13 **MR. ENGELMANN:** --- in '82 and '83 I believe
14 you applied for positions elsewhere in the province?

15 **MR. VAN DIEPEN:** Yes.

16 **MR. ENGELMANN:** You were not successful but
17 it wasn't as a result of his reference letter?

18 **MR. VAN DIEPEN:** No.

19 **MR. ENGELMANN:** Okay.

20 (SHORT PAUSE/PAUSE COURTE)

21 **MR. ENGELMANN:** Let's just talk about the --
22 let's follow through with the job competition with Emile
23 Robert. And it's my understanding he will say that --
24 again, that you told him that the reason that Robert -- he
25 -- Robert got the promotion was that he could speak French.

1 MR. VAN DIEPEN: Yes.

2 MR. ENGELMANN: Or words to that effect.

3 MR. VAN DIEPEN: Yes, he is a -- he was --
4 he was raised as a unilingual Francophone so his French
5 speaking skills are superior.

6 MR. ENGELMANN: All right. And he will say
7 that you told him that's why you thought he got the job
8 over you?

9 MR. VAN DIEPEN: I don't remember that.

10 MR. ENGELMANN: All right. Did the fact
11 that he became the area manager cause any problems for you
12 in the workplace?

13 MR. VAN DIEPEN: Well, he -- yes, he was --
14 he created some difficulties in the workplace.

15 MR. ENGELMANN: All right. Would it be fair
16 to say that you were upset that he became the area manager?

17 MR. VAN DIEPEN: No, I wouldn't -- I
18 wouldn't -- I wouldn't say that, I was more upset with the
19 process.

20 MR. ENGELMANN: The process of the
21 competition?

22 MR. VAN DIEPEN: Yes.

23 MR. ENGELMANN: And what was that, sir?

24 MR. VAN DIEPEN: Well, the -- you know, to
25 me, arbitrarily they redefined the job description to --

1 for requirement for superior French speaking skills which
2 were never required before, so it certainly seriously
3 disadvantaged me.

4 **MR. ENGELMANN:** All right, so that was a
5 requirement that wasn't there previously when Mr. Sirrs
6 applied for the position but it was there ---

7 **MR. VAN DIEPEN:** Mr. Sirrs couldn't speak a
8 word of French; neither could Mr. Groten or Mr. White or
9 Mr. Mitchell, or any of the other previous players.

10 **MR. ENGELMANN:** So this was the first time
11 there was a bilingual component to the job in Cornwall?

12 **MR. VAN DIEPEN:** Well like I say, it was
13 more than just bilingual, it was a requirement for superior
14 French speaking skills.

15 **MR. ENGELMANN:** All right. Well, presumably
16 it was a requirement to be bilingual?

17 **MR. VAN DIEPEN:** Yes.

18 **MR. ENGELMANN:** And you couldn't just do it
19 with only speaking French?

20 **MR. VAN DIEPEN:** Yes.

21 **MR. ENGELMANN:** Yeah.

22 **THE COMMISSIONER:** Did you have any qualms
23 with Mr. Robert's capabilities in the English language?

24 **MR. VAN DIEPEN:** No, he could speak English
25 quite well.

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

2 **MR. ENGELMANN:** Now, he was your immediate
3 supervisor for approximately 13 years; from 1985 until
4 1998?

5 **MR. VAN DIEPEN:** Yes.

6 **MR. ENGELMANN:** Okay. And how would you
7 describe the work environment under his management? And it
8 may change, you've talked about ebbs and flows, or ---

9 **MR. VAN DIEPEN:** Yes. At times it was a
10 highly poisoned work environment.

11 **MR. ENGELMANN:** And why do you say that?

12 **MR. VAN DIEPEN:** His management style.

13 **MR. ENGELMANN:** And how would you describe
14 that?

15 **MR. VAN DIEPEN:** Well, you know they'd --
16 depending on who asked, the answers were different.

17 **MR. ENGELMANN:** Okay. Is there anything
18 else about his management style?

19 **MR. VAN DIEPEN:** Well, when I speak about
20 the poisoned work environment, there was a -- what
21 ultimately resulted was that Mr. Seguin became effectively
22 the office snitch and ---

23 **MR. ENGELMANN:** What do you mean by that?

24 **MR. VAN DIEPEN:** Well, the -- Mr. Seguin
25 would report to Mr. Robert on the -- on the most minor of

1 issues that went on in the office with staff or, you know,
2 what happened while he wasn't there and so on and so forth.

3 **MR. ENGELMANN:** Would it be fair to say then
4 that there was poor communication between Mr. Robert and a
5 number of staff members?

6 **MR. VAN DIEPEN:** Oh yes.

7 **MR. ENGELMANN:** And then, if I understood
8 you correctly, Mr. Seguin, whether he was an intermediary
9 or not, became his eyes, to some extent?

10 **MR. VAN DIEPEN:** Well, yeah, I don't -- that
11 may be one way of describing it. I think it was more --
12 there was a -- it was more than just eyes. I think there
13 was a dysfunctionality to that whole process.

14 **MR. ENGELMANN:** All right. And so you're
15 saying that this hurt the ability of the office to do the
16 work you were supposed to do?

17 **MR. VAN DIEPEN:** Yes. It impacted --
18 directly impacted on staff morale and on performance
19 issues.

20 **MR. ENGELMANN:** Okay, so this is a worse
21 management situation, from your perspective, than what you
22 described in the early eighties with Mr. Sirrs?

23 **MR. VAN DIEPEN:** Oh, yeah, definitely so.

24 **MR. ENGELMANN:** All right. Because I think
25 you described he was somewhat rigid or forceful ---

1 **MR. VAN DIEPEN:** Yes.

2 **MR. ENGELMANN:** --- in his style.

3 **MR. VAN DIEPEN:** Yes, and that was -- if Mr.
4 -- that was only -- that was his only really shortcoming,
5 was that he'd -- like I -- like the example we went through
6 was that he'd paint himself into a corner and then he
7 wouldn't be able to see that, you know, that the greater
8 picture, the greater good was the client and we should take
9 the client's perspective into mind, but he would be unable
10 to change his mind and then we would be left with an
11 outcome which wasn't beneficial.

12 **MR. ENGELMANN:** But there were clearly
13 communication problems going both ways during Mr. Sirrs ---

14 **MR. VAN DIEPEN:** I don't think there were
15 communication problems. I mean, there was certainly the
16 ability to speak with him and we -- there was never a lack
17 of dialogue.

18 **MR. ENGELMANN:** Wasn't that one of the
19 reasons for the outside facilitator to come?

20 **MR. VAN DIEPEN:** No, the facilitator was to
21 attempt to improve the relationships.

22 **MR. ENGELMANN:** Well, part of improving
23 relationships, sir, is so that people talk to one another
24 more freely.

25 **MR. VAN DIEPEN:** Well, yes, we did -- like I

1 said, the talking -- there was enough talking, but the
2 outcomes weren't always as successful as they could be.

3 **MR. ENGELMANN:** What about the talking with
4 Mr. Robert and the ability to communicate by him to you and
5 by you to him?

6 **MR. VAN DIEPEN:** I think that was
7 compromised.

8 **MR. ENGELMANN:** All right. My understanding
9 is he will say that -- he hasn't testified yet, so I'm ---

10 **MR. VAN DIEPEN:** Yes.

11 **MR. ENGELMANN:** --- taking this from an
12 anticipated evidence ---

13 **MR. VAN DIEPEN:** Yes.

14 **MR. ENGELMANN:** --- summary. You know what
15 those are?

16 **MR. VAN DIEPEN:** Yes.

17 **MR. ENGELMANN:** That he will say that within
18 the first week -- and again in working in Cornwall, he was
19 approached by you and Stuart Rousseau and a support staff
20 member by the name of Louise Quinn who made it clear to him
21 that if -- if they didn't like his management style, they'd
22 try to get rid of him like they had done with Peter Sirrs.

23 **MR. VAN DIEPEN:** No. No.

24 **MR. ENGELMANN:** All right. So you didn't
25 approach him during that first week?

1 **MR. VAN DIEPEN:** Definitely not. But --
2 well, I'm ---

3 **MR. ENGELMANN:** Whether it was during the
4 first week or not, you never would have said anything like
5 that to him?

6 **MR. VAN DIEPEN:** No.

7 **MR. ENGELMANN:** Would you have ever
8 suggested that you got rid of Peter Sirrs?

9 **MR. VAN DIEPEN:** No.

10 **MR. ENGELMANN:** Do you know why he left the
11 Cornwall office?

12 **MR. VAN DIEPEN:** Why Mr. Sirrs left?

13 **MR. ENGELMANN:** Yes.

14 **MR. VAN DIEPEN:** As a result of that
15 facilitator meeting.

16 **MR. ENGELMANN:** Was that -- why, that was a
17 recommendation of the facilitator at the time?

18 **MR. VAN DIEPEN:** Well, it happened almost
19 immediately after the facilitator was involved. It was
20 very shortly thereafter.

21 **MR. ENGELMANN:** Was that a recommendation
22 from the facilitation?

23 **MR. VAN DIEPEN:** Again, HR issues, I'm not
24 privy to those, Mr. Engelmann.

25 **MR. ENGELMANN:** That's speculation on your

1 part?

2 MR. VAN DIEPEN: Yes. Well, all staff; not
3 just mine.

4 MR. ENGELMANN: He will describe his
5 relationship with you as strained throughout his time as
6 the area manager in Cornwall.

7 MR. VAN DIEPEN: Emile Robert?

8 MR. ENGELMANN: Yes. Do you agree with
9 that?

10 MR. VAN DIEPEN: Not always and not -- and
11 certainly over time, it deteriorated.

12 MR. ENGELMANN: All right. And he will say
13 that he will be somewhat critical of your work as a
14 probation and parole officer and say that you affected the
15 whole office morale at times and did not like him.

16 MR. VAN DIEPEN: Well, I can't speak for the
17 morale of other people. I can -- I can certainly tell you
18 that he affected the morale for me and I certainly did not
19 like his management style.

20 MR. ENGELMANN: All right. He also said
21 that -- I won't get into the incidents, but some -- some
22 things happened during the strike that were very unpleasant
23 towards him.

24 MR. VAN DIEPEN: Towards him?

25 MR. ENGELMANN: Yes.

1 **MR. VAN DIEPEN:** I -- I can tell you
2 unequivocally that during the strike in 1996, I think in
3 which he would be referring to, that I was not involved in
4 any employment activities whatsoever.

5 **MR. ENGELMANN:** So the office, under his
6 tenure, was at times dysfunctional?

7 **MR. VAN DIEPEN:** Yes.

8 **MR. ENGELMANN:** In the sense -- and you say
9 that that did have an impact on the ability of you and your
10 colleagues to do your work?

11 **MR. VAN DIEPEN:** Yes.

12 **MR. ENGELMANN:** And would that have had an
13 impact on how freely or not people would feel in speaking
14 with Mr. Robert about issues that would arise in the
15 workplace?

16 **MR. VAN DIEPEN:** Yes.

17 **MR. ENGELMANN:** And there were some big
18 things that happened when he was your area manager; we'll
19 come to some of those but, for example, one of your
20 colleagues committed suicide?

21 **MR. VAN DIEPEN:** Yes.

22 **MR. ENGELMANN:** A former colleague was --
23 pleaded guilty to sexual abuse of a probationer?

24 **MR. VAN DIEPEN:** Yes.

25 **MR. ENGELMANN:** That same former colleague

1 also killed himself when he was charged with further abuse.

2 MR. VAN DIEPEN: Yes.

3 MR. ENGELMANN: And that all happened under
4 Emile Robert's tenure; those incidents?

5 MR. VAN DIEPEN: Yes.

6 MR. ENGELMANN: Not the actual incidents of
7 the abuse, but those that I talked about and those are
8 pretty traumatic incidents.

9 MR. VAN DIEPEN: Yes, they didn't certainly
10 -- certainly didn't help the atmosphere.

11 MR. ENGELMANN: Okay. But I take it from
12 what you're saying that discussion about some of the issues
13 that would have arisen from those incidents would have been
14 affected because of the dysfunctional office situation?

15 MR. VAN DIEPEN: I think that the --
16 especially the Seguin matter could have been handled
17 differently by the -- by management.

