

**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 345

Held at :

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

Thursday, January 29, 2009

Tenue à:

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

Jeudi, le 29 janvier 2009

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Brigitte Beaulne	Registrar
M ^e Pierre R. Dumais	Commission Counsel
Ms. Suzanne Sinnamon	
Mr. John E. Callaghan	Cornwall Community Police
Mr. Mark Crane	Service and Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. David Rose	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Darrell Kloeze	Attorney General for Ontario
Ms. Leslie McIntosh	
Mr. Juda Strawczynski	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Mr. Michael Neville	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
Mr. William Carroll	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Mr. Murray Segal	

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1 --- Upon commencing at 9:34 a.m./

2 L'audience débute à 9h34

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

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

8 Please be seated. Veuillez vous asseoir.

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

11 **MR. ENGELMANN:** Morning, Mr. Commissioner.

12 Mr. Commissioner, we have one more witness
13 and we have some document issues to deal with this
14 afternoon, but for now the next witness, and the last
15 witness for the Commission, is Mr. Murray Segal, who's
16 present.

17 **THE COMMISSIONER:** Thank you.

18 Come forward, please. Good morning, sir.

19 **MURRAY SEGAL:** Sworn/Assermenté

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

21 Mr. Engelmann, go ahead.

22 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE IN-CHEF PAR

23 **MR. ENGELMANN:** (cont'd/suite)

24 **MR. ENGELMANN:** Welcome, Mr. Segal.

25 **MR. SEGAL:** Good morning.

1 **MR. ENGELMANN:** Sir, you'll have some
2 binders that you'll be presented at some point, so you'll
3 have documents in hard copy. There will also be documents
4 available on the screen and on occasion, sir, it will be
5 easier to look at the documents on the screen, especially
6 if there's handwritten notes.

7 You should have some water to your right,
8 and if you can't hear me the little object in front of you
9 is a speaker. All right?

10 **MR. SEGAL:** Thank you.

11 **MR. ENGELMANN:** Sir, I want to just start
12 with some questions about your background, and to do so I'd
13 like to enter what I believe is a bio for Mr. Segal. Madam
14 Clerk, it is Document Number 200348 -- 200348.

15 **THE COMMISSIONER:** Thank you.

16 Exhibit Number 3406 is a biography of Mr.
17 Murray Segal. Thank you.

18 **--- EXHIBIT NO./PIÈCE NO. P-3406:**

19 (200348) - Bio of Deputy AG, Ministry of
20 Attorney General, Murray Segal

21 **MR. ENGELMANN:** Mr. Segal, this is a bio or
22 summary of your background, sir?

23 **MR. SEGAL:** Yes, I agree.

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

25 And I understand you were called to the Bar

1 in Ontario in 1977.

2 MR. SEGAL: Correct.

3 MR. ENGELMANN: And following which you
4 joined the Crown Law Office, Criminal?

5 MR. SEGAL: Correct.

6 MR. ENGELMANN: And you worked there for
7 approximately 13 years before being appointed the Director
8 of the office?

9 MR. SEGAL: Yes.

10 MR. ENGELMANN: Can you give us a sense,
11 sir, as to what you would have done over those 13 years,
12 just generally speaking?

13 MR. SEGAL: I would have been involved as a
14 prosecutor, oftentimes in lengthy or complex matters in
15 relation to frauds, frauds on the government, organized
16 crime and other complex matters including the
17 administration of justice. I would have argued appeals in
18 the Court of Appeal and the Supreme Court of Canada and
19 motions in Superior Court and some appeals in Superior
20 Court, and that sort of work.

21 And I also would have done some policy work,
22 as that office also had a responsibility for criminal law
23 policy, and the same would have been true as I held
24 management positions in that particular office.

25 MR. ENGELMANN: All right. Sir, we know you

1 were appointed the Director of that office in approximately
2 1990?

3 MR. SEGAL: I believe so, yes.

4 MR. ENGELMANN: And would you have continued
5 to do some trial and appellate work even as the Director?

6 MR. SEGAL: I would.

7 MR. ENGELMANN: All right.

8 And then in 1997 you were appointed the
9 Assistant Deputy Attorney General of the Ministry's
10 Criminal Law Division?

11 MR. SEGAL: I was.

12 MR. ENGELMANN: And in that role you'd be
13 the Chief Prosecutor for the province?

14 MR. SEGAL: Correct.

15 MR. ENGELMANN: And, sir, I understand that
16 after that you were appointed the Deputy Attorney General
17 in or about January of 2004.

18 MR. SEGAL: Correct.

19 MR. ENGELMANN: And that is the title you
20 still currently hold?

21 MR. SEGAL: Yes.

22 MR. ENGELMANN: Sir, you've explained a
23 little bit about your background with the Ministry. I
24 understand you would have gained extensive trial and
25 appellate experience in the years you've had with the

1 Ministry?

2 MR. SEGAL: Yes.

3 MR. ENGELMANN: And you would have been the
4 lead prosecutor in several high-profile cases?

5 MR. SEGAL: A number, yes.

6 MR. ENGELMANN: Okay. And, sir, I
7 understand that you were certified or you are certified as
8 a specialist in criminal law.

9 MR. SEGAL: Yes.

10 MR. ENGELMANN: And you've worked with the
11 judiciary and all levels of government on issues of reform
12 of both civil and criminal portions of our justice system?

13 MR. SEGAL: Yes.

14 MR. ENGELMANN: And you have been the author
15 of numerous legal publications?

16 MR. SEGAL: Yes.

17 MR. ENGELMANN: During your time as an
18 active prosecutor, sir, did you have experience in
19 prosecuting cases involving the sexual abuse of children or
20 young people?

21 MR. SEGAL: Only a very small amount.

22 MR. ENGELMANN: And, sir, would they have
23 been current or historical reports or both, do you recall?

24 MR. SEGAL: Both.

25 MR. ENGELMANN: All right, both.

1 And, sir, we're going to come directly to
2 your involvement in what was known as the Project Truth
3 investigation, the OPP investigation.

4 **MR. SEGAL:** Right.

5 **MR. ENGELMANN:** We have some correspondence
6 to and from yourself in the fall of 1998 but I want to take
7 you back a year before that, if I may.

8 In the spring of 1997, Peter Griffiths would
9 have been the head prosecutor for the East Region. Is that
10 correct?

11 **MR. SEGAL:** I believe that's correct.

12 **MR. ENGELMANN:** He's testified to that
13 effect.

14 **MR. SEGAL:** Right.

15 **MR. ENGELMANN:** Would he have been a direct
16 report to you at that time?

17 **MR. SEGAL:** It depends on when I was
18 appointed the -- as soon as I became the Assistant Deputy
19 Attorney General, I would have moved from being his equal -
20 --

21 **MR. ENGELMANN:** Yes.

22 **MR. SEGAL:** --- so to speak, to his
23 superior.

24 **MR. ENGELMANN:** All right. And that would
25 have happened sometime during the calendar year 1997?

1 **MR. SEGAL:** Right.

2 **MR. ENGELMANN:** And just in that role, sir,
3 would you have had knowledge at the time of Mr. Griffiths'
4 request for a special investigation by the OPP which would
5 have been made in or around May of 1997?

6 **MR. SEGAL:** It doesn't ring a bell. It may
7 relate to when it was that I was made the Assistant Deputy.
8 I may have known generally of what was going on in the East
9 Region in my capacity as a member of the management team of
10 the Criminal Law Division but I don't have a distinct
11 recollection.

12 **MR. ENGELMANN:** All right. Would you have
13 meetings with the regional directors from time-to-time
14 after your appointment?

15 **MR. SEGAL:** Definitely.

16 **MR. ENGELMANN:** All right. And so would it
17 be fair to say that likely sometime during the calendar
18 year '97, you would have been apprised of the fact that
19 this investigation had started?

20 **MR. SEGAL:** I think that's fair to say;
21 probably in very brief terms.

22 **MR. ENGELMANN:** Would you have been advised
23 at all, sir, during that calendar year about the desire to
24 have a dedicated or designated Crown to assist this special
25 investigation, later prosecution?

1 **MR. SEGAL:** I can't say that I have a
2 distinct recollection of it.

3 **MR. ENGELMANN:** Fair enough.

4 Sir, I want to ask you a little bit about
5 some interactions you would have had with a politician by
6 the name of Mr. Garry Guzzo.

7 **MR. SEGAL:** Right.

8 **MR. ENGELMANN:** And I know that these
9 interactions occur over two periods of time, one in or
10 around '99; the other later in 2001. But I understand that
11 you first would have attempted to contact Mr. Guzzo in late
12 1998.

13 And just to refresh your memory on that, I'd
14 like you to look at a document, and that is Exhibit 3305.
15 This is a memo you would have written to the then Deputy
16 Attorney General, Ms. ---

17 **MR. SEGAL:** Andromache Karakatsanis.

18 **MR. ENGELMANN:** Karakatsanis, yes. I knew I
19 was going to ---

20 **MR. SEGAL:** It's a tough one.

21 **MR. ENGELMANN:** And this is -- counsel, this
22 is Document Number 130711. It's a memo dated March 31st,
23 '99.

24 **THE COMMISSIONER:** Sorry, the exhibit number
25 again?

1 **MR. ENGELMANN:** The exhibit number I believe
2 is 3305.

3 And she would have been your direct report,
4 if I could call it that. You reported to her as the Deputy
5 Attorney General?

6 **MR. SEGAL:** When I became the Assistant
7 Deputy Minister ---

8 **MR. ENGELMANN:** Yes.

9 **MR. SEGAL:** --- I would have reported to
10 her.

11 **MR. ENGELMANN:** Yes.

12 **MR. SEGAL:** Thank you.

13 So I'm looking at a document dated March
14 31st, 1999 ---

15 **MR. ENGELMANN:** Right.

16 **MR. SEGAL:** --- that ----

17 **MR. ENGELMANN:** That you would have
18 authored, right, sir?

19 **MR. SEGAL:** Yes.

20 **MR. ENGELMANN:** All right. And I just want
21 to take you to the bottom of the page for a minute because
22 I just -- I think there's a typo there.

23 **MR. SEGAL:** Right. The words were ---

24 **MR. ENGELMANN:** Would that have been ---

25 **MR. SEGAL:** Yes.

1 **MR. ENGELMANN:** Should it say:

2 "In early December, 1998, on a few
3 occasions I attempted to reach out to
4 Mr. Guzzo by telephone"?

5 **MR. SEGAL:** That's correct.

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

7 And, in fact, sir, you're referring to the
8 fact that there had been a letter from Mr. Guzzo to the
9 Premier that fall, and that you had been instructed -- or
10 that there'd been some instruction from the Attorney
11 General to take some follow-up action with respect to this.
12 Is that fair?

13 **MR. SEGAL:** I -- that's fair.

14 **MR. ENGELMANN:** All right. And it appears
15 from this note that you were asked to take whatever action
16 you deemed necessary, including a direct contact with Mr.
17 Guzzo?

18 **MR. SEGAL:** That's correct.

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

20 And, as I understand it, sir, you wanted to
21 familiarize yourself with some background information about
22 Project Truth, and I believe you would have had some
23 contact with the then Acting Director of the East Region,
24 Robert Pelletier?