18 MR. ENGELMANN: And when you say that, sir,
19 are you talking about dealing with Mr. Seguin while he was
20 still alive?

21 MR. VAN DIEPEN: Well, no because nobody --
22 I don't think anybody knew what was going on prior to his
23 death. So we're talking the -- we're talking about the
24 trauma of the -- of a fellow employee having compromised
25 his -- his role as a probation parole officer. This --

1 obviously the suicide and the perspective that sometimes
2 we're all painted by a very wide -- or tarred by a very
3 wide brush.

4 **MR. ENGELMANN:** Sir, we've heard though
5 about changes in Mr. Seguin in the last year of his life.
6 We've heard some evidence about a previous attempt to kill
7 himself.

8 **MR. VAN DIEPEN:** I'm not aware of any of
9 that.

10 **MR. ENGELMANN:** All right. We've certainly
11 heard evidence about some changes in his emotional state or
12 his behaviour.

13 **MR. VAN DIEPEN:** Again, I ---

14 **MR. ENGELMANN:** You didn't see any of that
15 as his colleague throughout that last year?

16 **MR. VAN DIEPEN:** No.

17 **MR. ENGELMANN:** And certainly, sir, we've
18 heard from others about the fact that there were stories
19 going around about the fact that he was being investigated.

20 **MR. VAN DIEPEN:** I subsequently ---

21 **MR. ENGELMANN:** I don't mean subsequently,
22 sir.

23 **MR. VAN DIEPEN:** No.

24 **MR. ENGELMANN:** I mean before he killed
25 himself ---

1 **MR. VAN DIEPEN:** Before he killed himself --

2 -

3 **MR. ENGELMANN:** --- in 1993.

4 **MR. VAN DIEPEN:** I -- I -- what I was going
5 to say was that subsequently I discovered that there were
6 rumours about him being under investigation. Prior to his
7 death, I was not aware of any of those rumours. And I know
8 Mr. Gendron indicated in his testimony that he indicated to
9 me there was a rumour at the place or at the courts about
10 Mr. Seguin being under investigation and I can tell you
11 that I -- that he never reported that to me, but he did
12 tell me on the day that Mr. Seguin died that, in fact,
13 there was this rumour and I asked him, "Well, geez, you
14 know, did you not tell anybody?" And he said that he had
15 reported it or he discussed it with one of the -- our
16 fellow female staff members -- and I could not tell you
17 which particular female staff member that would be. And I
18 had asked him if he had told anybody else and he said no.

19 **MR. ENGELMANN:** All right. So that was a
20 long answer but at the beginning of it you said that Mr.
21 Gendron said this in his testimony?

22 **MR. VAN DIEPEN:** M'hm.

23 **MR. ENGELMANN:** I thought you hadn't read
24 his testimony; you did?

25 **MR. VAN DIEPEN:** I'm sorry?

1 **MR. ENGELMANN:** You referred to Mr.
2 Gendron's testimony at the beginning ---

3 **MR. VAN DIEPEN:** Yes.

4 **MR. ENGELMANN:** --- of your answer.

5 **MR. VAN DIEPEN:** Yes.

6 **MR. ENGELMANN:** Did you actually read his
7 testimony then, sir?

8 **MR. VAN DIEPEN:** Yes.

9 **MR. ENGELMANN:** Oh, okay. You read the
10 transcript that ---

11 **MR. VAN DIEPEN:** Yes.

12 **MR. ENGELMANN:** --- was his evidence?

13 **MR. VAN DIEPEN:** Yes.

14 **MR. ENGELMANN:** Okay. I'm -- I apologize.
15 I thought at the beginning when I asked you what you'd
16 reviewed, I didn't understand that you had read.

17 **MR. VAN DIEPEN:** Oh, I -- no, I think you
18 asked me whether or not I was watching the ---

19 **MR. ENGELMANN:** Oh, okay. Fair enough.

20 **MR. VAN DIEPEN:** --- if I'd been here in
21 person or I watched this Inquiry on -- in the -- the web --
22 -

23 **MR. ENGELMANN:** My mistake.

24 **MR. VAN DIEPEN:** --- the webcast ---

25 **MR. ENGELMANN:** Okay.

1 MR. VAN DIEPEN: --- or whatever it's
2 called.

3 MR. ENGELMANN: All right.

4 MR. VAN DIEPEN: No, I -- no. I -- which I
5 didn't do, however, I did read the testimony of Mr. Sirrs -
6 --

7 MR. ENGELMANN: Okay.

8 MR. VAN DIEPEN: --- Ms. Cardinal ---

9 MR. ENGELMANN: Okay.

10 MR. VAN DIEPEN: --- and Ron Gendron.

11 MR. ENGELMANN: Okay, fair enough. I
12 misunderstood.

13 MR. VAN DIEPEN: Yes.

14 MR. ENGELMANN: Did you have an opportunity
15 to read the evidence of Mr. Roy who testified?

16 MR. VAN DIEPEN: No, I don't think I looked
17 at that.

18 MR. ENGELMANN: All right. He talked about
19 you just a little bit.

20 MR. VAN DIEPEN: Yes.

21 MR. ENGELMANN: And I just want to go there
22 because I want to give you an opportunity to speak to it.

23 MR. VAN DIEPEN: M'hm.

24 MR. ENGELMANN: I'll just be a moment.

25 I believe it's Volume 175.

1 (SHORT PAUSE/COURTE PAUSE)

2 THE COMMISSIONER: Let me see.

3 More, any? There's no lack of reading
4 material here, sir.

5 MR. VAN DIEPEN: No. It's the -- too bad
6 this didn't start earlier. Domtar might still be open,
7 Your Honour.

8 MR. ENGELMANN: I'm not sure what volume
9 we're on yet, but ---

10 THE COMMISSIONER: No.

11 MR. ENGELMANN: All right; 183.

12 That essentially means that 183 days here --

13 -

14 MR. VAN DIEPEN: Okay.

15 MR. ENGELMANN: --- so-- it may be more.

16 Sir, I want you to take a look at page 29.

17 MR. VAN DIEPEN: Twenty-nine (29), yes.

18 MR. ENGELMANN: As you've just described for
19 us this issue of, perhaps a -- issues with Emile Robert --
20 and did I understand you correctly, just before we go,
21 here, that it was your view that it wasn't friction between
22 the two of you; it was really friction between Robert and
23 everybody else in the office, with the possible exception
24 of Ken Seguin?

25 Did I understand that ---

1 **MR. VAN DIEPEN:** No, I would certainly say
2 that I -- you know, that I have -- I was part of ---

3 **MR. ENGELMANN:** You had your fair share ---

4 **MR. VAN DIEPEN:** --- the staff. I had my
5 fair share.

6 **MR. ENGELMANN:** Sure. Okay.

7 **MR. VAN DIEPEN:** And I certainly had ---

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

9 **MR. VAN DIEPEN:** --- difficulties with him.
10 And I had my own issues that ---

11 **MR. ENGELMANN:** And people would know you
12 had issues with him?

13 **MR. VAN DIEPEN:** Oh, yes.

14 And there were a number of grievances that
15 were filed and so on and so forth.

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

17 So there's a long answer. I ask him about
18 behaviours and attitude issues:

19 "Involved whom? Who was involved in
20 behaviour, attitude issues?

21 It's something he brought up.

22 Where was the problem?

23 Mr. Roy: I don't know. Mr. Roy, I
24 guess was at least one of the people
25 working there had -- this may not have

1 anything to do with anything, but
2 anyway, had an interest in me becoming
3 the area manager when the job changed
4 hands. And when Emile got it, it kind
5 of left this person -- or maybe more
6 than one, kind of on the outs and, I
7 don't know, sniping, sort of -- from
8 the side, sort of thing. But at the
9 same time, always doing the job
10 required; never putting your position
11 at risk. Just enough to show that they
12 weren't going to listen to every word
13 this manager said, sort of thing."

14 Next page:

15 "Is this something you would have heard
16 from him, then -- from Mr. Robert?
17 He'd tend to play it down. I mean --
18 you know, I would have seen it with my
19 own eyes and we'd talk about it, and
20 I'd say: 'Well, who was the
21 difficulty, then, with -- which
22 officer?' Well Jos van Diepen, I
23 guess, was the most difficult. But
24 then, yeah.
25 Did you see that as undermining Mr.

1 Robert's authenticity in any way?
2 Yeah, I did. I thought he was trying
3 for attention or getting in a -- not
4 just in an immature way, but also that,
5 'How come you don't listen to me?' I
6 mean, I guess he got the feeling that
7 maybe he felt he wasn't listened to,
8 and by having me or someone like me
9 there, it was an opportunity to give
10 his position so I'd listen."

11 So I guess this is Mr. Roy reporting -- I
12 guess he would come to the office, now and then, as Mr.
13 Robert's boss?

14 **MR. VAN DIEPEN:** I'd probably count the
15 number of times Mr. Roy came to the Cornwall office on one
16 hand, and I've have quite a few fingers left to ---

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

18 So he didn't come very often.

19 **MR. VAN DIEPEN:** No. And I would venture to
20 say that it would be no more than two or three times.

21 **THE COMMISSIONER:** In a period of ---

22 **MR. VAN DIEPEN:** He wasn't our regional
23 supervisor all that long, Your Honour. And I'd ---

24 **MR. ENGELMANN:** It was a couple of years,
25 anyways?

1 **MR. VAN DIEPEN:** Yeah. It was a couple of
2 years, but he was certainly not like Mr. Hawkins or some of
3 his -- some of the others.

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

5 And he said a little bit more on pages 31
6 and 32. For example ---

7 **MR. VAN DIEPEN:** I ---

8 **MR. ENGELMANN:** Sorry?

9 **MR. VAN DIEPEN:** I was just going to say,
10 it's an unfortunate answer on his part, and I would have
11 thought that Mr. Roy had more insight into the difficulties
12 in the Cornwall office.

13 **MR. ENGELMANN:** Well, you disagree with his
14 view, then?

15 **MR. VAN DIEPEN:** Oh, yes, certainly.

16 **MR. ENGELMANN:** Yeah.

17 **MR. VAN DIEPEN:** And, again, you know, this
18 was -- certainly, he seems to suggest that it wasn't on the
19 part of Mr. Robert that presented that view, but I would
20 suggest to you that it was.

21 **MR. ENGELMANN:** Well, later on, there is
22 certainly some criticism of Mr. Robert that ---

23 **MR. VAN DIEPEN:** Yeah.

24 **MR. ENGELMANN:** --- surfaces ---

25 **MR. VAN DIEPEN:** M'hm.

1 **MR. ENGELMANN:** --- from his successor.

2 **MR. VAN DIEPEN:** Okay.

3 **MR. ENGELMANN:** But at this point in time,
4 this is the evidence we have from him when he was the
5 regional manager. And he does say:

6 "Did you get a sense, sir, from your
7 meetings in Cornwall..."

8 I'm looking at page 31, in the middle.

9 "...whether or not certain probation and
10 parole officers knew each other well?
11 They all seemed to know each other very
12 well, but there were ones -- there was
13 ones -- I guess, Jos and some two or
14 three, were there from the beginning,
15 like in time, chronologically, they'd
16 been there longer than others.

17 But Mr. Seguin would have been there
18 for a long time?

19 Yes, Seguin was there for a while; Mr.
20 van Diepen had been there for a long
21 time?

22 Yeah.

23 To your knowledge, how would you
24 describe their relationship?"

25 It says on the next page:

1 "I thought they were -- I thought they
2 were friends."

3 Is that a fair description, sir?

4 **MR. VAN DIEPEN:** Office friends.

5 **MR. ENGELMANN:** Right.

6 "You know, I really did. I was -- the
7 first meeting I was there, I guess, the
8 first meeting I visited the office,
9 shortly after I arrived -- probably
10 '93, you know, you get a new manager,
11 everybody's fooling around. It's a new
12 thing. I thought in that context, they
13 were quite good. Seguin was very quiet
14 to me -- a quieter, kind of shyer guy.
15 He's having a laugh, too."

16 And, sir, we'd had some evidence at that
17 point that you and Mr. Seguin went for lunch often, so I
18 asked:

19 "Were you aware that they would go for
20 lunch often?"

21 He says:

22 "Yeah.

23 And were you aware of whether or not
24 they socialized outside of the office,
25 as well?

1 No; I don't know about that so much.
2 But I did get the feeling they did have
3 a camaraderie sort of feeling, yes."

4 **MR. VAN DIEPEN:** Well, I think he's basing
5 that on one visit to the Cornwall office, which I recall
6 being on a Friday. And it just so happened that was one of
7 the Fridays that I went to lunch with Ken and we came back
8 from lunch and we were kibitzing coming back into the
9 office, and Mr. Roy was there. So I think he's reaching
10 when he's drawing that kind of conclusion ---

11 **MR. ENGELMANN:** All right.

12 **MR. VAN DIEPEN:** --- based on one incident.

13 **MR. ENGELMANN:** Well, he also said a couple
14 of other things. Let's just turn quickly to page 33.

15 **MR. VAN DIEPEN:** M'hm.

16 **MR. ENGELMANN:** At the top, he's saying"
17 "I don't think there was any problem
18 managing Seguin."

19 Then he says -- and it's a long answer -- he
20 says:

21 "I don't have a term for it, but
22 managing that type of probation
23 officer, the van Diepen type is -- I
24 don't know if it's called 'management'
25 or not, but it's a challenge. Kind of

1 an ongoing challenge to get through
2 what it is you're trying to say and
3 build your case maybe a little more
4 deeply and more completely than you
5 would if you didn't have a critic built
6 in, I suppose, in your group."

7 So again, he's -- whether accurately or not,
8 describing some of the difficulty in the office between Mr.
9 Robert and yourself as generating from you.

10 This is Mr. Roy.

11 **MR. VAN DIEPEN:** Yes; as the shop steward,
12 we were -- I was involved in a number of issues that
13 remained unresolved ---

14 **MR. ENGELMANN:** Okay.

15 **MR. VAN DIEPEN:** --- and I can give you
16 examples of those.

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

18 And in those cases, you would have had some
19 interaction with him?

20 **MR. VAN DIEPEN:** With?

21 **MR. ENGELMANN:** Mr. Roy.

22 **MR. VAN DIEPEN:** Not directly.

23 **MR. ENGELMANN:** Okay.

24 He said something else, sir.

25 He was read something -- it's at the bottom

1 of page 36. This is a statement that he would have given
2 to Mr. Downing:

3 "Bill said he thought it was odd that
4 Jos was a good friend of PPO Ken
5 Seguin. However, he -- Jos, was very
6 negative about homosexual behaviour.
7 Ken was homosexual. Bill said that he
8 heard Jos express his feelings about
9 homosexual conduct during a number of
10 meetings at the Cornwall probation and
11 parole office."

12 And then he says:

13 "Well, I don't recall it but this was
14 his business -- to record what I was
15 saying..."

16 You know, he goes on. I say:

17 "Well, were you aware at the time sir
18 of Mr. Seguin's sexual orientation?"

19 He says:

20 "Yeah. How were you aware of that? I
21 guess it was common knowledge."

22 And he does say:

23 "I only saw Ken one time; it was at
24 that meeting. The first meeting that I
25 attended."

1 Because, he didn't attend until the Fall of
2 '93 because he became the regional manager in the summer.

3 **MR. VAN DIEPEN:** Yes.

4 **MR. ENGELMANN:** And then Mr. Seguin, of
5 course, died.

6 **MR. VAN DIEPEN:** Yes.

7 **MR. ENGELMANN:** So he says -- I say:

8 "But..."

9 Page 38:

10 "But did you actually hear Mr. van
11 Diepen make comments in Mr. Seguin's
12 presence?

13 I must have had a banter going that
14 either that either I didn't understand
15 or maybe I put the wrong meaning on it
16 because they were close, and I'm saying
17 I'm sort of surprised between what
18 close means and what they were doing in
19 the meetings."

20 A little further down,

21 "All right and you were surprised
22 because some of the comments van Diepen
23 had made?"

24 "Oh, he was just used to, you know,
25 maybe that was part of the banter."

1 So what he is suggesting is that you made
2 some kind of a negative comment about homosexual behaviour
3 in front of Mr. Seguin and that it was common knowledge in
4 the office that Mr. Seguin was a homosexual and that he was
5 surprised that you would do that, as his friend.

6 **MR. VAN DIEPEN:** Yeah.

7 **MR. ENGELMANN:** So there is a bunch of
8 things in there ---

9 **MR. VAN DIEPEN:** Yeah.

10 **MR. ENGELMANN:** So I just -- let's start
11 with the beginning.

12 **MR. VAN DIEPEN:** Yeah.

13 **MR. ENGELMANN:** Do you recall making a
14 negative comment about homosexual behaviour in the office?

15 **MR. VAN DIEPEN:** No. Definitely not. No.

16 **MR. ENGELMANN:** You are quite certain about
17 that sir?

18 **MR. VAN DIEPEN:** I have no -- I have no idea
19 what this man is talking about.

20 **MR. ENGELMANN:** All right. He says it was
21 common knowledge, at least by 1993, when he came to
22 Cornwall that -- of Mr. Seguin's sexual orientation.

23 **MR. VAN DIEPEN:** No, that's incorrect.

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

25 **MR. VAN DIEPEN:** After ---

1 **MR. ENGELMANN:** It was not common knowledge
2 at that time?

3 **MR. VAN DIEPEN:** Well, Mr. Seguin certainly
4 made a very strong case to present himself as a confirmed
5 bachelor. Someone who was -- who had -- and knowing
6 something about his background, he had dated a number of
7 women; was engaged at one point; and on a number of
8 occasions, spoke to having been on a date with certain
9 women and -- but I never witnessed any of that.

10 And at one time, I recall him going into my
11 -- taking me into his confidence with respect to some
12 matter where there was some innuendo about him being gay,
13 and he was quite affronted by that and said, "You know,
14 it's very difficult for me to defend myself being a
15 confirmed bachelor, living alone," and so on and so forth.

16 And, you know, my position was that you're
17 certainly entitled to your -- if you're a confirmed
18 bachelor, there shouldn't be any reason for you to be
19 labelled anything else other than that, and there was never
20 any evidence of Mr. Seguin being gay or homosexual or drawn
21 to men or whatever kind of language you wish to use. And
22 it was no -- either in his mannerisms, his speech, his --
23 just his general behaviours. In fact, the contrary was the
24 case.

25 **MR. ENGELMANN:** All right. Well, you would

1 certainly agree, sir, that there was some discrimination
2 against homosexuals. There still is, but there would have
3 been more back in the '70s, '80s and '90s in this country?

4 MR. VAN DIEPEN: Yes.

5 MR. ENGELMANN: And that often people with
6 that sexual orientation didn't come out about it.

7 MR. VAN DIEPEN: That's right.

8 MR. ENGELMANN: But you're actually here
9 telling us today that, in 1993, after you had worked with
10 Mr. Seguin for 18 years ---

11 MR. VAN DIEPEN: Yes.

12 MR. ENGELMANN: --- you didn't know his
13 sexual orientation?

14 MR. VAN DIEPEN: That's correct. His
15 relationship, and at times we -- you know, we had, I would
16 say, a good and healthy co-worker relationship, and we were
17 on very comfortable speaking terms, and I would say to -- I
18 would suggest to you that my relationship with Mr. Seguin
19 was, I think to use the proper -- the only word that I can
20 think of, was a fraud.

21 MR. ENGELMANN: I'm sorry?

22 MR. VAN DIEPEN: A fraud.

23 MR. ENGELMANN: What do you mean?

24 MR. VAN DIEPEN: Fraud. I mean he presented
25 himself other than what he actually was and, in fact, lied

1 about it to me when he spoke -- when he, you know, even
2 brought it into his own mind that people had made
3 accusations and then said that they weren't so, and that
4 was very unfair for people to imply those things.

5 **MR. ENGELMANN:** We'll come back to a bit of
6 this, but again we'll come back to a bit of this.

7 **THE COMMISSIONER:** Can you pick a time when
8 you might want a break, Mr. Engelmann?

9 **MR. ENGELMANN:** Okay. I'm -- in just a
10 couple of minutes perhaps, sir, if I can.

11 **THE COMMISSIONER:** Yes, fine.

12 **MR. ENGELMANN:** During -- just to go back to
13 Mr. Robert again and again some of the things he is going
14 to say, he is going to talk about a number of incidents
15 where, I believe, there were -- he initially disciplined
16 you for various activities, and I am wondering if those --
17 his disciplinary acts would have resulted in grievances and
18 the outcome of those grievances or do you recall?

19 **MR. VAN DIEPEN:** There were a number of
20 grievances I laid against Mr. Robert. The final outcome of
21 those grievances was that he was -- you know, they were
22 looking for an outcome, and I said, "I don't want anything
23 other than I want honesty and integrity, and I want an
24 apology in recognition for what he did." And he publicly
25 apologized to me and ---

1 **MR. ENGELMANN:** As a result of what, sir?

2 **MR. VAN DIEPEN:** As a result of my
3 grievances.

4 **MR. ENGELMANN:** I was thinking of where he
5 might have taken disciplinary action against you, and you
6 would have ---

7 **MR. VAN DIEPEN:** No -- well, no the
8 grievance -- well, first of all, let me speak to the
9 grievances or to the discipline.

10 **MR. ENGELMANN:** Yes?

11 **MR. VAN DIEPEN:** I want -- the discipline
12 dealt with a number of activities that officers did from
13 time to time, and the result was that there was no action
14 taken against them and yet there was disciplinary action
15 taken against me. And this involved, you know -- or there
16 would be some kind of a reaction to what I did where it
17 didn't happen in other cases.

18 **MR. ENGELMANN:** So he singled you out, is
19 what you're saying?

20 **MR. VAN DIEPEN:** Oh yeah, definitely so.

21 **MR. ENGELMANN:** You're saying that he
22 treating you adversely compared to your colleagues?

23 **MR. VAN DIEPEN:** Certainly so.

24 **MR. ENGELMANN:** All right. And so you might
25 have done something similar to what a colleague had done,

1 but you were the one who was disciplined?

2 MR. VAN DIEPEN: Exactly.

3 MR. ENGELMANN: All right. I just -- I
4 wanted to understand your perspective.

5 MR. VAN DIEPEN: Yes.

6 MR. ENGELMANN: All right. And so you're
7 saying that if he disciplined you, in your view, it was for
8 something similar to what one of your colleagues would have
9 done, but you were the one who received the discipline?

10 MR. VAN DIEPEN: Yeah. It was -- like there
11 was a hidden agenda.

12 MR. ENGELMANN: All right. And where did
13 that come from?

14 MR. VAN DIEPEN: Well, initially, as I
15 indicated to you earlier, initially, what -- under the
16 Collective Agreement, there was an appendix, which allowed
17 for a compressed workweek agreement.

18 MR. ENGELMANN: M'hm.

19 MR. VAN DIEPEN: We were one of the first,
20 in fact, we were the first in the Eastern Region, to my
21 knowledge, that requested a compressed workweek agreement.
22 However, it was not in the agreement that thou shalt have
23 the compressed workweek agreement. It was worded in such a
24 way that you thou may have a compressed work week
25 agreement, provided that all parties would agree.

1 Ultimately, a number of sites did get
2 compressed workweek agreements, but we never did. And
3 instead, what Mr. Robert did, was he would make side bar
4 agreements with staff to -- that they could come and go or
5 do whatever they did and, of course, this was contrary to
6 Union position, which is, "If it's good for one, it's good
7 for the other" and so there must be uniformity of
8 application, which wasn't the case.

9 **MR. ENGELMANN:** Okay.

10 **MR. VAN DIEPEN:** And so with this -- his --
11 so, you know, when he speaks about me undermining his
12 authority, maybe he is really speaking about his efforts to
13 undermine the effective working atmosphere in the work ---

14 **MR. ENGELMANN:** Whoever was responsible for
15 that breakdown, whether that's you or Mr. Robert ---

16 **MR. VAN DIEPEN:** Yes.

17 **MR. ENGELMANN:** --- at the end of the day,
18 it had an impact not only on your work but on his work and
19 on your colleagues' work. Is that fair?

20 **MR. VAN DIEPEN:** Yes.

21 **MR. ENGELMANN:** Maybe we'll take a break,
22 sir, if that's okay?