25 **MR. SEGAL:** That's correct. I believe I

1 requested and/or received a memorandum from him setting out
2 some of the -- the information that I was seeking.

3 **MR. ENGELMANN:** All right. And we know, sir
4 -- he's testified here and we have a document in evidence -
5 - that he wrote you a seven-page background memo on Project
6 Truth and allegations of sexual assault in the Cornwall
7 area, in late November of '98?

8 **MR. SEGAL:** That's -- that's correct, and
9 dated November the 25th, 1998.

10 **MR. ENGELMANN:** Right. And, sir, would this
11 have essentially been the background information you would
12 have had? In other words, were you getting information
13 from any other source?

14 **MR. SEGAL:** I think this would have been the
15 primary piece of background information that I had at the
16 time.

17 **MR. ENGELMANN:** All right. And I don't
18 think we have to turn to it necessarily, but at the very
19 last page of that other letter, it does say:

20 "If you have any further inquiries on
21 specific points, they can be addressed
22 by Detective Constable Joe Dupuis."

23 **MR. SEGAL:** Which document ---

24 **MR. ENGELMANN:** If you want to see it, it's
25 -- that's document -- that's Exhibit 3306, so that should

1 be the next document in your binder. This is the seven-
2 page background memo from Mr. Pelletier.

3 MR. SEGAL: Right, I see that.

4 MR. ENGELMANN: Do you know, sir, if aside
5 from getting this background information from
6 Mr. Pelletier, whether you would have made any inquiries of
7 OPP officers or others?

8 MR. SEGAL: Not in -- not at this particular
9 juncture, and I didn't, and I don't think I -- I'm familiar
10 with Constable Joe Dupuis.

11 MR. ENGELMANN: All right.

12 MR. SEGAL: There may have been other
13 periods of time either in relation to this case -- where I
14 had some degree of interaction with the police or on, you
15 know, dozens and dozens of other projects or cases that I
16 was involved with.

17 MR. ENGELMANN: All right.

18 So you do say -- just to go back to 3305,
19 your memo to the Deputy Attorney General at the time -- you
20 said, and I'm looking at the third paragraph on the first
21 page:

22 "I had some follow-up questions based
23 on the report. I satisfied myself as
24 best as I could that the investigations
25 and prosecutions were on track."

1 Do you recall at the time, sir, who you
2 would have followed up with? Would that have just been Mr.
3 Pelletier or do you have some recollection of others, at
4 that time?

5 **MR. SEGAL:** I don't have a distinct
6 recollection. I think my -- you know, a principal source
7 would have been Mr. Pelletier's ---

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

9 **MR. SEGAL:** --- memorandum that you've
10 previously referred to. There may have been some other
11 discussion, but I -- I can't recall it now.

12 **MR. ENGELMANN:** All right.

13 And on the second page of your memo at the
14 top, you reference the fact that you're given a second
15 letter that -- from the Minister's office and Mr. Guzzo has
16 again written to the Premier.

17 **MR. SEGAL:** Right.

18 **MR. ENGELMANN:** And I don't think we have to
19 turn to that, but there was a letter dated February 23rd,
20 1999, from ---

21 **MR. SEGAL:** Well, I'll tell you right now,
22 I ---

23 **MR. ENGELMANN:** --- Mr. Guzzo to the
24 Premier.

25 **MR. SEGAL:** --- I can tell you that I don't

1 have any distinct recollections of Mr. Guzzo's letters.
2 There seemed to be an awful lot of them to an awful lot of
3 people, including to members in government, so ---

4 MR. ENGELMANN: Right.

5 MR. SEGAL: --- one doesn't stick out so
6 much ---

7 MR. ENGELMANN: Okay.

8 MR. SEGAL: --- from another.

9 MR. ENGELMANN: But you're referring to the
10 fact that this is yet a second letter now that Mr. Guzzo
11 has written to the Premier that you were given at the time?

12 MR. SEGAL: Yes, that's clearly ---

13 MR. ENGELMANN: I'm just looking at ---

14 MR. SEGAL: --- what it says.

15 MR. ENGELMANN: --- the first -- yes.

16 MR. SEGAL: Right.

17 MR. ENGELMANN: All right.

18 And, just by way of background, sir, Mr.
19 Guzzo expressed some concerns about the Project Truth
20 investigation in that second letter and he alleged that
21 there were a number of people, including complainants,
22 witnesses, and at least one perpetrator, who had not been
23 interviewed by Project Truth officers.

24 And he also raised some questions about
25 material that Mr. Dunlop, then Constable Dunlop, had

1 delivered to the Ministry of the Attorney General in April
2 of '97, and whether or not it was provided to the police.

3 And, sir, again, it appears you were tasked
4 to respond to that letter as well. Is that fair, given
5 what you've said?

6 **MR. SEGAL:** I think that's correct.

7 **MR. ENGELMANN:** All right. And I'm just
8 wondering, sir, if that was atypical at the time, that you
9 would be asked by a Minister, in this case the Attorney
10 General, to contact a politician about concerns being
11 expressed in correspondence?

12 **MR. SEGAL:** Well, it -- it really depends.
13 That's sort of a sweeping kind of question. The Ministry
14 of the Attorney General gets thousands of letters every
15 year, including from MPPs.

16 **MR. ENGELMANN:** Okay.

17 **MR. SEGAL:** Many of them are directed at
18 matters relating to the Criminal Law Division. Many
19 involve the Criminal Law Division being tasked, through the
20 supervision of the Assistant Deputy Minister, to
21 responding.

22 An actual personal request where a Minister
23 spoke -- would speak to me and say, "Can you please deal
24 with X MPP", would be more rare, but -- but not -- not so -
25 - but it does happen from time-to-time.

1 **MR. ENGELMANN:** All right. So this would
2 not have been the first time that you would have been asked
3 to do something like this, but it was rare?

4 **MR. SEGAL:** Well, it's what you -- when you
5 say "something like this", I'm not sure what you mean.

6 **MR. ENGELMANN:** Contact a politician
7 directly to follow up on something?

8 **MR. SEGAL:** Right. That -- that happens
9 from time-to-time.

10 **MR. ENGELMANN:** All right. And we
11 understand from notes that on or about the 8th of March you
12 had a call with Mr. Guzzo.

13 **MR. SEGAL:** Right.

14 **MR. ENGELMANN:** And do you recall, sir, you
15 -- you would have called him, and I understand that he was
16 in Florida at the time?

17 **MR. SEGAL:** Right.

18 **MR. ENGELMANN:** And you would have contacted
19 his office or made some arrangement to get a phone number
20 from -- for him?

21 **MR. SEGAL:** I believe I received -- I --
22 attempted to get a phone number, and it was provided
23 through his constituency office as best I can ---

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

25 **MR. SEGAL:** --- remember.

1 **MR. ENGELMANN:** In your second paragraph on
2 the second page of your memo, you say:

3 "Mr. Guzzo expressed initial concerns
4 regarding my contact."

5 **MR. SEGAL:** Which -- which document are you
6 referring to?

7 **MR. ENGELMANN:** Sorry. Your memo of March
8 31st, '99, Exhibit 3305, and the second paragraph on the
9 last page.

10 **MR. SEGAL:** Oh.

11 **MR. ENGELMANN:** It says:

12 "Mr. Guzzo expressed initial concern
13 regarding my contact."

14 **MR. SEGAL:** Right.

15 **MR. ENGELMANN:** Do you recall what that
16 initial concern was?

17 **MR. SEGAL:** Just in -- generally, why I was
18 contacting him.

19 **MR. ENGELMANN:** Okay. And we'll come to
20 some notes which I believe may be notes of that
21 conversation.

22 Do you have any independent recollection of
23 the conversation or really is it what you've gained or
24 gleaned from notes?

25 **MR. SEGAL:** I do have a recollection because

1 -- for a number of reasons, but I've also -- I've also
2 refreshed my memory from looking at documents and, you
3 know, the ones that you refer to and the ones that
4 presumably are in this binder that -- that you prepared.

5 **MR. ENGELMANN:** All right. Well, you --
6 sir, do you recall the length of the call or the tone?

7 **MR. SEGAL:** It was -- I'm going to guess in
8 the neighbourhood of 15 minutes, maybe 20 minutes.

9 The tone was -- was businesslike, normal.
10 There were some, I would say -- I think there was an
11 initial reticence on his part, Mr. Guzzo's part, in terms
12 of what it is that I wanted to speak about. I was trying
13 to get through to him and put him at ease.

14 Once that occurred, we had a discussion. He
15 -- you know, he struck me as someone who -- it was -- I --
16 it was difficult to make an easy connection with in
17 conversation. He seemed to challenge things that didn't
18 seem to be so difficult to -- to listen to or accept, and
19 so the conversation took a little longer than I would have
20 -- I would have thought in that respect.

21 **MR. ENGELMANN:** All right. When you wrote
22 this memo, this call would have been fairly fresh in your
23 memory. This is the end of March of '99. You have the
24 call on ---

25 **MR. SEGAL:** Right. Right.

1 **MR. ENGELMANN:** --- March the 8th. So it is
2 about three weeks after you have the call; correct?

3 **MR. SEGAL:** Correct.

4 **MR. ENGELMANN:** All right. And in the third
5 paragraph, you talk a little bit about his concerns, if I
6 understand what you're writing. You say one of his chief
7 concerns was that the police didn't have some materials
8 that had, apparently, been delivered to the Ministry in
9 April of '97?

10 **MR. SEGAL:** Right.

11 **MR. ENGELMANN:** And it appears, sir ---

12 **MR. SEGAL:** There were a number of things
13 raised in that conversation. There was, as I recall, this
14 issue about the -- the binders of documents ---

15 **MR. ENGELMANN:** Yes.

16 **MR. SEGAL:** --- that had gone to the
17 Ministry of the Attorney General, the Ministry of the
18 Solicitor General or one of its manifestations.

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

20 **MR. ENGELMANN:** And also the Chief of London
21 Police Services.

22 **MR. ENGELMANN:** Yes.

23 **MR. SEGAL:** There were other issues that I
24 think came up in that conversation. We started to talk
25 about hotel receipts about some hotel; I had no idea what

1 he was talking about. It was the first I ever heard of it.

2 MR. ENGELMANN: These are hotel or
3 registration slips ---

4 MR. SEGAL: Yeah, alleged ---

5 MR. ENGELMANN: --- from somewhere in
6 Florida?

7 MR. SEGAL: --- alleged receipts of, you
8 know -- the implication on his part was that there was some
9 documentation that he thought existed in some unnamed motel
10 in some unnamed place in Florida that somehow I should know
11 about. I'd never heard about any of that, and he may have
12 raised some other issues about -- in that conversation
13 about a videotape or something like that relating to
14 somebody in Cornwall.

15 These were all kinds of -- this was at a
16 level of detail in respect of all three of those issues
17 that I was not familiar with. And as I heard them,
18 especially some aspects of them, I encouraged him to -- I
19 kept asking whether he had spoken to the police or if he
20 had any documents or any information about documents, he
21 should refer those kinds of things to the police.

22 MR. ENGELMANN: All right.

23 MR. SEGAL: And he seemed intent on quizzing
24 me about my knowledge of some of these issues that he -- I
25 was hearing for the first time and not in specifics; like

1 he was not relating to them in specifics, they were sort of
2 in generalities.

3 MR. ENGELMANN: Did you get the impression,
4 sir, that he expected you to have more of those specifics
5 or more knowledge?

6 MR. SEGAL: Well, he was quizzing me, as I
7 said, about -- about my knowledge and if I didn't seem to
8 know, then he -- he appeared to be somewhat concerned, if a
9 little bit critical, in relation to some of those things
10 that he was raising that I had, you know, never heard of or
11 was not familiar with.

12 MR. ENGELMANN: All right.

13 So we'll look at a couple of other ---

14 MR. SEGAL: Okay.

15 MR. ENGELMANN: --- documents about ---

16 MR. SEGAL: Sure.

17 MR. ENGELMANN: --- that call and what he
18 said and what you said. I want to take you to one
19 document, though, now and see if you can identify ---

20 MR. SEGAL: Sure.

21 MR. ENGELMANN: --- some notes for us and
22 that's Document Number 130678 -- 130678. They're undated
23 handwritten notes and I'll ask Mr. Segal if they're his.

24 MR. SEGAL: What tab is that?

25 MR. ENGELMANN: That will be coming to you,

1 sir. It's not an exhibit yet.

2 **THE COMMISSIONER:** Thank you.

3 Exhibit 3407.

4 **MR. SEGAL:** Thank you. These are my notes.

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

6 **THE COMMISSIONER:** Exhibit 3407 is Murray
7 Segal's notes.

8 **--- EXHIBIT NO./PIÈCE NO. P-3407:**

9 (130678) - Handwritten notes of Murray
10 Segal, undated

11 **MR. ENGELMANN:** And, sir, could you have a
12 quick look at them? And do you know if these would have
13 been notes of your call with Mr. Guzzo in March?

14 **MR. SEGAL:** Well, I think I may have had
15 more than one call in -- in March ---

16 **MR. ENGELMANN:** You did. You had ---

17 **MR. SEGAL:** --- so ---

18 **MR. ENGELMANN:** --- two or three.

19 Let's put it this way; would these be notes
20 of a call you would have had with Mr. Guzzo?

21 **MR. SEGAL:** Well, it's -- they're notes of a
22 call; the question is which call.

23 **MR. ENGELMANN:** All right. Well, let me
24 just ask you a couple of questions about these notes
25 because I'm trying to understand who is saying what.

1 **MR. SEGAL:** M'hm.

2 **MR. ENGELMANN:** For example, if we look at
3 the first page which is -- and the Bates pages are on the
4 top left -- last three digits 415, but it's the first page.

5 "At point I got involved, wasn't aware
6 of Dunlop having delivered letters to
7 government raising issues of concern
8 regarding investigation. I looked into
9 investigation in a general way and was
10 satisfied that it was thorough,
11 professional and had access to all
12 material Guzzo refers to. I indicated
13 to..."

14 **MR. SEGAL:** Mr. Guzzo.

15 **MR. ENGELMANN:** "... Mr. Guzzo I was
16 so satisfied."

17 So it would appear, sir, that these are
18 notes of what you would have said to him?

19 **MR. SEGAL:** Correct.

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

21 And if we turn over the page:

22 "Encouraged him to contact the police
23 if any doubt..."

24 **MR. SEGAL:** "...or had any information..."

25 Looks like it's added there:

1 "...about any information or concerns
2 he had about anything."

3 **MR. ENGELMANN:** All right. So, again, this
4 would be you writing down what you're saying to him?

5 **MR. SEGAL:** Right.

6 **MR. ENGELMANN:** What about -- can you tell
7 us about the next paragraph then?

8 "My understanding is that some legal
9 briefs..."

10 **MR. SEGAL:** "...were supplied to the
11 Ministry..."

12 Right.

13 **MR. ENGELMANN:** "... in April of '97."

14 **MR. SEGAL:** Right.

15 **MR. ENGELMANN:** Would this be Mr. Guzzo
16 relating to you now or can you help us there?

17 **MR. SEGAL:** That's -- it's hard to say.

18 **MR. ENGELMANN:** And then it says:

19 "Even before that, OPP had the rest of
20 that material which Mr. Dunlop or his
21 agent had forwarded to Chief Fantino of
22 London."

23 **MR. SEGAL:** M'hm.

24 **MR. ENGELMANN:** "In July '98, OPP realized
25 that more material may have been

1 delivered to the Ministry. Asked the
2 Dunlops for duplicates. He gave them."

3 **MR. SEGAL:** Right.

4 **MR. ENGELMANN:** Do you know if this is Mr.
5 Guzzo speaking or if this is you?

6 **MR. SEGAL:** I can't -- I can't say at this
7 stage.

8 **MR. ENGELMANN:** All right. It ends:
9 "Satisfied investigation being carried
10 out..."

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

12 **MR. ENGELMANN:** "...in..."

13 **MR. SEGAL:** Right.

14 "Carried out in a..."

15 **MR. ENGELMANN:** "...thorough,
16 Professional..."

17 **MR. SEGAL:** "...thorough, professional,
18 diligent fashion. Case is before the
19 courts. Investigation ongoing."

20 **MR. ENGELMANN:** But if these are all just
21 your own notes about what you may have said ---

22 **MR. SEGAL:** Right. I can't tell you when I
23 said ---

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

25 **MR. SEGAL:** Okay.

1 **MR. ENGELMANN:** But you believe these are
2 things you may have said to Mr. Guzzo?

3 **MR. SEGAL:** Well, all these things sort of
4 ring true in terms of things that were on my mind. Now, as
5 to whether he would have sent things to me that were
6 similar to these, that's quite possible too.

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

8 We do have some notes from Mr. Guzzo on the
9 phone call and that would be Exhibit 987. It's Document
10 Number 124606. It's a little bit difficult to read. It
11 might be easier to read on the screen if it's -- it's
12 enlarged.

13 **MR. SEGAL:** Well, I thought my handwriting
14 was difficult, but I'm not sure this is any better.

15 **MR. ENGELMANN:** I think this is a little
16 harder so we're going to try and just enlarge that.

17 **THE COMMISSIONER:** What part of it, Mr.
18 Engelmann?

19 **MR. ENGELMANN:** Well, we'll start with the
20 top third if we can; first page.

21 He's noting he's receiving a call from you
22 at about 6:30 p.m. in Florida. Or in this -- in the note,
23 it says, "March the 8th, '99".

24 **MR. SEGAL:** Right.

25 **MR. ENGELMANN:** You don't take any issue

1 with that, sir?

2 MR. SEGAL: No, no.

3 MR. ENGELMANN: All right. And it says
4 something like Murray Segal attempts to explain and the
5 purpose -- according to you -- to explain situation. Guzzo
6 no need to explain. No answers requested.

7 And then there's something that you're
8 alleged to have said:

9 "We turned all material to OPP."

10 And then there's a reference to Chief
11 Fantino.

12 And about two-thirds of the way down the
13 page:

14 "Mr. Segal questioned by interest and
15 my questions. I said very little
16 except that Ontario Government was not
17 exposed."

18 Now, he was a backbench MPP at the time. Do
19 you recall him saying anything like this to you?

20 MR. SEGAL: No. Not really. But, I mean,
21 anything is possible because a lot of what he said didn't
22 quite -- some of it didn't make sense to me. There seemed
23 to be like a questioning.

24 He didn't seem to have a lot of confidence
25 in what -- anything that I was saying or any -- or he was

1 questioning anything that I asked him about or commented
2 on.

3 **MR. ENGELMANN:** There's another note here
4 just underneath. It says:

5 "Questioned what I know and I advised
6 only that..."

7 **MR. SEGAL:** I think this may have been in
8 reference to these alleged hotel receipts.

9 **MR. ENGELMANN:** All right.

10 **MR. SEGAL:** And I'm sort of -- I think I was
11 asking him, well, what is that about? How do you -- are
12 you in possession of them? Do you come -- how did you come
13 into possession of them? Have you spoken to the police
14 about them? If you think they're relevant, turn it over.

15 And so we went through this sort of back-
16 and-forth about this issue that he had introduced into the
17 conversation which caused me to react in that way.

18 **MR. ENGELMANN:** On the second page, just a
19 couple of other points if I may, and that's Bates page 797
20 for the record.

21 There's a reference, it's about a third of
22 the way down, to you:

23 "All docs were given to OPP. Later all
24 docs given to Chief Fantino."

25 Do you recall if you would have ever told

1 him that Ministry officials gave any documents to Chief
2 Fantino?

3 **MR. SEGAL:** It's possible, you know. I --
4 at certain stages of this -- in relation to this issue of
5 these binders, I guess I would have assumed that the
6 binders were identical.

7 I guess when I -- you know, I may have
8 learned that certain material or I thought I learned that
9 certain material had gone to the Solicitor General,
10 presumably because they're connected to the OPP, went to
11 the OPP.

12 **MR. ENGELMANN:** Right.

13 **MR. SEGAL:** Or perhaps the Chief Fantino's
14 material went to the OPP. I can't recall, and over time
15 there was this sort of -- this continuing point about the
16 documents, where did the documents in the Ministry of the
17 Attorney General landed up, and possibilities that they
18 were different. So, you know, that has a whole history as
19 well.

20 **MR. ENGELMANN:** All right. We'll look at a
21 couple of documents on that as well, sir.

22 **MR. SEGAL:** Okay.

23 **MR. ENGELMANN:** Just at the -- near the
24 bottom of the page, it says:

25 "MS to get back to me re. exactly what

1 given to OPP and what given to Chief."

2 And I believe that's ---

3 **MR. SEGAL:** Yeah, it looks like he may have
4 raised this issue of there are differences in the documents
5 or what was turned over to the OPP or whatever, and I may
6 have said I would try to look into it and get back to him.

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

8 And, sir, we do have a memo from Mr. Guzzo
9 to yourself and that's -- it's Exhibit 988 -- and should be
10 in the binder next to -- maybe right in your binder, sir.

11 **MR. SEGAL:** No, 988. Okay.

12 **MR. ENGELMANN:** Yes. And this is a memo to
13 you from Mr. Guzzo; Subject: Your voicemail of March 14th,
14 '99, 7:49 p.m.

15 **MR. SEGAL:** Right. So it looks like I left
16 him a message that, you know, purports to have related what
17 it is that he says is in here. I can't tell you with 100
18 percent accuracy at this stage but, you know, I'm not sure
19 ---

20 **MR. ENGELMANN:** Well, it appears ---

21 **MR. SEGAL:** --- I have any reason to
22 disagree I got this from him.

23 **MR. ENGELMANN:** It appears, sir, you're
24 responding to his concern about the material apparently
25 ---

1 MR. SEGAL: Right.

2 MR. ENGELMANN: --- delivered to the
3 Ministry.

4 MR. SEGAL: Right.

5 MR. ENGELMANN: And you're advising him the
6 police had the material.

7 MR. SEGAL: Right.

8 MR. ENGELMANN: And I'm just -- is some of
9 the handwriting on this document yours?

10 MR. SEGAL: That's my handwriting.

11 MR. ENGELMANN: Whereabouts?

12 MR. SEGAL: I think both pieces at the
13 bottom.

14 MR. ENGELMANN: Okay.

15 MR. SEGAL: The top is somebody else's
16 handwriting, probably someone who worked for me.

17 MR. ENGELMANN: All right.

18 MR. SEGAL: Where it says:

19 "Murray sent this material to the
20 Deputy."