23 **THE COMMISSIONER:** We will take the
24 afternoon break.

25 **THE REGISTRAR:** Order; all rise. À l'ordre;

1 veuillez vous lever.

2 This hearing will resume at 3:25 p.m.

3 --- Upon recessing at 3:06 p.m. /

4 L'audience est suspendue à 15h06

5 --- Upon resuming at 3:30 p.m. /

6 L'audience est reprise à 15h30

7 **THE REGISTRAR:** This hearing is now resumed.

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Mr. Engelmann.

10 **JOS VAN DIEPEN:** Resumed/Sous le même serment

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

12 **ENGELMANN (Cont'd/suite):**

13 **MR. ENGELMANN:** Mr. van Diepen, I wanted to
14 go back to talk about some training and some protocols or
15 rules in the workplace.

16 **MR. VAN DIEPEN:** Yes.

17 **MR. ENGELMANN:** And I don't mean management-
18 labour things, more protocols and sort of regulations that
19 might apply to probation officers, and I'll get right into
20 it in a minute and explain.

21 **MR. VAN DIEPEN:** I understand.

22 **MR. ENGELMANN:** Okay. In any event, we
23 looked at your old C.V. sometime ago, and it's Exhibit
24 number 1167, and you should have it beside you somewhere.

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** Now, we talked about, just
2 on the third page at the bottom, some of the training that
3 you would have taken as a probation and parole officer.
4 That would have been in the early part of your career.

5 **MR. VAN DIEPEN:** Okay.

6 **MR. ENGELMANN:** And what I'm wondering is --
7 and I apologize if I asked this earlier, but was this all
8 training that was given to all of you at the same time or
9 is this special training that you would have asked for, or
10 do you recall?

11 **MR. VAN DIEPEN:** I would say that most of
12 that would -- what's listed here would be -- in this résumé
13 would be general for all probation officers.

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

15 When you started, was there any training or
16 anything like that about what you should do and how you
17 should act with probationers, things of that nature?

18 **MR. VAN DIEPEN:** When I started?

19 **MR. ENGELMANN:** Yeah.

20 **MR. VAN DIEPEN:** No, I was told, there's my
21 office; there are the files, and ---

22 **MR. ENGELMANN:** Get at it.

23 **MR. VAN DIEPEN:** Get at her.

24 **MR. ENGELMANN:** Okay.

25 **MR. VAN DIEPEN:** Yeah.

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

2 Okay. So you really had to learn on the
3 job?

4 **MR. VAN DIEPEN:** Yes.

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

6 It does appear that, at least in the first
7 few years, you had some general training?

8 **MR. VAN DIEPEN:** Yes.

9 **MR. ENGELMANN:** What about after 1980? Were
10 you given training from time to time?

11 **MR. VAN DIEPEN:** From time to time, yes.

12 **MR. ENGELMANN:** All right.

13 Because I know we talked and we looked at a
14 couple of things about perhaps getting training to assist
15 you in getting a promotion.

16 **MR. VAN DIEPEN:** Yes.

17 **MR. ENGELMANN:** And I believe that didn't
18 really happen?

19 **MR. VAN DIEPEN:** No, never.

20 **MR. ENGELMANN:** But what about just other
21 training?

22 **MR. VAN DIEPEN:** I took a number of other
23 training and I also took some training on my own -- other -
24 - additional initiatives.

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

1 The training that would have been provided
2 by the Ministry, would that have been in-service type
3 training, the general nature of the first few things or
4 would they actually send you off on courses, things of that
5 nature?

6 **MR. VAN DIEPEN:** Both.

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

8 As part of your work as a probation and
9 parole officer, you would have to become familiar with
10 Ministry policies and regulations?

11 **MR. VAN DIEPEN:** Yes.

12 **MR. ENGELMANN:** How was that done?

13 **MR. VAN DIEPEN:** Part of the requirements to
14 become a Probation Officer Two was to complete a set of
15 barrier exams, and it was in three parts; Social Work, Law
16 and Administration.

17 And, obviously, Administration dealt with
18 administration of your job as well as there was a lot of
19 memorandum and directives, a lot of policy changes. And
20 one time we were -- I can recall, we were bombarded with
21 directives that came from the head office.

22 **MR. ENGELMANN:** Do you remember
23 approximately when that was?

24 **MR. VAN DIEPEN:** Yeah. That would have been
25 -- depending on who was in charge at the time, but I

1 remember during the Neil McKerrell era, there was just a --
2 just a flood of memos that came out.

3 MR. ENGELMANN: And what timeframe are you
4 talking about, sir?

5 I am going to take you to a few policies;
6 one is from 1990.

7 MR. VAN DIEPEN: M'hm.

8 MR. ENGELMANN: Another is from '95, but I'm
9 just wondering you say there was an era when there's a lot
10 of them.

11 MR. VAN DIEPEN: Yeah.

12 MR. ENGELMANN: Was it either of those
13 timeframes? Do you remember who your manager was at the
14 time?

15 MR. VAN DIEPEN: I prefer not to say ---

16 MR. ENGELMANN: That's fine.

17 MR. VAN DIEPEN: --- because I've got
18 probably a 50 percent chance of being wrong.

19 MR. ENGELMANN: All right.

20 So how did you become aware of Ministry
21 policies?

22 For example, if a new policy was introduced
23 or a policy was amended.

24 MR. VAN DIEPEN: A memorandum came to the --
25 came in the mail, and the Area Manager photocopied it and

1 it was -- everybody had a mail slot and it was stuck in
2 their mail slot and here you go. Read it.

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

4 And over time has that changed so that now
5 they're sent by email directly to you or did you have that
6 experience during your last few years?

7 **MR. VAN DIEPEN:** I would say that the number
8 of memoranda that would come out has been reduced
9 significantly. So rather than a, you know, piecemeal,
10 things were sort of -- now, they're much more thought out
11 and they're done in a much more logical process with a --
12 so that there was a -- if there was an area that was
13 redeveloped, it would come out in a package.

14 **MR. ENGELMANN:** Yes.

15 **MR. VAN DIEPEN:** And there would be written
16 material. There would be a meeting about it. There would
17 be a seminar about it, so on and so forth. So it wouldn't
18 be just, you know, well, we are changing one part of a -- a
19 subpart of a policy that -- and a memo, and then two weeks
20 later, another little piece, you know.

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

22 **MR. VAN DIEPEN:** So you get little snippets,
23 and snippets, and snippets. The whole policy on an issue
24 would be redefined or clarified or changed, and there would
25 be a solid workable document, if I can use that

1 terminology.

2 **MR. ENGELMANN:** When did that change happen?
3 When did you start getting that thorough ---

4 **MR. VAN DIEPEN:** Well, I would say that that
5 was probably more evolutionary than revolutionary in
6 nature.

7 **MR. ENGELMANN:** M'hm. All right.

8 And I assume from the way you are talking
9 about it that it would be much easier for you and your
10 colleagues to understand why policies were being changed
11 and what the purpose of the change was and to learn more
12 about the policy as these changes evolved over time.

13 **MR. VAN DIEPEN:** Certainly, yes. It was
14 certainly a much more -- much clearer to everyone ---

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

16 **MR. VAN DIEPEN:** --- and everybody would be
17 speaking from the same page.

18 **MR. ENGELMANN:** All right.

19 Would it be fair to say that there would be
20 some issues that would be so obvious that you wouldn't need
21 a policy for?

22 **MR. VAN DIEPEN:** Obviously, yes.

23 **MR. ENGELMANN:** But others perhaps defining
24 conflicts of interest and things of that nature, it might
25 be helpful to have them defined?

1 MR. VAN DIEPEN: Yes.

2 MR. ENGELMANN: All right.

3 So, for example, having a sexual
4 relationship with a client as a probation officer, whether
5 there is a policy about it or not, you know that's wrong?

6 MR. VAN DIEPEN: Yeah.

7 MR. ENGELMANN: Is that fair?

8 MR. VAN DIEPEN: Yeah. There was no need
9 for ---

10 MR. ENGELMANN: You would agree with me that
11 no matter what the nature of the relationship, whether it's
12 heterosexual or homosexual, a relationship between a
13 probation officer and a probationer would be grounds for
14 dismissal?

15 MR. VAN DIEPEN: Yes.

16 MR. ENGELMANN: All right.

17 And, again, it wouldn't matter whether that
18 was a legal, if I can use the term, sexual relationship.

19 MR. VAN DIEPEN: Consensual, you mean?

20 MR. ENGELMANN: Yes, between adults or a
21 sexual relationship with someone who is under the age of
22 18?

23 MR. VAN DIEPEN: That's right.

24 MR. ENGELMANN: And you would agree, sir,
25 that people in a position of a probation and parole officer

1 are in a position of trust?

2 MR. VAN DIEPEN: Yes.

3 MR. ENGELMANN: They are persons in
4 authority?

5 MR. VAN DIEPEN: Yes.

6 MR. ENGELMANN: They have a great deal of
7 power over their clients or they can?

8 MR. VAN DIEPEN: Yeah. They could certainly
9 use their position to -- adversely.

10 MR. ENGELMANN: Right.

11 And that would include a power to breach or
12 to write up a breach of probation charge?

13 MR. VAN DIEPEN: Certainly.

14 MR. ENGELMANN: And a breach of probation
15 charge can and often does lead to incarceration, if there's
16 a finding of guilt?

17 MR. VAN DIEPEN: Yes.

18 MR. ENGELMANN: So, therefore, there is a
19 power imbalance in any type of relationship between a
20 probationer and a probation officer?

21 MR. VAN DIEPEN: Yes.

22 MR. ENGELMANN: And that can also be
23 difficult for people in the probation officer position in
24 the sense that a probationer might allege certain things or
25 might try and blackmail or extort, if I can use those

1 terms, use the situation if they're in a relationship, a
2 sexual relationship with a probation officer?

3 MR. VAN DIEPEN: Yes.

4 MR. ENGELMANN: So for all sorts of reasons,
5 it's a complete no-no?

6 MR. VAN DIEPEN: That's right.

7 MR. ENGELMANN: All right.

8 And, again, given that power imbalance, it
9 might be difficult to even describe a sexual relationship
10 as consensual; is that fair?

11 MR. VAN DIEPEN: Yeah, that may be. Yeah,
12 that may be so.

13 MR. ENGELMANN: Now, this -- by the way, as
14 a member of the Probation Officers' Association of Ontario,
15 Inc., I understand there is a code of ethics?

16 MR. VAN DIEPEN: Yes.

17 MR. ENGELMANN: For you as members.

18 MR. VAN DIEPEN: Yes.

19 MR. ENGELMANN: And I'm just wondering, sir,
20 if you could look at -- and if the witness could be shown
21 Document Number 739898. And it is, I believe, the Code of
22 Ethics for the Probation Officers Association of Ontario,
23 Inc. Now ---

24 THE COMMISSIONER: Exhibit 1172.

25 --- EXHIBIT NO./PIÈCE NO. P-1172:

1 (739898) Probation Officers' Association of
2 Ontario, Inc. Code Of Ethics

3 **MR. ENGELMANN:** Mr. van Diepen, just looking
4 at the type and at the print, it would appear this is a
5 document that has been around for some time. I'm not sure
6 if there's something more recent or if you could help me
7 with that.

8 On the front page, you have a code of ethics
9 and it talks about responsibility to the profession, to
10 courts, criminal justice system and community, to the
11 offender and then on the back there's a Mission Statement
12 about the association.

13 Are you still a member of this association,
14 sir?

15 **MR. VAN DIEPEN:** No, I'm not. I'm retired.

16 **MR. ENGELMANN:** All right. And did your
17 membership end with retirement or did it end some time
18 earlier ---

19 **MR. VAN DIEPEN:** Earlier.

20 **MR. ENGELMANN:** --- or do you recall?

21 **MR. VAN DIEPEN:** Earlier.

22 **MR. ENGELMANN:** All right. Have you seen
23 this document before, sir?

24 **MR. VAN DIEPEN:** Yes, I have.

25 **MR. ENGELMANN:** All right. Do you know,

1 approximately, are you able to tell us as to how old this
2 code of ethics might be or whether it's been amended?

3 **MR. VAN DIEPEN:** M'hm, whether it's been
4 amended or not, but -- certainly this document or a similar
5 document has been around for a long time.

6 **MR. ENGELMANN:** All right. Some of the
7 ethical principles set out here are -- doesn't really
8 matter when, they've been ---

9 **MR. VAN DIEPEN:** They're self-explanatory.

10 **MR. ENGELMANN:** All right. So, for example,
11 when we look at -- just a couple, if I may.

12 It starts with, I guess, the purpose of the
13 code of ethics:

14 "To assist probation officers in
15 maintaining the integrity of their
16 profession by upholding and advancing
17 the purpose, knowledge, ethics and
18 values of the probation field at all
19 times."

20 **MR. VAN DIEPEN:** Yes.

21 **MR. ENGELMANN:** All right. And then under
22 "To the Offender", it says:

23 "Probation officers shall ..."

24 -- and I'm just -- I think these are fairly self-
25 explanatory. Tell me if you have any disagreement with any

1 -- but:

2 " ... provide service to the offender
3 to the maximum of their professional
4 skill, ability and competence."

5 Surely you'd agree with that?

6 **MR. VAN DIEPEN:** Yes.

7 **MR. ENGELMANN:** "Maintain a professional
8 relationship at all times to avoid
9 conflict of interest situations."

10 Again, that would be important?

11 **MR. VAN DIEPEN:** Yes.

12 **MR. ENGELMANN:** "And promote equality in
13 every respect, thereby preserving the
14 dignity and rights of offenders."

15 **MR. VAN DIEPEN:** Yes.

16 **MR. ENGELMANN:** All right. And there's
17 several others, but I just wanted to highlight a few.

18 **MR. VAN DIEPEN:** Yes.

19 **MR. ENGELMANN:** And another thing that
20 appears to be important, at the bottom, is:

21 "Respecting the privacy of the offender
22 and the confidentiality of information
23 subject to legal and policy
24 parameters."

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** And, sir, you would be aware
2 of -- or perhaps you are aware of issues under the *Youth*
3 *Criminal Justice Act* and some of the confidentiality and
4 privacy provisions that fall thereunder?

5 **MR. VAN DIEPEN:** Yes. Very restrictive.

6 **MR. ENGELMANN:** Sorry.

7 **MR. VAN DIEPEN:** They are very restrictive.

8 **MR. ENGELMANN:** Right. And those are --
9 those are important for probation officers to know?

10 **MR. VAN DIEPEN:** Yes.

11 **MR. ENGELMANN:** Now, in addition, sir, to
12 this code of ethics, and this code of ethics is -- that's a
13 code of ethics for your association and as I understand the
14 association is not -- membership in the association is not
15 mandatory?

16 **MR. VAN DIEPEN:** That's correct.

17 **MR. ENGELMANN:** You were a member but it's
18 not mandatory?

19 **MR. VAN DIEPEN:** That's right.

20 **MR. ENGELMANN:** But in your own workplace
21 there were some policies dealing with conflicts of
22 interest?

23 **MR. VAN DIEPEN:** Yes.

24 **MR. ENGELMANN:** Correct? And I want you to
25 look at one and may be you can help me. It's the earliest

1 one I could find, but you may have had others because
2 you've been there for a while or you were there for a
3 while.

4 It's Document Number 739901 and, Mr.
5 Commissioner, it is a document dated December 17th, 1990 re.
6 Ministry Policy on Employee Contact with Offenders/Ex-
7 Offenders.

8 **THE COMMISSIONER:** Exhibit Number 1173.
9 Memorandum dated December 17th, 1990.

10 **--- EXHIBIT NO./PIÈCE NO. P-1173:**

11 (739901) Ministry Policy on Employee Contact
12 with Offenders/ex-Offenders - December 17,
13 1990

14 **MR. ENGELMANN:** Mr. van Diepen, it appears
15 from it's face that it's a revised version of at least a
16 policy from '89. Do you see that in the first paragraph?

17 **MR. VAN DIEPEN:** Yes.

18 **MR. ENGELMANN:** Oh, sorry, the policy --
19 you're right -- the policy follows the cover note, but just
20 before you have a look at it, sir, can you recall -- you
21 were with the Ministry from '75?

22 **MR. VAN DIEPEN:** M'hm.

23 **MR. ENGELMANN:** Can you recall if there were
24 Ministry policies on employee contact with offenders and
25 ex-offenders from before '89?

1 MR. VAN DIEPEN: Oh, yes.

2 MR. ENGELMANN: All right. And would I be
3 correct in saying that those policies would discourage
4 relationships between probation officers and offenders or
5 ex-offenders?

6 MR. VAN DIEPEN: Yes.

7 MR. ENGELMANN: And that if there was going
8 to be any form of a relationship, there would be some kind
9 of reporting requirement to a supervisor or supervisor's
10 supervisor?

11 MR. VAN DIEPEN: Certainly.

12 MR. ENGELMANN: All right. But in the main,
13 that type of relationship would be discouraged?

14 MR. VAN DIEPEN: Yes.

15 MR. ENGELMANN: All right. So, in fact, if
16 we look at this document, 1173, on the second page in there
17 are definitions and essentially they define offender and
18 ex-offender but I think that's fairly self-explanatory as
19 well. I doubt if there would be any probation officer who
20 would not understand an offender/ex-offender. Is that
21 fair?

22 MR. VAN DIEPEN: Yes.

23 MR. ENGELMANN: And on the next page under
24 the number 2, under "Policy", the policy is set out there.
25 And that certainly is consistent, sir, with how you

1 remembered the policy?

2 MR. VAN DIEPEN: Yes.

3 MR. ENGELMANN: Whether it's 1990 or
4 earlier?

5 MR. VAN DIEPEN: Yes.

6 MR. ENGELMANN: All right. And it appears
7 that the policy applies to all Ministry employees, not just
8 probation and parole officers, but ---

9 MR. VAN DIEPEN: Everyone.

10 MR. ENGELMANN: So it would be everybody in
11 your office?

12 MR. VAN DIEPEN: Yes.

13 MR. ENGELMANN: Whether that's the manager,
14 support staff member, admin clerk, whomever?

15 MR. VAN DIEPEN: Yes.

16 MR. ENGELMANN: All right. And do you know
17 what is meant -- and just put yourself into the Cornwall
18 office context -- what would be meant by the "Immediate
19 Chief Administrator"?

20 MR. VAN DIEPEN: It would be the area
21 manager.

22 MR. ENGELMANN: All right. That wouldn't be
23 going to Kingston, that would be area manager in Cornwall,
24 at least when you had an on-site supervisor?

25 MR. VAN DIEPEN: Yes.

1 **MR. ENGELMANN:** All right. Now, I apologize
2 to my friends, this was something that I didn't give notice
3 on, but it's in the corporate presentation that was given
4 by the Ministry some time ago. I don't think it's
5 controversial. It's a -- just one moment. It's Document
6 Number 739899.

7 **THE COMMISSIONER:** Has it been made an
8 exhibit?

9 **MR. ENGELMANN:** M'hm ---

10 **THE COMMISSIONER:** No, I guess the Clerk has
11 it there, so.

12 **MR. ENGELMANN:** I think it's part of an
13 exhibit. I -- it's part of the ---

14 **THE COMMISSIONER:** It matters not. We've
15 got it here, Madam Clerk?

16 **MR. ENGELMANN:** Yes.

17 **THE COMMISSIONER:** So we'll just number it
18 and away we go.

19 **MR. ENGELMANN:** It would be a very small
20 part of their corporate presentation, sir. Do you want to
21 make it a separate exhibit?

22 **THE COMMISSIONER:** Yeah. Let's go. Thank
23 you.

24 **THE COMMISSIONER:** Exhibit Number 1174 is a
25 memorandum for general distribution; seems there's a date

1 of June 16th, 1995 -- June 10th, 1995. Okay.

2 --- EXHIBIT NO./PIECE NO. P-1174:

3 (739899) Conflict of Interest Policy - June
4 10, 1995

5 MR. ENGELMANN: So just before I get into
6 1174 with you, Mr. van Diepen, do you recall receiving
7 1173, the 1990 document, when you were working in the
8 Cornwall Probation and Parole Office?

9 MR. VAN DIEPEN: No.

10 MR. ENGELMANN: All right. You -- you
11 likely would have received it in the way you described?

12 MR. VAN DIEPEN: Oh, yeah.

13 MR. ENGELMANN: You just don't recall
14 specifically getting it?

15 MR. VAN DIEPEN: No.

16 MR. ENGELMANN: All right.

17 MR. VAN DIEPEN: I don't think there was any
18 -- I don't think there was any substantial change. I think
19 it just -- I mean, the policy was pretty clear; no contact
20 ---

21 MR. ENGELMANN: All right. Was there a
22 need, by the way, when you receive new policies, did you
23 have to sign-off on them or anything like that to show your
24 employer that you'd read them?

25 MR. VAN DIEPEN: No.

1 **MR. ENGELMANN:** All right. You were never
2 tested on this material either, I assume?

3 **MR. VAN DIEPEN:** I wasn't, no.

4 **MR. ENGELMANN:** All right. Might this have
5 been something that if you are going from a Level I to a
6 Level II that you might have had to review?

7 **MR. VAN DIEPEN:** I would believe so, yes.

8 **MR. ENGELMANN:** All right. So if we could
9 take a look at 1174 for just a minute and, again, this is a
10 later revision of the conflict of interest policy, sir?

11 **MR. VAN DIEPEN:** M'hm.

12 **MR. ENGELMANN:** And I want you to take a
13 look at -- it's numbered "page 3". For the record, it's
14 Bates page 7178723. The top paragraph.

15 Sir, this appears to go a little further;
16 would you agree?

17 **MR. VAN DIEPEN:** Yeah, I suppose so. It's
18 still -- you know, there's no radical change. It's still
19 the same thing. It just says you must report it and if you
20 don't do it you're subject to disciplinary action.

21 **MR. ENGELMANN:** All right, well, in 1990 it
22 appears that it's the Ministry employee who knowingly
23 enters into or continues that relationship and in 1995 I
24 think it's a step up because it appears to say:

25 "Any ministry employee who is aware or

1 ought reasonably to know that a
2 personal conflict of interest
3 exists..."

4 So it's going beyond yourself and,
5 presumably, to all your colleagues.

6 **MR. VAN DIEPEN:** Yes.

7 **MR. ENGELMANN:** And it's creating some kind
8 of proactive or reporting obligation. Is that fair?

9 **MR. VAN DIEPEN:** Yes.

10 **MR. ENGELMANN:** So that seems to be a
11 tougher or stronger Conflict of Interest policy.

12 **MR. VAN DIEPEN:** Yes.

13 **MR. ENGELMANN:** All right.

14 And, again, there's more that describes it
15 and maybe this part of what you said earlier where there's
16 better description of policies as time goes on, but there
17 continues to be sort of a descriptive version on that page
18 and the next about options you have.

19 Would you have received this, presumably, in
20 the workplace?

21 **MR. VAN DIEPEN:** Oh, I don't remember but
22 I'm pretty sure we would have, yes.

23 **MR. ENGELMANN:** Do you remember whether
24 there would have been any kind of presentation on this?
25 Because it's a lot more detailed than you had before, if

1 you look at it.

2 **MR. VAN DIEPEN:** I don't believe it was.

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

4 **MR. VAN DIEPEN:** It may have been but I
5 don't recall.

6 **MR. ENGELMANN:** All right but it would have
7 been something that presumably you were all asked to read -
8 --

9 **MR. VAN DIEPEN:** Yes.

10 **MR. ENGELMANN:** --- and to know.

11 **MR. VAN DIEPEN:** Yes.

12 **MR. ENGELMANN:** Mr. van Diepen, I want to
13 ask you a little bit about how the caseload was organized
14 in the office and we talked briefly about this earlier but
15 I just -- I want to get a sense as to whether or not that
16 changed over time; not who was responsible for what but did
17 it from the get-go involve distribution by geography?

18 **MR. VAN DIEPEN:** Well, yes it had to.

19 **MR. ENGELMANN:** All right and would that
20 mean, for example -- and I'm not familiar with your work or
21 not as familiar as I could be, would that mean a probation
22 officer would be assigned to a particular court?

23 **MR. VAN DIEPEN:** Yes.