21 That's probably somebody else's.

22 MR. ENGELMANN: All right. So the --
23 they've had it for quite a while; I gather several months?

24 MR. SEGAL: Who's "they"?

25 MR. ENGELMANN: I don't know. This is your

1 handwriting down at the bottom:

2 "They have had it for quite a while."

3 **MR. SEGAL:** I don't know. But you see that
4 part is crossed out.

5 **MR. ENGELMANN:** Oh.

6 **MR. SEGAL:** So I'm -- at least it looks like
7 it's crossed out, so I'm not sure I -- I'm not sure what
8 that means.

9 **MR. ENGELMANN:** All right. But that was
10 your handwriting?

11 **MR. SEGAL:** It's my handwriting.

12 **MR. ENGELMANN:** Yeah. All right.

13 **MR. SEGAL:** And it probably is me crossing
14 it out.

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

16 Then, sir, the next tab, 989, Exhibit 989,
17 Mr. Guzzo's writing to you again. It's a further memo
18 about whether material's with the authorities or not.

19 At the end, he says:

20 "Unless I hear to the contrary in
21 writing, I will assume that this is the
22 case and the evidence has been given to
23 the OPP may months ago."

24 **MR. SEGAL:** So I have a recollection here.
25 I don't really adopt everything he's saying in here ---

1 MR. ENGELMANN: Yes.

2 MR. SEGAL: --- you know, because I don't
3 use expressions -- this is one example -- like a "lawyer's
4 brief".

5 MR. ENGELMANN: Yes.

6 MR. SEGAL: I don't think I've ever used
7 that expression in my life. So it sounds like more him
8 -- his language than mine.

9 MR. ENGELMANN: You do respond, sir, and
10 maybe this will help, it's Exhibit 900. It's just a few
11 further in your binder.

12 MR. SEGAL: Nine-hundred (900).

13 MR. ENGELMANN: Exhibit -- sorry, Exhibit
14 990. I apologize. It's the next document, 990.

15 MR. SEGAL: Yeah. Okay, it may -- so this
16 is my handwriting, it's a fax, and it may be that at some
17 point in this piece, I can't say for sure, I sort of got
18 the sense that he thought that there might be distinctions
19 between these documents.

20 MR. ENGELMANN: M'hm.

21 MR. SEGAL: And he also kept referring to
22 other documents that -- and I didn't know if those
23 documents were like in the brief or -- I've never seen
24 these briefs. To this day, I've never seen these briefs.

25 And so it just seemed that he, you know,

1 continued to raise these issues, he was insistent on
2 exploring my knowledge, our knowledge, the government's
3 knowledge.

4 I just sort of basically said, look, can you
5 please like just -- whatever you know, you're concerned
6 about, whatever documents you're concerned about, just deal
7 with the police, give them to the police and then that way,
8 in my own mind, we'd be assured that his concerns would be
9 met.

10 **MR. ENGELMANN:** Sir, just reading the end of
11 it, it says:

12 "While I believe we are talking about
13 the same stuff."

14 **MR. SEGAL:** M'hm.

15 **MR. ENGELMANN:** "If you are in any doubt
16 feel free to contact the OPP..."

17 **MR. SEGAL:** Right.

18 **MR. ENGELMANN:** "...Inspector Tim Smith."

19 It appears -- and correct me if I'm wrong --
20 that you're trying to close off these exchanges and say ---

21 **MR. SEGAL:** I am trying to close off the
22 exchanges because I appreciate that -- I mean, there are
23 many small issues that he raises. I've given you three
24 examples, there probably were more.

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

1 **MR. SEGAL:** And do you recall at this point-
2 in-time if he had ever told you that he didn't want to
3 follow up with the police or a reason why?

4 **MR. SEGAL:** He -- I don't know how graphic
5 he had been at -- but he certainly expressed some concerns
6 about dealing with the police at some points through our
7 conversations.

8 **MR. ENGELMANN:** Do you recall if he gave you
9 some reasons for that or ---

10 **MR. SEGAL:** No, I don't recall. I just got
11 the sense that wasn't his thing.

12 **MR. ENGELMANN:** All right.

13 **MR. SEGAL:** Or he didn't trust or you know,
14 whatever. He may have had his own reasons and my training
15 was if you got evidence, get it to the police.

16 **MR. ENGELMANN:** Sir, I just want you to look
17 at another document then and confirm whether or not these
18 are your notes. Document Number 130679 -- 130679.

19 They're handwritten notes and this time they
20 do have a date, and it's March 19th, 1999. They'll come to
21 you in a minute, Mr. Segal.

22 **THE COMMISSIONER:** Thank you.

23 Exhibit Number 3408.

24 --- **EXHIBIT NO./PIECE NO. P-3408:**

25 (130679) - Handwritten notes of Murray

1 Segal dated March 19, 1999

2 MR. SEGAL: Right.

3 MR. ENGELMANN: Would these be your notes of
4 a call with ---

5 MR. SEGAL: Yes.

6 MR. ENGELMANN: --- Mr. Guzzo on March 19th,
7 1999?

8 MR. SEGAL: Right.

9 MR. ENGELMANN: And you -- I think you've
10 referred to some of this in that fax we just looked at but
11 ---

12 MR. SEGAL: This thing seems to me like a
13 distinct -- you know, it starts off as like a distinctly
14 different issue.

15 MR. ENGELMANN: All right.

16 MR. SEGAL: He's bringing some information
17 to me.

18 MR. ENGELMANN: Can you help us with your
19 notes, sir?

20 MR. SEGAL: Yeah.

21 MR. ENGELMANN: The first paragraph, "His
22 office received" ---

23 MR. SEGAL: "His office received a message
24 from a Cabinet Minister [?]"

25 MR. ENGELMANN: Yes.

1 **MR. SEGAL:** "Something like" -- and this
2 would be a Cabinet Minister who, if true, was not the
3 Attorney General.

4 **MR. ENGELMANN:** Right.

5 **MR. SEGAL:** "...something like back off
6 because important people or friends
7 involved."

8 **MR. ENGELMANN:** Right.

9 And he told us about a Cabinet Minister who
10 allegedly said that to him.

11 **MR. SEGAL:** Right. So ---

12 **MR. ENGELMANN:** And what's he saying in the
13 next paragraph?

14 **MR. SEGAL:** "Wanted me to inform
15 Charlie..."

16 That was ---

17 **MR. ENGELMANN:** Is that Charles Harnick, the
18 AG?

19 **MR. SEGAL:** Yes. That was the expression he
20 used.

21 "...if I thought it was appropriate.
22 Assured him the Minister would have
23 nothing to do with it."

24 Like it was sort of a bit -- what he was
25 telling me was a bit different and, you know, it was

1 somewhat -- if true, somewhat alarming. So I tried to
2 assure him and I -- that -- like an Attorney -- the
3 Attorney General would never do that, if that was his
4 implication.

5 So I assured him that the Minister would
6 have nothing to do with it, and he agreed. I don't know if
7 it's any Minister or the Attorney General. I sort of think
8 I was thinking of the Attorney General. I mean, I can't
9 think of any Minister who would do that. And so he agreed
10 that the Minister would not do something like that, but
11 later he sort of said he wasn't so sure about that. So it
12 says -- my notes say later he disagreed.

13 Then there was a discussion re the propriety
14 of informing the Attorney General, and I think it's me
15 who's sort of raising that. I'm raising it aloud. I've
16 heard lots of odd things over the years in my profession in
17 government. This was probably a little bit different, so
18 I'm thinking out loud and I'm wondering whether it's
19 appropriate for me to relate this piece of information that
20 he's alleging happened to his constituency office, or a
21 call in his constituency office. I'm wondering if it's
22 appropriate to relate that to the -- to go to the Attorney
23 General and fill the Attorney General's mind with this
24 piece.

25 And what's going through my mind is do I

1 really -- you know, do I really want to like pollute the
2 Attorney General's mind, you know, cause the Attorney
3 General to have knowledge of something that hasn't been
4 investigated yet or the like.

5 Anyway, I said to him we weren't an
6 investigative agency. I told him -- I suggested that the
7 message, if as described accurately, was inappropriate. If
8 that happened that would be inappropriate.

9 **MR. ENGELMANN:** "That" being a Cabinet
10 Minister telling him ---

11 **MR. SEGAL:** Right.

12 **MR. ENGELMANN:** --- to back off?

13 **MR. SEGAL:** Well, it -- I don't know if it's
14 him or his office.

15 **MR. ENGELMANN:** Fair enough.

16 **MR. SEGAL:** Okay. And I suggested he call
17 the police and he didn't want to do that. In other words,
18 I suggested he call the police about what he was reporting
19 to me. I suggested that I could pass it on and then I'm
20 not sure what it says -- "a definite no" or something?
21 Then there was a -- then it says, "Discussion re briefs."

22 **MR. ENGELMANN:** So now we're back to the
23 binders again, sir?

24 **MR. SEGAL:** Let me just check here. Yeah,
25 he said he was speaking to someone high up in the OPP:

1 "...and don't have material given to AG
2 and SG. I went through why yes,
3 invited him to call Inspector Tim Smith
4 if he doubted or had info for..."

5 And that's all I can -- that's all that
6 appears to be written here. So we do move to the brief and
7 I do invite him to take the issue up with Inspector Smith.

8 **MR. ENGELMANN:** And that's what you had
9 indicated to him three days earlier in the fax that we just
10 looked at as well, that if he had any doubt he should feel
11 free to contact Detective Inspector Smith?

12 **MR. SEGAL:** Well, yeah, and -- but, you
13 know, it may be that I told him to speak to Inspector Smith
14 -- I probably did -- regarding this alleged message that --
15 as well.

16 **MR. ENGELMANN:** All right, so both issues,
17 the binders and the ---

18 **MR. SEGAL:** I can't recall at this stage.

19 **MR. ENGELMANN:** Fair enough.

20 **MR. SEGAL:** It seems like the sort of thing
21 -- because I'm sure that the other issue would have been --
22 the other issue, being the alleged message, would have been
23 on my mind as well.

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

25 Now, I understand at or about this time, in

1 addition to speaking to Mr. Guzzo, that you may well have
2 had a discussion with Detective Inspector Smith, and I just
3 want to take you to some of his notes for a minute, if I
4 may.

5 MR. SEGAL: Okay.

6 MR. ENGELMANN: And that should be -- it's
7 Exhibit 1803.

8 MR. SEGAL: Eighteen zero three (1803).

9 THE COMMISSIONER: No, you don't have that,
10 sir.

11 MR. ENGELMANN: And this one will really be
12 easier to read on the screen. I don't know if either you,
13 sir, or the witness need to have the hardcopy. There's
14 just one page.

15 MR. SEGAL: Okay.

16 MR. ENGELMANN: And we can enlarge it. The
17 page in question -- and I can just -- just give me a
18 moment, Madam Clerk. Yeah, I just want to get the full
19 description. The last three digits are 291, but just for
20 the screen, the Bates page will be 1054291, and if we could
21 turn right to the bottom of the page?

22 And just to set a context, sir, there was an
23 article that had appeared in the Ottawa Sun saying, "MPP
24 Knocks Project Truth" and there was some publicity about
25 this. Detective Inspector Smith told us how upset or

1 concerned he was with that article, and at the bottom of
2 the page -- the bottom third, if we could for a minute ---

3 **MR. SEGAL:** I see the passage you're
4 referring to.

5 **MR. ENGELMANN:** It ---

6 **MR. SEGAL:** I don't have a recollection of
7 that.

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

9 Well, he's saying -- he's talking about the
10 article. He wants to speak about it. He says:

11 "It may cause Guzzo embarrassment
12 because he has definitely been used and
13 misinformed in some aspect by the
14 Dunlops. I will call Murray Segal and
15 advise him of same and get his
16 opinion."

17 **MR. SEGAL:** M'hm.

18 **MR. ENGELMANN:** And then it says on the 23rd:

19 "Received call, page at home last night
20 from Segal. He requests all newspaper
21 clippings where Guzzo has been quoted
22 and requests I fax them to him..."

23 I'm on to the next Bates page.

24 "...at..."

25 And there's a phone number there, or a fax

1 number perhaps.

2 "...tomorrow morning. He will review
3 and I can call him at...or his
4 secretary, Cathy."

5 There's numbers. Those are your numbers,
6 sir?

7 **MR. SEGAL:** Yes, they're -- right, they're
8 my office numbers.

9 **MR. ENGELMANN:** And then he says:

10 "Faxed eight sheets."

11 **MR. SEGAL:** Right.

12 **MR. ENGELMANN:** And I can't read what's in
13 brackets.

14 **THE COMMISSIONER:** "One cover".

15 **MR. ENGELMANN:** "...one cover of news
16 clippings to Murray Segal."

17 So it appears you would have had some
18 discussion with Detective Inspector Smith. You asked him
19 to send you some -- do you take any issue with what he's
20 saying, sir?

21 **MR. SEGAL:** I don't have -- no, I don't take
22 issue. I just don't have a recollection of the discussion,
23 and we -- there may be two things happening here. After my
24 discussions with Mr. Guzzo in March at some point, there
25 was some article where Mr. Guzzo -- and I haven't seen it

1 since -- where Mr. Guzzo said some things in a newspaper
2 regarding that -- the purported conversation with me that
3 were significantly at odds with my recollection, and I was
4 maybe trying to track down different, you know, clippings
5 or -- I thought Inspector Smith could help me.

6 I don't have a recollection of what the
7 inspector was speaking to me about as noted or as alluded
8 to in his notes.

9 **MR. ENGELMANN:** All right.

10 So it may not have just been Guzzo's
11 criticism of Project Truth and the OPP, but he may have
12 actually -- you believe some of the articles may have
13 referred to you and conversation with you as well?

14 **MR. SEGAL:** It may have just been a -- no,
15 what I'm saying, Mr. Engelmann, is I may have also asked
16 the inspector for their clippings file in the last, you
17 know, whatever, couple of weeks just because I was taken
18 with one article that I had read that sort of seemed to be
19 -- seemed to have -- seemed to be an interview with Mr.
20 Guzzo that represented a different state of -- quite a
21 different conversation and a substantive conversation that
22 we reviewed today.

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

24 But it just appears from his notes, sir,
25 that you contacted him. And I'm just wondering if you

1 could help us at all as to why you would be contacting the
2 officer in charge of Project Truth?

3 **MR. SEGAL:** For the reason ---

4 **MR. ENGELMANN:** We see:

5 "Call page at home last night from
6 Segal."

7 **MR. SEGAL:** Well, I thought a moment earlier
8 in the notes it said that he was going to call me.

9 **MR. ENGELMANN:** Oh, that's true. I'm sorry.
10 It says:

11 "I will call Murray Segal and advise
12 him."

13 **MR. SEGAL:** All I'm saying to you, Mr.
14 Engelmann, is there might have been two things happening.
15 He's calling me for some reason that I can't recall.

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

17 **MR. SEGAL:** That's, you know, somewhat
18 briefly alluded to in his notes. I may have said, "Oh, by
19 the way, while you're on the line, can I see your -- do you
20 guys have a clipping file because I want to take a look at
21 what he said?"

22 Or, you know, Inspector Smith may have said,
23 "I need your opinion on X or whatever", and I said, "Well,
24 send -- can you send me all the clipping files before I
25 express whatever it is that he was seeking".

1 **MR. ENGELMANN:** Just by way of context,
2 Detective Inspector Smith was about to retire. He was
3 about to do something that he said he almost never did, and
4 that was to give an interview to the press.

5 Do you have any recollection of his asking
6 you for some advice about what he might say or not say
7 given that matters were before the courts?

8 **MR. SEGAL:** You know, that rings a very,
9 very faint bell now that you mention it, and I'm sure my
10 advice would have been, "You've got to be very careful
11 about anything you say, bearing in mind this is a criminal
12 matter and individuals' fair trial rights, if it ever gets
13 to that stage". And it's possible, you know, I'm really
14 speculating.

15 **MR. ENGELMANN:** Fair enough.

16 **MR. SEGAL:** I have threads of memory here.
17 It's possible that I may have said, "Well, can I have the
18 clippings to see what's in the public domain?" In other
19 words, if there was something in the public domain that was
20 not problematic, that was one thing, but to add to that was
21 problematic.

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

23 **MR. SEGAL:** But, you know, you're in the
24 recesses of my memory here.

25 **MR. ENGELMANN:** Okay.

1 I want to take you to a couple of letters,
2 if I may. And we've talked a little bit about the phone
3 call from March 8th, but it reappears in a letter that Mr.
4 Guzzo writes to the Chief of Staff for the Premier, a
5 fellow by the name of McLaughlin, and that's Exhibit 985.
6 I hope we're still in the same binder.

7 **MR. SEGAL:** Right. So ---

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

9 And this letter, presumably, was given to
10 you?

11 **MR. SEGAL:** Yes.

12 **MR. ENGELMANN:** All right. And if we look
13 at the fourth page which, for the record is Bates page
14 1154668, he recounts a conversation with you in the first
15 full paragraph on that page, his view of the March 8th, 1999
16 conversation.

17 And before I ask you about accuracies or
18 inaccuracies, I just want to follow this up. This is
19 something you would have received?

20 **MR. SEGAL:** I would have received. You
21 know, it's sort of a rambling kind of letter and I think I
22 had a lot of difficulty then and I probably have a lot of
23 difficulty now reading it.

24 **MR. ENGELMANN:** All right. So he does set
25 out, as I said, his view on the phone call where it starts

1 ---

2 MR. SEGAL: Well, he sets out some of his
3 recollection.

4 MR. ENGELMANN: Fair enough.

5 MR. SEGAL: Some -- you know, some parts of
6 a sensible conversation.

7 MR. ENGELMANN: And it starts about six line
8 down, where it says:

9 "Mr. Segal reached me at my home in
10 Florida on March 8th, 1999 at
11 approximately 6:30 p.m."

12 And just before I ask you to comment on
13 accuracies or inaccuracies, you didn't respond to this
14 letter at the time? Is that ---

15 MR. SEGAL: I don't -- well, it's not to me.

16 MR. ENGELMANN: We don't have the response.

17 MR. SEGAL: It's not to me.

18 MR. ENGELMANN: No, it's not. It's sent to
19 Ron McLaughlin, who is the -- was the Chief of Staff of the
20 Premier. It was also copied to Mr. Harnick and Mr.
21 Runciman ---

22 MR. SEGAL: Right.

23 MR. ENGELMANN: --- who were also Cabinet
24 Ministers; correct?

25 MR. SEGAL: Correct.

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

2 And you would have received a copy?

3 **MR. SEGAL:** Absolutely.

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

5 And then there's a further letter that Mr.
6 Guzzo writes about two-and-a-half years later and that ---

7 **MR. SEGAL:** Sorry, when later?

8 **MR. ENGELMANN:** About two-and-a-half years
9 later, and that's November 1st of 2001, and that is Exhibit
10 1023.

11 **MR. SEGAL:** You know, Mr. Guzzo wrote an
12 awful lot of letters. I ---

13 **MR. ENGELMANN:** This one is to you, sir.

14 **MR. SEGAL:** Okay. Good. He probably wrote
15 a lot of letters to me too.

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

17 He wrote a lot of letters to politicians, we
18 know.

19 **MR. SEGAL:** Right.

20 **MR. ENGELMANN:** And I think we have several
21 of them.

22 But in this letter he's bringing up -- and
23 at this point-in-time he's got a bill before the House?

24 **MR. SEGAL:** Right.

25 **MR. ENGELMANN:** And apparently he's hearing

1 back. He says:

2 "For easy reference, I enclose..."

3 The caption is "Re: Telephone Consultation
4 March 8th, 1999".

5 "For easy reference, I enclose herewith
6 a copy of an eight-page letter dated
7 April 3, 1999 from the undersigned to
8 Ron McLaughlin, [the then Chief of
9 Staff for the Premier of Ontario]. I
10 would refer you to pages 4 and 5 of
11 this letter wherein I dealt with a
12 telephone conversation Segal/Guzzo on
13 the above-captioned date."

14 And he talks about the fact that this letter
15 was enclosed with a package of materials that he forwarded
16 to each member of the Provincial House with regard to Bill
17 103.

18 **MR. SEGAL:** Yeah.

19 **MR. ENGELMANN:** And then he enclosed a copy
20 of the letter with another package he sent with respect to
21 Bill 48. And these were two bills he had before the House
22 ---

23 **MR. SEGAL:** I would have no clue. Like,
24 it's all political ---

25 **MR. ENGELMANN:** Yeah.

1 **MR. SEGAL:** --- what he's talking about
2 here. I would not have paid attention to ---

3 **MR. ENGELMANN:** He's simply giving you some
4 background, I believe, at this point.

5 **MR. SEGAL:** Yeah.

6 **MR. ENGELMANN:** He says at the end of that
7 paragraph:

8 "Please note that I've received no
9 reply from Mr. McLaughlin nor did I
10 receive communication from either
11 Cabinet Minister who received a copy of
12 same."

13 Then a bit later down he says, in the last
14 paragraph of the page:

15 "However, during the Caucus
16 deliberations of October 23, 2001 and
17 in the presence of the Deputy Minister
18 of Justice, the Attorney General, Mr.
19 Young stated that you have concerns
20 with regard to the accuracy of what is
21 reported in this letter as it relates
22 to the aforementioned telephone
23 conversation. I find it was disturbing
24 to learn of these concerns two-and-a-
25 half years after the letter was written

1 and copies were forwarded to the
2 Minister to whom you report. However,
3 I'm most anxious to correct any
4 misinformation which I have distributed
5 in the manner described above, and for
6 this reason I'm writing to ask you that
7 you provide to me your opinion with
8 regard to the accuracy of what I've
9 included in this letter."