24 **MR. ENGELMANN:** All right. So if there are
25 a number of courts in the Cornwall area, you would have one

1 court responsibility; Mr. Seguin would have had another;
2 Mr. Barque would have had another.

3 MR. VAN DIEPEN: Yes.

4 MR. ENGELMANN: That's in your first five or
5 six years?

6 MR. VAN DIEPEN: Yes.

7 MR. ENGELMANN: All right. And then when
8 Mr. Rousseau joins you, is he given yet another court
9 district or how would that work?

10 MR. VAN DIEPEN: He stayed in the Cornwall
11 office.

12 MR. ENGELMANN: All right. And as I
13 understand it, at least from the start, you were
14 responsible for Winchester?

15 MR. VAN DIEPEN: Yes.

16 MR. ENGELMANN: Mr. Barque for Alexandria,
17 and Mr. Seguin for Morrisburg.

18 MR. VAN DIEPEN: Yes.

19 MR. ENGELMANN: All right. And would you
20 also have responsibilities here with respect to the
21 Cornwall courts?

22 MR. VAN DIEPEN: Of course, yes.

23 MR. ENGELMANN: All three of you.

24 MR. VAN DIEPEN: Yes.

25 MR. ENGELMANN: All right. And Mr. Barque -

1 - Alexandria being more a French area?

2 MR. VAN DIEPEN: Yes.

3 MR. ENGELMANN: That was a consideration?

4 MR. VAN DIEPEN: Yes.

5 MR. ENGELMANN: Now, can you tell us when it
6 is that you were assigned or became responsible for
7 Morrisburg?

8 MR. VAN DIEPEN: I can't.

9 MR. ENGELMANN: All right. Can you tell us
10 who the area manager was when that happened?

11 MR. VAN DIEPEN: I believe it was Emile
12 Robert.

13 MR. ENGELMANN: All right. And can you tell
14 us in relation to Mr. Seguin's death, which was late '93,
15 whether that would have been a year or two or more before?

16 MR. VAN DIEPEN: I'd be guessing.

17 MR. ENGELMANN: All right. Can you tell us
18 the circumstances surrounding your becoming responsible for
19 Morrisburg and his no longer being responsible for it?

20 MR. VAN DIEPEN: Yes. The court in
21 Winchester ceased to function or they closed it and all the
22 matters for Dundas County were brought one court,
23 Morrisburg.

24 This resulted in Mr. Seguin and myself both
25 reporting to the Morrisburg court which appeared to be

1 somewhat impractical and the Ministry's response was that
2 only -- or management's decision was that only one person
3 would do that and it was ultimately decided that I would go
4 to Morrisburg and be responsible for Dundas county.

5 **MR. ENGELMANN:** Is it true that going to
6 Morrisburg had some benefits to employees in the sense of a
7 company vehicle?

8 **MR. VAN DIEPEN:** Well, I think the benefit
9 was to get out of the office.

10 **MR. ENGELMANN:** Yes?

11 **MR. VAN DIEPEN:** Certainly you were out of
12 that atmosphere and it certainly was -- in that sense, it
13 was a ---

14 **MR. ENGELMANN:** A positive?

15 **MR. VAN DIEPEN:** --- a plus, yes.

16 **MR. ENGELMANN:** And Mr. Seguin was senior to
17 you, was he not?

18 **MR. VAN DIEPEN:** Yes.

19 **MR. ENGELMANN:** And did he want to stay
20 responsible for Morrisburg?

21 **MR. VAN DIEPEN:** Yeah I -- that was -- that
22 was something that -- the decision to place me in
23 Morrisburg as opposed to Mr. Seguin was done outside of my
24 knowledge and I was advised by Mr. Robert that I would look
25 after Morrisburg.

1 **MR. ENGELMANN:** And given how you've
2 described your relationship with Mr. Robert and how you've
3 described Mr. Seguin's relationship with Mr. Robert, if
4 it's something you both wanted, given what you've told us,
5 Mr. Seguin is the senior employee and he certainly has a
6 better working relationship with Mr. Robert than you do, it
7 would seem surprising that you would have received that
8 assignment.

9 **MR. VAN DIEPEN:** Well, you said that Mr.
10 Seguin wanted that assignment and I ---

11 **MR. ENGELMANN:** Well, I'm wondering if he
12 did.

13 **MR. VAN DIEPEN:** Well, that's what I was
14 going to clarify for you was that initially I believed Mr.
15 Seguin may have wanted it but then I recall some
16 conversation I had with him where he decided to decline or
17 he decided he would prefer to stay back in Cornwall, and it
18 may have had to do with his work schedule.

19 I alluded earlier to these sidebar
20 agreements with -- respecting work hours, and Mr. Seguin
21 had a habit of coming in very early in the morning and
22 leaving early in the afternoon so he could go fishing.

23 **MR. ENGELMANN:** Yes?

24 Well, I'm just wondering about if Mr. Seguin
25 decided he no longer wanted to go to Morrisburg -- we did

1 have a witness here by the name of Ron Leroux.

2 MR. VAN DIEPEN: Yeah, I read that.

3 MR. ENGELMANN: All right. And you would
4 have been aware of allegations he would have made, at least
5 in an anticipated evidence summary and, as a consequence,
6 your lawyer, Mr. Westdal appeared here, because at one
7 point there was at least an anticipated allegation from him
8 that he'd been told by Mr. Seguin that you had threatened
9 to "out him" or words to that effect and therefore he gave
10 up his Morrisburg territory to you.

11 MR. VAN DIEPEN: Yeah.

12 MR. ENGELMANN: Now when he actually came
13 and testified, he didn't say nearly that much. What he
14 said, at Volume 121, page 66 -- I'm looking at line 17 --
15 I'll just give it a minute -- there's only a few lines
16 here.

17 MR. VAN DIEPEN: I can answer it without
18 even seeing it.

19 MR. ENGELMANN: Okay.

20 MR. VAN DIEPEN: Because it's just -- it's
21 just out of ---

22 MR. ENGELMANN: Let me just read it to you.

23 MR. VAN DIEPEN: It's nonsense.

24 MR. ENGELMANN: You asked him a question.
25 He says he wouldn't answer you. He was abrupt with him in

1 the office and stuff like that.

2 This is -- Ken is apparently talking to Ron
3 about you:

4 "He had taken his territory away from
5 him in Morrisburg, stuff like that, Ken
6 would say so I presume they were not
7 getting along."

8 And he's describing things towards the end
9 of your relationship.

10 So you've heard the allegation that was made
11 outside the hearing room. You heard the watered-down
12 version that was made here, and I just need to quote them
13 to you to say -- did you ever say anything like that or do
14 anything like that with Mr. Seguin?

15 **MR. VAN DIEPEN:** Of course not. I mean, you
16 know, you're alleging that I knew about Mr. Seguin, and
17 that I would out him. And I certainly didn't know about
18 Mr. Seguin to be able to out him.

19 **MR. ENGELMANN:** So that's what Mr. Leroux
20 said?

21 **MR. VAN DIEPEN:** Yes, and I'd certainly
22 don't -- you know that -- it's interesting that Mr. Seguin
23 discussed those kinds of things with Mr. Leroux or that how
24 Mr. Leroux became aware of those things, but certainly
25 there's no element of truth to that whatsoever.

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

2 Well, you knew they were neighbours?

3 **MR. VAN DIEPEN:** Yes.

4 **MR. ENGELMANN:** And I guess you didn't know
5 -- at least Mr. Leroux told us, and I think a couple of
6 others have told us and, in fact, they have, that they were
7 very close friends?

8 **MR. VAN DIEPEN:** Well, I ---

9 **MR. ENGELMANN:** You weren't aware of that?

10 **MR. VAN DIEPEN:** I didn't -- yeah, I -- I
11 have a hard time believing that Mr. Seguin and Mr. Leroux
12 were close friends. I don't -- you know, but I have been
13 wrong on Mr. Seguin a number of times so far.

14 **MR. ENGELMANN:** Well, you knew that, from
15 time to time, Mr. Seguin would join you and your colleagues
16 at Harv's -- sorry, Mr. Leroux would join you?

17 **MR. VAN DIEPEN:** Yes.

18 **MR. ENGELMANN:** All right.

19 And you knew that the fellow who was staying
20 with him would sometimes do that as well?

21 **MR. VAN DIEPEN:** Yeah, and it was Mr. Leroux
22 that accompanied C-8 because C-8 was a contractor.

23 **MR. ENGELMANN:** Okay. Were there any perks
24 from Morrisburg? Were there travel allowance, company car
25 or things like that?

1 **MR. VAN DIEPEN:** It varied. I mean, you got
2 a meal allowance that didn't pay for your meal. You got
3 mileage ---

4 **MR. ENGELMANN:** I know about the meal
5 allowances.

6 **(LAUGHTER/RIRES)**

7 **MR. VAN DIEPEN:** And you'd get mileage that
8 didn't pay for your gas, let alone your oil change, your
9 wear and tear.

10 **MR. ENGELMANN:** I know about that too.

11 **MR. VAN DIEPEN:** Okay. So, I mean, I don't
12 need to go into great detail there. I think the big perk
13 for me personally was to get out of that poisoned work
14 environment.

15 **MR. ENGELMANN:** Did they provide you a car
16 though, if you had to do that?

17 **MR. VAN DIEPEN:** At different times; we used
18 our own ---

19 **MR. ENGELMANN:** Was that at least part of
20 the deal?

21 **MR. VAN DIEPEN:** That varied. At one point,
22 we didn't have a Ministry vehicle. Then we did have a
23 Ministry vehicle and now, I believe, there is two Ministry
24 vehicles.

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

1 So you are saying you never did this or said
2 this to Mr. Seguin and that you didn't know about his
3 illicit behaviour?

4 **MR. VAN DIEPEN:** That's right.

5 **MR. ENGELMANN:** Alleged illicit behaviour.

6 **MR. VAN DIEPEN:** Yes. And I did not know or
7 I wasn't party to the decision. The decision appeared to
8 have been made and it was just announced to me. I wasn't
9 part of any brokering in that decision to go to Morrisburg.

10 **MR. ENGELMANN:** But it would seem that if
11 Mr. Seguin actually wanted to carry on going there ---

12 **MR. VAN DIEPEN:** He could -- I certainly
13 would have thought that, yes, he ---

14 **MR. ENGELMANN:** He would have got it?

15 **MR. VAN DIEPEN:** Yes.

16 **MR. ENGELMANN:** Right.

17 So more than likely he withdrew for whatever
18 reason?

19 **MR. VAN DIEPEN:** That's my understanding
20 from what he told me.

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

22 Now, during the course of your work as a
23 probation and parole officer, would your case files have
24 been reviewed by your immediate supervisor?

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** And that would have been
2 right from '75 right up to the end?

3 **MR. VAN DIEPEN:** Always.

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

5 Did the percentage of work that was reviewed
6 change over time?

7 **MR. VAN DIEPEN:** I don't think the policies
8 with respect to the case audits changed. The behaviours of
9 the Area Manager, however, changed with time and depending
10 on who it was.

11 **MR. ENGELMANN:** All right.

12 So when you're a Level One, the review is
13 more frequent than when you are a Level Two?

14 **MR. VAN DIEPEN:** Well, it was supposed to,
15 but that never happened.

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

17 Can you give us a sense as to how often
18 reviews were done of your case files?

19 **MR. VAN DIEPEN:** Case audits were done --
20 back then, were done annually, and I believe they're done
21 semi-annually now.

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

23 And that changed during the course of your
24 employment; the semi-annual more recently or ---

25 **MR. VAN DIEPEN:** Yeah, yeah.

1 **MR. ENGELMANN:** Do you have some sense as to
2 the percentage of your files that would be looked at?

3 **MR. VAN DIEPEN:** No. I remember somewhere
4 around -- anywhere from eight to a dozen files.

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

6 So if that's done annually, and you sit down
7 and -- do you sit down with your manager to review them?

8 **MR. VAN DIEPEN:** No.

9 **MR. ENGELMANN:** The manager reviews them on
10 his or her own?

11 **MR. VAN DIEPEN:** Yes.

12 **MR. ENGELMANN:** And then you are provided
13 some feedback?