10 And he says if you do that, he'd
11 respectfully undertake to correct any misinformation, et
12 cetera. All right?

13 And, sir, as I understand it, you write a
14 response. He asks you to respond by a date certain, which
15 is November 8th, 2001. And he says:

16 "If I have not been favoured with your
17 reply by that time, I will feel free to
18 conclude that you have no complaint
19 with regard to the accuracy of what is
20 described therein."

21 You then write to him, sir, as I understand
22 it, on the 7th of November of that year, and that is the
23 next exhibit, 1024. It should be in your binder.

24 **MR. SEGAL:** Right.

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

1 (SHORT PAUSE/COURTE PAUSE)

2 THE COMMISSIONER: Exhibit 1024?

3 MR. ENGELMANN: One-zero-two-four (1024),
4 Document Number 125533.

5 MR. SEGAL: Right. I have it.

6 MR. ENGELMANN: Yeah.

7 MR. SEGAL: That's right.

8 MR. ENGELMANN: And it's a short response.

9 Can you sort of give us the gist of what you
10 sent back to him and why at that time?

11 MR. SEGAL: I knew when I spoke to him in
12 March of, you know, whatever it was ---

13 MR. ENGELMANN: Ninety-nine ('99)?

14 MR. SEGAL: --- '99, and I saw some stuff in
15 the newspapers where he purported to say what he thought.
16 Like, I knew back then that he was -- he had different
17 recollections and he was a difficult person to deal with.

18 And as you touched upon earlier, Mr.
19 Engelmann, at a certain point I was trying to close out my
20 discussions with him and just have him just ship stuff to
21 the police or, you know, if he had any information, any
22 knowledge or whatever.

23 This later salvo sort of came a little bit
24 out of the blue, and so I decided to respond in the way I
25 did in the letter of November the 7th. Without getting into

1 the nitty-gritty of every word and every line and how his
2 mind worked, you know, it says what it says.

3 **MR. ENGELMANN:** The out-of-the-blue, it
4 appears, and his explanation for that is he's got this
5 material with members and he's hearing back from the AG
6 that there's some inaccuracies that he hadn't heard before.

7 **MR. SEGAL:** Yeah.

8 **MR. ENGELMANN:** That's what he's saying?

9 **MR. SEGAL:** That's what he's saying. I
10 mean, he's talking about a meeting or a caucus meeting or
11 something like that. I don't go to caucus meetings,
12 clearly. You know, that's a political event.

13 Anyway, accepting him at face value in terms
14 of what he says, it is correct that his recollection and my
15 recollection of our discussions, and the principal
16 discussion we had in March '99 were not on the same page.

17 **MR. ENGELMANN:** Right.

18 **MR. SEGAL:** And anyway, life goes on and --

19 -

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

21 **MR. SEGAL:** --- I guess he got on to that
22 conversation again in his, you know, kitchen sink of
23 concerns about issues, ideas, people who were allegedly
24 rebuffing him, and all the rest.

25 This letter appears, as you say, perhaps

1 based on some communication he had with the then Attorney
2 General or something he said he picked up at some -- on
3 some occasion where I was not present, and I followed up
4 with the letter of November 7th, which is a -- my polite,
5 diplomatic but, you know, ostensibly clear way of
6 communicating my thoughts about his views about phone calls
7 and my views about those phone calls.

8 And in any event, you know, it sort of --
9 like, enough's enough it sort of struck me. Life doesn't
10 revolve around a phone call or what was said or -- you
11 know, in my mind and I'm trying to, like, get on with life.

12 **MR. ENGELMANN:** And he, sir -- again, just
13 his context and he testified here -- he was trying to get a
14 Private Member's Bill through. The Opposition was
15 supporting it. The people who weren't were Cabinet
16 Ministers and the government, so he expressed some
17 frustration at that time. But in any event ---

18 **MR. SEGAL:** He may have had lots of
19 frustration, but I'm not part of the political process. I
20 mean, at the relevant time, I was the Chief Prosecutor.

21 **MR. ENGELMANN:** Fair enough.

22 **MR. SEGAL:** You know, it's arguable that
23 deputies are a bit of a bridge between the Civil Service
24 and so forth, but not in that position. And he would have
25 known that.

1 **MR. ENGELMANN:** Okay. And, sir, rather than
2 setting out inaccuracies that you thought existed, you
3 said, "Let's agree to disagree," essentially?

4 **MR. SEGAL:** Exactly. And I didn't think any
5 of that call was the beginning -- like, you know, was like
6 the most important -- it wasn't the most important
7 discussion in the world or in relation to me, or in
8 relation to Project Truth. And so he just seemed obsessed,
9 to one degree, with this call and he was obsessed with a
10 number of other issues, and some of them I well understand
11 and some of them I don't.

12 **MR. ENGELMANN:** He testified here about this
13 letter. He testified here about the call.

14 **MR. SEGAL:** Yeah.

15 **MR. ENGELMANN:** And I'd just like to ask you
16 to relate to us perhaps a couple of the points that you
17 believe were inaccurate, and let's just look back at that
18 letter for a minute if we can. And that is -- again, it's
19 Exhibit 985 and, sir, the -- and I'm looking at Bates page
20 1154668, the fourth page of the letter.

21 And he starts by saying, sir, that he's
22 getting the call at home. He's got dinner guests ---

23 **MR. SEGAL:** Yeah. So let me stop there.

24 **MR. ENGELMANN:** Yeah.

25 **MR. SEGAL:** Over the years Mr. Guzzo has

1 made a big deal of me interrupting his dinner. This is an
2 indication of where his head is at. I'm calling as a civil
3 servant who happens to be working at suppertime, which is
4 my problem, but somehow he construed this as some sort of -
5 - something as if I had, you know, some sort of magical
6 vision as to who's sitting around.

7 I'm just trying to get a hold of the man
8 because I've been requested to by the Attorney General, and
9 so this thing keeps getting thrown back at me about
10 suppertime. And I would have phoned -- if I had known he
11 had dinner guests, maybe I would have asked to join them at
12 dinner, but I'm just making a phone call to try to do some
13 public service here.

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

15 Let me ask you about a couple of other
16 points, sir, whether you agree or disagree. There's a
17 reference to ---

18 **MR. SEGAL:** And just to be clear, it's
19 passing difficult to read this paragraph because it starts
20 off, the paragraph you referred to me, as "I could not
21 believe my ears." Is that the one you're referring to?

22 **MR. ENGELMANN:** No, sir. I'm on the
23 paragraph above.

24 **MR. SEGAL:** Oh, the paragraph above.

25 **MR. ENGELMANN:** And I was -- I'm reading

1 from about the sixth line ---

2 MR. SEGAL: Oh, the sixth line.

3 MR. ENGELMANN: --- about the call at 6:30.

4 MR. SEGAL: Right.

5 MR. ENGELMANN: And I'll come down.

6 MR. SEGAL: Okay.

7 MR. ENGELMANN: But then it says:

8 "Mr. Segal commenced the conversation
9 by advising me that as a government
10 member I had nothing to be concerned
11 about."

12 MR. SEGAL: Yes, so I think that probably
13 the -- you know, he was wondering who I was and why exactly
14 I was phoning him, and I explained to him that I had been
15 requested to do that by the then Attorney General and, you
16 know, this was something that was normal and he shouldn't
17 be concerned.

18 Like I sort of -- I could sense in him an
19 aspect of his personality that was questioning, reading bad
20 things into, you know, almost everything. So I tried to
21 put him at ease as to -- you know, I knew he had been
22 trying to speak to the Attorney General and I was here, and
23 if I could help him, and he was wondering what do I do and
24 who am I, and what's my position, and I tried to explain to
25 him that these sorts of contacts that I make with lots of

1 people including, over time, MPPs.

2 MR. ENGELMANN: Would you have used the term
3 "government member", sir, do you recall?

4 MR. SEGAL: I doubt it. Let me just read
5 this here.

6 (SHORT PAUSE/COURTE PAUSE)

7 MR. ENGELMANN: It says:

8 "...commenced the conversation by
9 advising me that as a government member
10 I had nothing to be concerned about.
11 He assured me that everything was being
12 done that should be done and that the
13 government had handled this matter in a
14 very..."

15 MR. SEGAL: No, I would not have used
16 "government" and "government member". Like, there's no --
17 I don't know, that's just not -- that just doesn't make
18 sense to me.

19 MR. ENGELMANN: What about the point:

20 "He thanked me for my concern and my
21 interest but he assured me that he had
22 investigated the matter thoroughly and
23 reported back to the Attorney General
24 that everything was as it should be."

25 Do you recall that?

1 **MR. SEGAL:** Well, at some point I would have
2 probably told him that based on what I knew, it appeared
3 that the investigation -- not my investigation; I don't
4 investigate. The police investigate.

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

6 **MR. SEGAL:** So that use of the word is wrong
7 again. But that -- what I understood, things were -- you
8 know, were going along as appropriate and I was satisfied
9 that it was being, you know, carried out in an appropriate
10 fashion. There would have been some general assurance like
11 that on my part.

12 **MR. ENGELMANN:** All right.

13 And you referred, sir, a little earlier --
14 well, there's a comment about three-quarters of the way
15 down that paragraph:

16 "Mr. Segal reviewed the file for three
17 or four minutes and then said to me,
18 and I think I'm quoting him accurately,
19 'Wait a minute. We did not send this
20 material to the Ontario Provincial
21 Police.' He then advised me that his
22 department had sent the material to a
23 third party. Mr. Segal then gave me
24 the name of the third party ..."

25 And when he testified here ---

1 **MR. SEGAL:** Yeah.

2 **MR. ENGELMANN:** --- that was Chief Fantino.

3 **MR. SEGAL:** Yeah. And I'm not sure what
4 he's talking about there. That doesn't sort of stand out
5 in my mind as something I would have told him or I would
6 have been able to figure out from -- it's not as if there's
7 like some master file on Project Truth.

8 Project Truth was not a project, a big deal,
9 in those days. What was -- the concern was -- this was Mr.
10 Guzzo who, you know, at that point was sort of pushing and
11 probing on a number of fronts as to whether the case was
12 being proceeded with with appropriate attention; whether
13 documents had been had and stuff like that.

14 So I'm not quite sure what he's talking
15 about, about delivery and me pausing for four minutes. It
16 doesn't make any sense to me.

17 **MR. ENGELMANN:** It's fair to say that -- and
18 I think you've said this earlier, that he appeared to have
19 more knowledge of specifics about delivery and other issues
20 than you did at that time?

21 **MR. SEGAL:** I think you're putting too much
22 credit in the language I'm using. I'm trying to be nice to
23 him.

24 **MR. ENGELMANN:** I'm just repeating your
25 words.

1 **MR. SEGAL:** No, I know, but I'm telling you
2 what I mean.

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

4 **MR. SEGAL:** And for example, when he's
5 talking about alleged hotel receipts, I have no clue what
6 he's talking about. I have no clue after he tells me what
7 he says he's talking about. Maybe you could say that I'm
8 trying to humour him or whatever, in terms of these issues
9 that he keeps raising about, do I know, do we know, does X
10 know, does Y know. He's heard from A but B says something
11 different. Like, there was sort of always an odd manner of
12 his communicating about some of these issues. So when I
13 say, "You seem to know more than I know," on certain
14 aspects, correct, but there's a certain degree of I'm
15 trying to -- I'm trying to humour him and -- or make the
16 rhetorical point that if he really has or knows about
17 certain things, just pass it on to the police.

18 Like this isn't about, you know, 20
19 questions about what I know at that time. That doesn't
20 advance anything. I understand the point where someone
21 senior like me should have a general sense of what's going
22 on but the vague minutiae that he's raising in some
23 respects, I'm just saying, "Just push it on to the police
24 so that they have all the information possible."

25 **MR. ENGELMANN:** Sir, I understand that

1 during the course of the Project Truth investigations and
2 in particular when we start having Project Truth
3 prosecutions ---

4 MR. SEGAL: Yes.

5 MR. ENGELMANN: --- that from time to time
6 you're involved in the assignment of Crowns or questions
7 about the assignment of Crowns for various aspects of these
8 prosecutions.

9 MR. SEGAL: From time to time, not
10 universally.

11 MR. ENGELMANN: No.

12 MR. SEGAL: I mean, Project Truth is just
13 one of many like challenges that exist in the Criminal
14 Division ---

15 MR. ENGELMANN: But isn't ---

16 MR. SEGAL: --- at any one time or at that
17 time.

18 MR. ENGELMANN: It was fairly high profile
19 in the East Region. Is that fair?

20 MR. SEGAL: Lots of things were.

21 MR. ENGELMANN: All right.

22 MR. SEGAL: Yes, but there were lots of
23 things that were fairly high profile in the East Region.

24 MR. ENGELMANN: And one of the difficulties
25 you had with the case was you couldn't involve local

1 Crowns.

2 MR. SEGAL: As it became to be known to me,
3 there were issues with respect to conflicts or alleged
4 conflicts ---

5 MR. ENGELMANN: Right.

6 MR. SEGAL: --- for sure.

7 MR. ENGELMANN: And there were also some
8 issues that came to you about the speed at which certain
9 things were getting done.

10 MR. SEGAL: From time to time there were
11 those kinds of issues for sure.

12 MR. ENGELMANN: And in fact I believe -- and
13 I'd like you to have a look at a document. It's Document
14 Number 722 -- sorry, 726617. Seven two six six one seven
15 (726617) and this is an email between a number of high-
16 ranking OPP officers, and you're referred to in the email
17 and I just wanted to have it entered as an exhibit. The
18 top email is from Chris Lewis to Patrick Hall with a copy
19 to Jim Miller.

20 THE COMMISSIONER: And that's dated May 30th,
21 2001; Exhibit 34 -- is that 09, Madam Clerk?

22 MR. ENGELMANN: I'm sorry, 34 --

23 THE COMMISSIONER: Zero nine (09).

24 --- EXHIBIT NO./PIÈCE NO. P-3409:

25 (726617) - E-mail from Chris Lewis to Pat

1 Hall & Jim Miller re: Truth dated 30 May 01

2 MR. SEGAL: Right. So okay, I

3 MR. ENGELMANN: So there's a reference in
4 the middle ---

5 MR. SEGAL: Yeah.

6 MR. ENGELMANN: --- to 15 January, 2001:

7 "Called Murray Segal. Expressed
8 concerns. He apologized for the
9 delay."

10 And this is apparently Chris Lewis, by the
11 way, sir, who was a superintendent, I think, at the time.

12 MR. SEGAL: M'hm.

13 MR. ENGELMANN: "Said he was reluctant to
14 say anything to Hallett as she was
15 starting a jury trial on Truth. Said
16 he'd sort out the timing of when best
17 to speak to her and get back to me down
18 the road."

19 Do you have any recollection, sir, of
20 Superintendent Lewis bringing this issue up to you; the
21 fact that there were some outstanding legal briefs that had
22 been outstanding for some period of time?

23 MR. SEGAL: I have a vague recollection, but
24 I have no reason to, you know, to doubt this ---

25 MR. ENGELMANN: All right.

1 **MR. SEGAL:** --- you know, the email.

2 **MR. ENGELMANN:** This was the same day that
3 Ms. Hallett was starting the jury trial in the Leduc
4 matter.

5 **MR. SEGAL:** Right, but I -- I'm not ---
6 sorry, what is the same day?

7 **MR. ENGELMANN:** January 15th, 2001.

8 **MR. SEGAL:** Right.

9 I can't remember exactly. I believe that he
10 -- we had a -- he called me, we had a brief conversation
11 and I was under the impression that the Leduc matter was
12 starting within days, you know, whatever. I thought it was
13 10 days. If they were in pre-trial motions, I really don't
14 know exactly and I don't know if I knew then and I don't
15 know if I know now, but obviously the point was that Ms.
16 Hallett had a lot -- a big, big, important challenge on her
17 plate that she or anybody else assigned to that would have
18 been extremely busy with, and I think that's the thrust of
19 what I was ---

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

21 **MR. SEGAL:** --- you know, saying.

22 **MR. ENGELMANN:** Do you recall whether you
23 would have spoken to her about the delays in these briefs
24 at or around that time?

25 **MR. SEGAL:** Well, this seems to indicate no

1 and I don't have a -- I don't have a recollection of
2 speaking to her and I -- probably it means what, you know,
3 it says, sort of from a commonsense point of view. If
4 someone had on their plate a jury trial that was imminent
5 within a matter of days or so forth, asking them or causing
6 them to lose their focus or attention on that priority
7 would not have made sense to me then.

8 **MR. ENGELMANN:** When she testified, she said
9 that you never did bring anything like this to her
10 attention.

11 **MR. SEGAL:** Right.

12 **MR. ENGELMANN:** Do you recall, sir, if there
13 was some urgency in these -- getting these briefs done? I
14 mean, you have a senior OPP officer contacting you. Do you
15 have a sense as to priorities and the urgency?

16 **MR. SEGAL:** Well, you know, from time to
17 time, I would get calls from police officers like this.
18 Mr. Lewis -- the call was cordial, was polite, there was no
19 -- you know, no pointed sense of urgency or upset that I
20 could -- you know, it was -- it was clear that he was
21 calling me and he had a concern and he had a request, but
22 it was the kind of conversation that happens from time to
23 time and it was -- it was polite and business-like and I
24 took note of it and -- and I, you know, no doubt related
25 that there was this -- this other significant ---

1 **MR. ENGELMANN:** Yes.

2 **MR. SEGAL:** --- priority that was -- that
3 she was dealing with.

4 **MR. ENGELMANN:** No, he testified to that
5 effect and also to the fact that I believe you would have
6 told him she had a lot on her plate.

7 Was there a consideration at all given, sort
8 of reassigning this matter if there was a great deal of
9 urgency; reassigning these briefs to someone else?

10 **MR. SEGAL:** I don't think it ran through my
11 mind at that particular time because I think, you know, I
12 think I would have -- well, I would have reflected on the
13 point that she would have had the knowledge or whatever.
14 The call was understandable but the timing -- the timing
15 was, sort of, the complete answer.

16 To give it somebody else, had I thought
17 about that, which I probably didn't, would have meant a
18 learning curve that, you know, would have far exceeded what
19 one would have expected had she had the opportunity to
20 conclude Leduc and conclude it in a timely way.

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

22 Sir, I believe I may have some notes that
23 you took of that call so I just want to see ---

24 **MR. SEGAL:** Okay.

25 **MR. ENGELMANN:** --- if you can identify

1 them. It's Document Number 130686.

2 **THE COMMISSIONER:** Thank you. Exhibit 3410;
3 notes from Mr. Segal.

4 **--- EXHIBIT NO./PIÈCE NO. P-3410:**

5 (130686) - Handwritten notes of Murray Segal
6 week of 05 Jan 01

7 **MR. ENGELMANN:** Are these, in fact, your
8 notes, sir?

9 **MR. SEGAL:** Yes, they are.

10 **MR. ENGELMANN:** And it appears these are
11 notes of a call you have with Superintendent Lewis.

12 **MR. SEGAL:** Right.

13 **MR. ENGELMANN:** And I'm assuming he's
14 telling you at the top:

15 "OPP under a lot of pressure.
16 Completed investigation. Detective
17 Inspector Pat Hall forwarded five files
18 to Shelley Hallett in September '99 for
19 review."

20 Talks to you about them. And there's some
21 other dates there and one of them is "SH promised end of
22 October '99" and I believe that should really be 2000,
23 given notes we've looked at.

24 **MR. SEGAL:** Yeah.

25 I think what these notes are -- are some

1 form of partial -- partial taking down information as he's
2 relating it to me. I think he's trying to give me, like, a
3 background. That's what they look like.

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

5 **MR. SEGAL:** And I may be asking him
6 questions like, "Well, so what are the five -- what are
7 these five briefs about?" or ---

8 **MR. ENGELMANN:** Yeah.

9 **MR. SEGAL:** --- that sort of thing and, you
10 know, that's -- that appears to be what this is -- these
11 notes are.

12 **MR. ENGELMANN:** All right.

13 Let's just go back to the last exhibit, if
14 we can, for a moment. That's the email; 3409.

15 **MR. SEGAL:** Yes.

16 **MR. ENGELMANN:** If we look towards the
17 bottom, it says:

18 "6 February, 2001: Spoke to Segal
19 again. Expressed my concerns. Told
20 him the jury trial is no longer an
21 issue."

22 And we know at this point that the trial is
23 proceeding by judge alone. All right? Under pressure from
24 media.

25 **MR. SEGAL:** Sorry, Mr. Engelmann, I didn't

1 quite catch that.

2 MR. ENGELMANN: Sorry. He -- what I said,
3 sir, was we see the note 6 Feb, 2001?

4 MR. SEGAL: Yeah.

5 MR. ENGELMANN: "Spoke to Segal again,
6 expressed my concerns. Told him the
7 jury trial is no longer an issue."

8 MR. SEGAL: M'hm.

9 MR. ENGELMANN: And we know, sir, that by
10 that point-in-time the defence had re-elected, the trial
11 was proceeding before Justice MacKinnon without a jury.
12 All right?

13 So it said -- he told him the jury trial is
14 no longer an issue:

15 "Under pressure from media, need to
16 move on."

17 All right?

18 So three weeks earlier he's calling you when
19 the trial is commencing.

20 MR. SEGAL: Yeah.

21 MR. ENGELMANN: He's now calling you in the
22 middle of the trial.

23 MR. SEGAL: Well, that wouldn't have
24 necessarily made things -- it doesn't really matter if it's
25 a jury trial or a non-jury trial. It's still -- somebody

1 has a lot on their plate which is what their focus is.

2 I can't explain why he phoned or what
3 pressure he felt he was under, but it was the same sort of
4 conundrum which is that the person with the most knowledge
5 was in the middle -- it looks like from this exhibit --
6 from the middle -- in the middle of a court case, albeit
7 now judge alone.

8 **MR. ENGELMANN:** Well, did it surprise you
9 that he's asking for this when the prosecutor assigned is
10 in the middle of a trial?

11 **MR. SEGAL:** Lots of people ask questions and
12 sometimes they have their own reasons or own agendas or
13 they're under pressure or maybe their superiors -- like
14 nothing quite surprises me.