14 **MR. VAN DIEPEN:** Well -- I provided feedback
15 or the manager did?

16 **MR. ENGELMANN:** The manager.

17 **MR. VAN DIEPEN:** There was a written report.

18 **MR. ENGELMANN:** All right.

19 You're saying that that changed with the
20 supervisor?

21 **MR. VAN DIEPEN:** Yes.

22 **MR. ENGELMANN:** How would that change?

23 **MR. VAN DIEPEN:** Well, again, this is part
24 of the poisoned work environment with Mr. Robert. Mr.
25 Robert would take in excess of a week to return the files

1 to me and, inside that week, he would complete the case
2 audit. In that same week, he would complete the case audit
3 on a fellow employee in a matter of two and a half hours.

4 **MR. ENGELMANN:** Oh, I see. So it would take
5 longer for yours?

6 **MR. VAN DIEPEN:** Oh, yeah.

7 And I mean -- and then, of course, he would
8 -- everything was nitpicked.

9 **MR. ENGELMANN:** So he's very critical of
10 your work?

11 **MR. VAN DIEPEN:** Well, I think, critical is
12 the -- I would leave you with the wrong impression. I
13 think he was if ---

14 **MR. ENGELMANN:** Sir, I think I have your
15 point. You are saying it wasn't constructive criticism.

16 **MR. VAN DIEPEN:** Well, yeah, it was just ---

17 **MR. ENGELMANN:** Is that what you are
18 suggesting?

19 **MR. VAN DIEPEN:** Well, it went beyond -- it
20 was ludicrous.

21 **MR. ENGELMANN:** Would you agree with me,
22 sir, that if you had been or a colleague had been in an
23 inappropriate relationship with a client, really unless you
24 wrote it in the case file, there would be no way that your
25 manager would learn anything about that from a case review?

1 **MR. VAN DIEPEN:** Oh, yes, obviously, yes.

2 **MR. ENGELMANN:** All right.

3 Would you in these case files be documenting
4 the times and places, when and where you would be meeting
5 probationers?

6 **MR. VAN DIEPEN:** I don't recall the exact
7 policy, but I can tell you that the case notes reflected
8 the time and -- the date and location of the reporting ---

9 **MR. ENGELMANN:** All right.

10 **MR. VAN DIEPEN:** --- contact or the nature
11 of the contact, if it was other than reporting at either
12 the office or a field office; in other words, a home visit,
13 a telephone contact, written communication, and so on and
14 so forth.

15 **MR. ENGELMANN:** So if there were home visits
16 or if there were evening visits, that at least -- and if
17 they were reported -- might at least raise a bit of a flag
18 for a manager?

19 **MR. VAN DIEPEN:** You are going to clarify
20 that question.

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

22 What I am saying is if we are looking at
23 perhaps an inappropriate relationship, personal
24 relationship with a probationer, if -- and I'm just trying
25 to think about how I, as your manager, looking at your

1 files, would be able to determine if there was possibly any
2 truth to a rumour. If you're noting meetings with the
3 probationer outside of the office without any justification
4 or there is a series of evening meetings, that might be
5 something that would raise a flag, would raise some
6 suspicion on the manager's part?

7 **MR. VAN DIEPEN:** Yes, if that was -- if
8 that, in fact, was recorded as such.

9 **MR. ENGELMANN:** Recorded, yeah.

10 **MR. VAN DIEPEN:** Yes.

11 **MR. ENGELMANN:** Okay. Of course, if it's
12 not recorded, they don't even get that clue, do they?

13 **MR. VAN DIEPEN:** Exactly.

14 **MR. ENGELMANN:** And as part of the case
15 audit process, it is my understanding that the Ministry
16 client, the probationer, is never interviewed?

17 **MR. VAN DIEPEN:** That's correct.

18 **MR. ENGELMANN:** So the existence of that
19 relationship or the quality of that service, you never have
20 input from the client?

21 **MR. VAN DIEPEN:** That's correct.

22 **MR. ENGELMANN:** And that was throughout the
23 time you worked as a probation and parole officer?

24 **MR. VAN DIEPEN:** That's correct.

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

1 And during the time that you worked there,
2 to your knowledge, was there any review by the Regional
3 Manager or Regional Headquarters of the work that was being
4 done by you and your colleagues in the Cornwall office?

5 **MR. VAN DIEPEN:** Not directly so, but copies
6 of case audits were forwarded to the Region.

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

8 **MR. VAN DIEPEN:** If there were some issues,
9 of course, then I think there would be some grounds for
10 some further communication. But as a general rule, case
11 audits were completed by area managers and written up and
12 put on file, copies forwarded.

13 **MR. ENGELMANN:** All right. But when Mr.
14 Barque left ---

15 **MR. VAN DIEPEN:** M'hm.

16 **MR. ENGELMANN:** --- did anyone come in from
17 the Regional Office and conduct any kind of review, to your
18 knowledge?

19 **MR. VAN DIEPEN:** My understanding of it is,
20 is that there was a gentleman that came down from not the
21 Region but from the Ministry, corporate level, an
22 investigator of some sort or another and, if memory serves
23 me right, that meeting with -- where Mr. Barque was asked
24 to come in and report, because he had been sent home, that
25 the -- again, you know, I don't have firsthand knowledge,

1 so I can only tell you what may -- what appears to have
2 happened, was that the first thing that Mr. Barque did was
3 tender his resignation, and that interview terminated.

4 **MR. ENGELMANN:** And who told you this, sir?

5 **MR. VAN DIEPEN:** I don't recall. This is --
6 we're talking 1982.

7 **MR. ENGELMANN:** Yes. Twenty-five years ago.

8 **MR. VAN DIEPEN:** Yeah, I don't recall.

9 **MR. ENGELMANN:** But there was nobody who
10 came down in the way of a Regional Manager or a person to
11 review, to do a case review on his files and the offices
12 files at that time?

13 **MR. VAN DIEPEN:** Oh, no. No.

14 **MR. ENGELMANN:** Likewise, after Mr. Seguin's
15 suicide and some of these allegations started coming
16 forward in the mid to late '90s, to your knowledge, aside
17 from the interview you had with Mr. Downing in the year
18 2000, anybody come down from a regional office or elsewhere
19 ---

20 **MR. VAN DIEPEN:** Not ---

21 **MR. ENGELMANN:** doing any kind of a case
22 review?

23 **MR. VAN DIEPEN:** Not that I'm aware of.

24 **MR. ENGELMANN:** And the involvement of
25 Regional Managers at your workplace, you said, at least in

1 the case of Mr. Roy, wasn't very frequent.

2 MR. VAN DIEPEN: Yes. And again, that
3 varied depending on who was the Regional Manager. The
4 current Regional Manager certainly has a much more hands-on
5 approach or makes his presence known.

6 MR. ENGELMANN: Because it was my
7 understanding these managers would come either once a month
8 or once every couple of months to your office to meet with
9 people.

10 MR. VAN DIEPEN: I didn't -- never once a
11 month.

12 MR. ENGELMANN: All right.

13 MR. VAN DIEPEN: Yeah. Visits of Mr. Roy
14 and Mr. Hawkins was very infrequent.

15 MR. ENGELMANN: Three or four times a year?
16 What are you suggesting?

17 MR. VAN DIEPEN: Oh, no. Never. Now that's
18 not to say that there's ongoing communication or face-to-
19 face contact in the Region, in Kingston, but not with staff
20 in Cornwall.

21 MR. ENGELMANN: All right. I'm going to ask
22 you a few questions about Nelson Barque.

23 MR. VAN DIEPEN: M'hm.

24 MR. ENGELMANN: We know that you worked
25 together and that he was at the Cornwall Probation and

1 Parole office when you started there.

2 MR. VAN DIEPEN: That's right.

3 MR. ENGELMANN: And my understanding is he'd
4 been working there for a good two or three years by that
5 time?

6 MR. VAN DIEPEN: That might be a bit long,
7 but I thought -- it might have been less than that;
8 certainly not three years.

9 MR. ENGELMANN: Okay, I don't have my
10 document with me but a couple of ---

11 MR. VAN DIEPEN: My guess is that he may
12 have started in early '74, and I started in September '75.

13 MR. ENGELMANN: All right. Fair enough.
14 About a year and a half?

15 MR. VAN DIEPEN: Yeah. That would be pretty
16 -- I believe, that's my guess.

17 MR. ENGELMANN: And I think you've already
18 told us that you did not know him?

19 MR. VAN DIEPEN: I did not know him.

20 MR. ENGELMANN: Before you started working?

21 MR. VAN DIEPEN: That's right.

22 MR. ENGELMANN: And did you get a sense as
23 to how Mr. Barque got along with you and his other
24 colleagues?

25 MR. VAN DIEPEN: Yes.

1 **MR. ENGELMANN:** All right. And how would
2 you describe that for us?

3 **MR. VAN DIEPEN:** Amicable.

4 **MR. ENGELMANN:** All right. And did you get
5 a sense as to how he dealt with supervisors?

6 **MR. VAN DIEPEN:** Amicable.

7 **MR. ENGELMANN:** And when you say "amicable"
8 or friendly, what about professionally?

9 **MR. VAN DIEPEN:** With?

10 **MR. ENGELMANN:** Did you find that he was
11 professional in his dealings with colleagues and
12 supervisors?

13 **MR. VAN DIEPEN:** Yes.

14 **MR. ENGELMANN:** Did you have occasion to
15 observe him working directly with probationers?

16 **MR. VAN DIEPEN:** No.

17 **MR. ENGELMANN:** What about his relationship
18 with the Admin staff?

19 **MR. VAN DIEPEN:** Amicable.

20 **MR. ENGELMANN:** All right. Now, was your
21 working -- how would you describe your working relationship
22 with Mr. Barque?

23 **MR. VAN DIEPEN:** Good.

24 **MR. ENGELMANN:** Did you have any projects or
25 other things that you worked together on?

1 **MR. VAN DIEPEN:** No. I worked on a number
2 of projects but not with him.

3 **MR. ENGELMANN:** All right. And at the time
4 ---

5 **MR. VAN DIEPEN:** Let me correct that. I
6 initiated a work program for offenders through -- with the
7 federal government to hire offenders because offenders were
8 disadvantaged in the workplace, and that work program was
9 through the Raisin River Conservation Authority, and Mr.
10 Barque did assist me in who I should speak to there.

11 **MR. ENGELMANN:** All right. You knew
12 something about his background, sir?

13 **MR. VAN DIEPEN:** Yes.

14 **MR. ENGELMANN:** What do you remember today
15 about his background? Prior to working as a parole and
16 probation officer?

17 **MR. VAN DIEPEN:** My understanding of it was
18 that he was in either the -- I believe he had gone to the
19 Seminary or something in Montreal.

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

21 **MR. VAN DIEPEN:** It might have been -- I
22 believe it was the Seminary. I ---

23 **MR. ENGELMANN:** So he had started on the way
24 to becoming a priest?

25 **MR. VAN DIEPEN:** Yes, it might have been a -

1 - it might have been a friar or something other than a
2 priest that -- but you know, I don't recall, but it was
3 certainly within the Roman Catholic Church, and his
4 immediate employment prior to the Ministry of Correctional
5 Services was with the Social Services Welfare.

6 **MR. ENGELMANN:** All right. Were you aware
7 of his involvement in the Church while a probation officer?

8 **MR. VAN DIEPEN:** While a probation officer?
9 That I definitely recall subsequent to him being a
10 probation officer that he was involved in the Church and I
11 -- at this point, I don't recall whether or not I knew
12 while he was a probation officer, his involvement in a
13 church, but he was involved with the Christ the King
14 Church.

15 **MR. ENGELMANN:** Okay. And is that a parish
16 here, within the Diocese of Alexandria, Cornwall?

17 **MR. VAN DIEPEN:** It was.

18 **MR. ENGELMANN:** Okay. And, sir, both he and
19 Mr. Seguin had come out of Seminary or had been in
20 Seminary?

21 **MR. VAN DIEPEN:** That's right.

22 **MR. ENGELMANN:** I'm not saying they had been
23 in the same one, but they had similar backgrounds in that
24 respect?

25 **MR. VAN DIEPEN:** Yes.

1 **MR. ENGELMANN:** I understand that while he
2 was working with you, he was married and had a child?

3 **MR. VAN DIEPEN:** That's correct.

4 **MR. ENGELMANN:** Now, despite this, were you
5 aware or did you suspect what his sexual orientation was?

6 **MR. VAN DIEPEN:** I did have -- there was an
7 incident where I had some -- raised certainly some
8 concerns. Other than that, he was married; certainly had
9 consummated his marriage.

10 **MR. ENGELMANN:** Sir, you didn't suspect that
11 he was homosexual or bisexual?

12 **MR. VAN DIEPEN:** Well, like, as I said,
13 there was one ---

14 **MR. ENGELMANN:** When you were working with
15 him?

16 **MR. VAN DIEPEN:** There was one incident that
17 caused me some -- caused me some concern.

18 **MR. ENGELMANN:** I'm -- believe me, I'm not
19 suggesting it's a concern. I am just suggesting to you
20 that I understood that you suspected that he was gay.

21 **MR. VAN DIEPEN:** Well, my concern was that -
22 - there was a -- I had some doubts as to whether or not he
23 was a, exclusively, heterosexual based on the fact of a
24 book that I found in his desk drawer.

25 **MR. ENGELMANN:** All right. Can you tell us

1 about that?

2 MR. VAN DIEPEN: It was a book of -- there
3 was a -- it was a -- I recall it was a paperback book with
4 outlined sketches of males in various -- paired males in
5 various sexual positions with each other and when I say
6 outline, they were just sort of penned, you know, no --
7 just sort of ---

8 MR. ENGELMANN: They were drawings.

9 MR. VAN DIEPEN: Drawings, yes.

10 MR. ENGELMANN: Yes.

11 MR. VAN DIEPEN: But very simplistic
12 drawings without any kind of colour or fill. They were
13 just outline drawings.

14 MR. ENGELMANN: All right. Can you tell us
15 why it was you happened to be looking in his desk?

16 MR. VAN DIEPEN: Well in 1975 and '76, when
17 I came to Cornwall, there was a lack of office space. Mr.
18 Barque was in Alexandria. I would have to interview
19 clients. I was in -- Mr. Seguin was in the office, his
20 office. I used Mr. Barque's office. We played musical
21 offices. I was in Mr. Barque's office with a client, had
22 occasion to open up the desk drawer looking for a pen and I
23 discovered this book.

24 MR. ENGELMANN: All right.

25 MR. VAN DIEPEN: Along with -- if I recall -

1 - some Playboy magazines.

2 MR. ENGELMANN: All right, so you saw some
3 heterosexual and some homosexual ---

4 MR. VAN DIEPEN: Pornographic ---

5 MR. ENGELMANN: --- pornography?

6 MR. VAN DIEPEN: Yes.

7 MR. ENGELMANN: Is that fair?

8 MR. VAN DIEPEN: Yes.

9 MR. ENGELMANN: What did you do about that?

10 MR. VAN DIEPEN: I reported it to Mr.

11 Seguin.

12 MR. ENGELMANN: Why did you report it to Mr.
13 Seguin?

14 MR. VAN DIEPEN: I was the junior man. My
15 instructions were to address my concerns to Mr. Seguin.

16 MR. ENGELMANN: All right, and why did you
17 have concerns about that? That may be self-evident, but I
18 want to hear it from you.

19 MR. VAN DIEPEN: I didn't think it was
20 appropriate. Certainly not -- certainly not in the office.

21 MR. ENGELMANN: What, if anything, did Mr.
22 Seguin tell you he would do about this information?

23 MR. VAN DIEPEN: He said he'd look into it.
24 He would deal with it.

25 MR. ENGELMANN: How did he appear to be when

1 you brought this to his attention?

2 **MR. VAN DIEPEN:** Mr. Seguin?

3 **MR. ENGELMANN:** Yes.

4 **MR. VAN DIEPEN:** Concerned.

5 **MR. ENGELMANN:** Right. Did you also find
6 something else in Mr. Barque's desk?

7 **MR. VAN DIEPEN:** Oh, yes. There was also
8 some chrome handcuffs.

9 **MR. ENGELMANN:** All right. Was this at the
10 same time or was this on another occasion?

11 **MR. VAN DIEPEN:** I believe it was around the
12 -- if it wasn't on the exact same time, it was around the
13 same time.

14 **MR. ENGELMANN:** And again, the reasons you
15 would have discovered this was because you were sharing the
16 office with him?

17 **MR. VAN DIEPEN:** Yup, in the ---

18 **MR. ENGELMANN:** Now, what did you do about
19 that?

20 **MR. VAN DIEPEN:** Again, it was brought --
21 Mr. Seguin was aware of it -- made aware of it.

22 **MR. ENGELMANN:** Right.

23 And what, if anything, did he tell you he
24 would do about that?

25 **MR. VAN DIEPEN:** I don't recall. I believe

1 it was the -- he would look into it. I don't think that
2 the handcuffs were as big an issue as -- they were just how
3 would I describe them? They were, you know, army officers
4 or army staff have dummy grenades as souvenirs or shells as
5 souvenirs; police officers collect old service revolvers
6 and -- so I didn't -- you know I don't think that it was
7 dealt with as -- seen in the same light as pornographic
8 material.

9 **MR. ENGELMANN:** By whom? By you?

10 **MR. VAN DIEPEN:** By ---

11 **MR. ENGELMANN:** You don't know what Mr.
12 Seguin ---

13 **MR. VAN DIEPEN:** I don't know what was in
14 Mr. Seguin's mind. No.

15 **MR. ENGELMANN:** So you find heterosexual and
16 homosexual pornography and sometime shortly thereafter, you
17 find the handcuffs?

18 **MR. VAN DIEPEN:** Yeah, and then again, I
19 want to be clear, I don't know if this was concurrent to,
20 subsequent to, or prior to.

21 **MR. ENGELMANN:** You don't know which
22 happened first?

23 **MR. VAN DIEPEN:** No.

24 **MR. ENGELMANN:** But they happened about the
25 same time ---

1 **MR. VAN DIEPEN:** Yes, in the same timeframe,
2 in the seventies, when we were still at 340 Pitt Street.

3 **MR. ENGELMANN:** Oh, I thought it was --
4 would have been in your first year of employment ---

5 **MR. VAN DIEPEN:** Well ---

6 **MR. ENGELMANN:** --- when you were commuting
7 from Kingston?

8 **MR. VAN DIEPEN:** Well, yes, in that period
9 of time, yes.

10 **MR. ENGELMANN:** So did you ever hear about
11 anything that happened as a result of your reporting to Mr.
12 Seguin what you had found?

13 **MR. VAN DIEPEN:** Did I hear what happened?

14 **THE COMMISSIONER:** Was there any follow-up,
15 any ---

16 **MR. VAN DIEPEN:** No, Your Honour, I -- there
17 was no -- again, you know, H.R. matters, if it's an H.R.
18 matter, it's not reported back to the -- to me.

19 **MR. ENGELMANN:** Well, you might have found
20 out if he grieved it and you were involved in ---

21 **MR. VAN DIEPEN:** Oh, there was no grievance,
22 and I can -- I -- the material disappeared.

23 **MR. ENGELMANN:** In what sense?

24 **MR. VAN DIEPEN:** Well, it wasn't there
25 anymore.

1 **MR. ENGELMANN:** All right. So did you
2 actually physically give it to Mr. Seguin or did you leave
3 it in the desk? What did you do?

4 **MR. VAN DIEPEN:** I didn't touch it. I left
5 it right where it was.

6 **MR. ENGELMANN:** All right. You just told
7 him about it?

8 **MR. VAN DIEPEN:** Yes.

9 **MR. ENGELMANN:** And did he tell you that he
10 would speak to Mr. Barque about it?

11 **MR. VAN DIEPEN:** Yes.

12 **MR. ENGELMANN:** Or that anybody would?

13 **MR. VAN DIEPEN:** Yes.

14 **MR. ENGELMANN:** He said he would?

15 **MR. VAN DIEPEN:** He said he would deal with
16 it.

17 **MR. ENGELMANN:** Did he actually say to you
18 that he'd speak to Mr. Barque about it?

19 **MR. VAN DIEPEN:** I don't -- you know, those
20 exact words at this point in time, I don't recall.

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

22 **THE COMMISSIONER:** Wherever you can wrap-up
23 there, Mr. Engelmann.

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

25 So, sir, just so I'm clear, are you saying

1 that this was the only reason that you suspected that Mr.
2 Barque might not have been solely heterosexual, while you
3 worked with him?

4 **MR. VAN DIEPEN:** Yeah, I -- there was no --
5 I don't think his -- you know sometimes his mannerisms were
6 -- I don't know what the word is. There were certainly
7 some mannerisms that were, I guess, if I could use the word
8 "affect".

9 **MR. ENGELMANN:** All right. Sir, did you --
10 you worked with him until his resignation?

11 **MR. VAN DIEPEN:** Yes.

12 **MR. ENGELMANN:** You described for us
13 essentially that someone told you about his resignation at
14 the beginning of an investigation phase, if I can call it
15 that?

16 **MR. VAN DIEPEN:** Yes.

17 **MR. ENGELMANN:** And were you aware that Mr.
18 Sirrs had done a preliminary investigation of his own?

19 **MR. VAN DIEPEN:** Not aware of that at that
20 time, no.

21 **MR. ENGELMANN:** And you don't recall now how
22 you found out or whom you found out from, the reasons for
23 his departure?

24 **MR. VAN DIEPEN:** The grapevine, I guess,
25 staff.

1 **MR. ENGELMANN:** Were you actually told
2 whether or not he admitted engaging in a sexual
3 relationship with a probationer?

4 **MR. VAN DIEPEN:** No. But you mean by
5 ministry staff, by management?

6 **MR. ENGELMANN:** By anyone.

7 **MR. VAN DIEPEN:** Not to -- ministry, the
8 ministry never told us what happened.

9 **MR. ENGELMANN:** So you weren't told by
10 anybody that he admitted to engaging in a sexual
11 relationship with a probationer and then offered his
12 resignation?

13 **MR. VAN DIEPEN:** Oh, I see -- okay, your
14 question is whether or not there was ever -- did it come to
15 my knowledge that there was an admission of guilt? No.

16 **MR. ENGELMANN:** I don't -- you call it guilt
17 or not but an admission that he ---

18 **MR. VAN DIEPEN:** Complicity -- an admission
19 of complicity, I'm not aware of that.

20 **MR. ENGELMANN:** And I guess what you're
21 telling us, sir, is that at or around the time of his
22 resignation, if I can call it that, when he left, there was
23 no staff meeting to discuss this?

24 **MR. VAN DIEPEN:** No.

25 **MR. ENGELMANN:** Was there any follow-up with

1 staff at all about what had happened, by either Mr. Sirrs
2 or anyone else?

3 **MR. VAN DIEPEN:** No. The only contact from
4 Mr. Sirrs was that Ms. Cardinal was a volunteer probation
5 officer with me, and he asked if -- he wanted to know about
6 Ms. Cardinal's background and availability, et cetera, and
7 she was very shortly thereafter, was hired on a contract
8 basis.

9 **MR. ENGELMANN:** Were you or any of your
10 colleagues, to your knowledge, asked to review Mr. Barque's
11 files?

12 **MR. VAN DIEPEN:** Not -- I certainly wasn't
13 and to the best of my knowledge, no one was.

14 **MR. ENGELMANN:** And were you or any of the
15 others asked to do any work to discover or find out if
16 there might have been more probationers that he had been in
17 a sexual relationship with at that time?

18 **MR. VAN DIEPEN:** No.

19 **MR. ENGELMANN:** Sir, if it's an appropriate
20 time, then perhaps we could break.

21 **THE COMMISSIONER:** Yes. All right. And a
22 reminder we are starting at 9:00 tomorrow morning.

23 **MR. ENGELMANN:** Yes.

24 **THE COMMISSIONER:** To complete at 1:30.

25 Thank you.

1 **MR. ENGELMANN:** Thank you.

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

4 This hearing is adjourned until tomorrow
5 morning at 9:00 a.m.

6 --- Upon adjourning at 4:30 p.m./

7 L'audience est ajournée à 16h30

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C E R T I F I C A T I O N

I, Sean Prouse a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Sean Prouse, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Sean Prouse, CVR-CM