15 **MR. ENGELMANN:** And did you know, sir, if as
16 a result of the second call you gave any thought to having
17 this re-assigned or ---

18 **MR. SEGAL:** Well, I probably listened to him
19 but -- you know, and probably made a mental note to sort of
20 mark where we were in the -- in that proceeding. But,
21 obviously, some cases start and they finish in a timely way
22 and other cases seem to go on for quite awhile.

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

24 **MR. SEGAL:** So I think I probably made a
25 mental note to myself.

1 **MR. ENGELMANN:** All right. Well, once -- we
2 know that this trial got stayed on March the 1st, 2001, the
3 Leduc trial. And you were aware, sir, afterwards efforts
4 to find a new Crown to replace Ms. Hallett on other Project
5 Truth prosecutions, including the case of Charles
6 MacDonald, for example?

7 **MR. SEGAL:** In general I was, yes.

8 **MR. ENGELMANN:** Yeah. And you would have
9 been kept apprised of some of those issues?

10 **MR. SEGAL:** To some extent, yes.

11 **MR. ENGELMANN:** Right.

12 And, for example, if we could look at
13 Exhibit 3322 which is Document 130682. This is an email
14 from James Stewart or Jim Stewart to yourself. It says:

15 "Just to keep you up-to-date, I'm
16 meeting tomorrow in Kingston with the
17 OPP to discuss the outstanding cases
18 or an opinion needs to be rendered as
19 to the reasonable prospect of
20 conviction."

21 **MR. SEGAL:** Right.

22 **MR. ENGELMANN:** These are the briefs that
23 Superintendent Lewis has been calling you about:

24 "And the ultimate review perhaps
25 should be rendered by the new senior

1 Crown, whoever that might be. But I
2 understand from Paul that Shelley
3 might want to continue and I want to
4 do my own initial assessment of the
5 cases, the appropriateness. I will
6 keep you posted."

7 **MR. SEGAL:** Yeah. Well, I mean, it looks
8 like something I received.

9 **MR. ENGELMANN:** It appears he's keeping you
10 in the loop ---

11 **MR. SEGAL:** Yeah.

12 **MR. ENGELMANN:** --- as opposed to asking for
13 instructions.

14 **MR. SEGAL:** Right.

15 **MR. ENGELMANN:** Is that fair?

16 **MR. SEGAL:** That's fair.

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

18 And was it your understanding that shortly
19 after the stay was granted and of course you know the
20 reasons, at least the initial reasons which are later
21 overturned, is finding of wilful non-disclosure on one of
22 your Crowns? As a result of that, you were aware that Ms.
23 Hallett would no longer be continuing on these Project
24 Truth cases?

25 **MR. SEGAL:** No. Of course, I was aware that

1 given the findings it would not be prudent for her to
2 continue.

3 **MR. ENGELMANN:** And was that -- sir, was
4 that sort of a mutual agreement between Ms. Hallett and
5 some of the managers involved, that it wouldn't be in the
6 best interests for her to continue on these?

7 **MR. SEGAL:** Well, I don't know what they
8 agreed upon or not, mutually or not. I know that there's
9 some documentation on that. I know probably that, you
10 know, I had a view and that view landed up, you know, that
11 the right thing was done and she ---

12 **MR. ENGELMANN:** Right.

13 **MR. SEGAL:** --- and she, during this period
14 where the judgment landed up to be under appeal, in the
15 interests of the cases and so forth, she had to relinquish
16 her ---

17 **MR. ENGELMANN:** Right.

18 **MR. SEGAL:** --- role to that point-in-time.

19 **MR. ENGELMANN:** And would it be fair to say
20 that everyone involved thought it prudent that she not
21 continue, including herself?

22 **MR. SEGAL:** I think so.

23 **MR. ENGELMANN:** Yeah. And, sir, there would
24 have been efforts obviously to get a new Crown involved and
25 do so fairly quickly with respect to some of this work?

1 **MR. SEGAL:** Right.

2 **MR. ENGELMANN:** And I'm wondering, sir, at
3 or about this time she was going through a lot and she's
4 testified here about some of the things she was going
5 through, not just with having the finding of wilful non-
6 disclosure against her and having the Leduc trial ended in
7 the way it was, there were then -- and we'll get to this --
8 there was a police investigation. There were Law Society
9 investigations; a lot going on in her life at that time.
10 And she still had some of these briefs from these various
11 Project Truth investigations and prosecutions.

12 And I'm wondering, sir, if you or someone on
13 your behalf sought to ensure support for her during that
14 time and for the work that she'd had to ensure some kind of
15 orderly transition?

16 **MR. SEGAL:** Well, you've ---

17 **MR. ENGELMANN:** Just thinking back.

18 **MR. SEGAL:** --- asked a lot of questions
19 there.

20 **MR. ENGELMANN:** Fair enough.

21 **MR. SEGAL:** So the -- you know, the issue of
22 support is one distinct part of your question and, you
23 know, I believe that there were attempts to reach out for -
24 - to Shelley Hallett in relation to providing her with
25 support, but it's support as appropriate because it's --

1 you know it's difficult to get -- you still have to make
2 some certain decisions with respect to how one proceeds.

3 So, as one example, it was my
4 responsibility, or I took responsibility, and made the
5 decision ultimately to pass on the allegation as found in
6 Pat Hall's email alleging certain indiscretion on the part
7 of Ms. Hallett, to a police force for such action as they
8 saw fit.

9 Now, in doing that, I did speak with Ms.
10 Hallett in as sensitive and supportive way as I could, but
11 the circumstances are very -- you know, are very
12 challenging. But I -- one tried to -- you know, to be as
13 supportive and as optimistic as possible and to talk to the
14 individual about, in essence, keeping their spirits up in
15 very trying circumstances, seeking the continued support of
16 others in terms of support groups and finding strength in
17 what it is that they had contributed in -- over their
18 career and how they were generally held in high regard.

19 So difficult decisions, but also doesn't
20 preclude dealing on the human level in terms of trying to
21 support the person without getting into editorializing on
22 where conclusions of a particular process may land up.

23 **MR. ENGELMANN:** My question was very broad.
24 Let me just try and ---

25 **MR. SEGAL:** So that was one part of your

1 question.

2 **MR. ENGELMANN:** Yeah, let me try and focus
3 it on one other part, and then we'll take a break if I can,
4 sir.

5 We know that there were delays in the
6 transfer of some of these files, the MacDonald prosecution
7 files to ---

8 **MR. SEGAL:** Right.

9 **MR. ENGELMANN:** --- Lorne McConnery and
10 Kevin Phillips. For example, there were some delays in
11 getting some of the briefs over in certain cases.

12 **MR. SEGAL:** Right.

13 **MR. ENGELMANN:** And, as I understand it, and
14 she's explained this to some extent when she was here, she
15 wanted to make lists or inventory of what she had. She was
16 concerned about her reputation given the finding that had
17 already been found by the court.

18 I guess what I'm wondering is, did you or
19 someone on your behalf think to speak to her about
20 arrangements that could be made; perhaps if all of these
21 documents could be photocopied so that she could review
22 them on her own time, but just getting things out to Mr.
23 McConnery or others because of some of the urgency
24 involved?

25 **MR. SEGAL:** Right. I'm -- I wasn't -- I

1 don't think I was aware at the time, Mr. Engelmann, how the
2 transition was progressing.

3 MR. ENGELMANN: All right.

4 MR. SEGAL: I've seen documents in preparing
5 for today which indicate terms of certain issues and
6 concerns, and I've probably seen some summaries of what Ms.
7 Hallett has testified to and others have testified to about
8 that.

9 I don't think I was that in -- into it. Ms.
10 Hallett is a meticulous person. It is correct to say that
11 she wanted to be very concerned about -- it was
12 understandable that she would be concerned about -- about
13 accurate record-keeping because after all in thinking about
14 it as I sit here listening to your question, the
15 allegation, as I understand it, was rooted in part in terms
16 of what she knew or didn't know and when she knew it and
17 what she said, and that sort of thing. So I can understand
18 her -- her issues in that regard in a general way.

19 As to whether there were specific issues
20 about the pace of transition, I'm not in a position to --
21 to comment, except to say that although it appears to have
22 taken, you know, some period of time, I don't really know
23 what Mr. McConnery and Mr. Phillips received.

24 Like, maybe they got big bursts of important
25 stuff at the outset that kept them busy or -- or whatever.

1 It would have been good that they had as much as possible
2 as soon as possible as a general proposition, and with that
3 I agree. But I don't think I was -- I was sort of actively
4 involved in the pace or -- or issues concerning the pace of
5 that transition.

6 **THE COMMISSIONER:** It took over a year for
7 some material, Mr. Engelmann?

8 **MR. ENGELMANN:** Well, the preliminary
9 inquiry transcripts I don't think got to Mr. McConnery and
10 Mr. Phillips. They had summaries, but the actual
11 transcripts were late February of 2002.

12 **THE COMMISSIONER:** Mr. Segal ---

13 **MR. SEGAL:** So that's like -- sorry,
14 Commissioner.

15 **THE COMMISSIONER:** Mr. Segal, what I'm
16 looking at is the institutional part of it ---

17 **MR. SEGAL:** Yes.

18 **THE COMMISSIONER:** --- in the sense that you
19 have a person, albeit very qualified, who has suffered a
20 devastating blow with that decision.

21 And, so, if you didn't know what -- and I'm
22 not -- you have other things to do, but should there not be
23 somebody who without being the supervisor or checking up
24 these very senior lawyers, but come up and say, "Listen,
25 Ms. Hallett, you are not in a position any more to make any

1 rational decisions about the case because you are, quite
2 rightfully ---"

3 MR. SEGAL: M'hm.

4 THE COMMISSIONER: "--- involved in your own
5 personal things".

6 Somebody comes in and takes over and makes
7 those decisions for that person. Is there anybody ---

8 MR. SEGAL: Right.

9 THE COMMISSIONER: --- for future use, that
10 will be able to do that? Because in the end, a year to
11 transfer materials might be seen by some as dragging.

12 MR. SEGAL: So -- and that's, obviously, a
13 very fair comment, Mr. Commissioner.

14 THE COMMISSIONER: M'hm.

15 MR. SEGAL: I think that the issue of what
16 happens -- first of all, we are set up to do that. It's
17 not ---

18 THE COMMISSIONER: "We" ---

19 MR. SEGAL: It's "we" the Ministry and the
20 Criminal Division are -- are set up to supervise. We're
21 not always perfect and some of these -- you know, and the
22 responsibilities obviously fall to the person at the top,
23 who would have been me.

24 THE COMMISSIONER: M'hm.

25 MR. SEGAL: So I take that responsibility,

1 and I also take the responsibility for systems.

2 There is direct supervision. The cases were
3 being supervised, in great part from a process point-of-
4 view by Jimmy Stewart, the Regional Director, and you've
5 heard from him.

6 But you raise a good point, Mr.
7 Commissioner. I -- you know, I mean, the example that I
8 gave to Mr. Engelmann about, well, I'm not in a position to
9 say that maybe it's possible that they got like --
10 McConnery and Phillips got like a whack of important stuff
11 at the outset and didn't get everything. Well, the example
12 of the preliminary inquiry transcripts, albeit they had
13 summaries, the fact is they did have summaries, so it's not
14 perfect.

15 She wasn't, by my understanding, making
16 decisions about the case. What she was doing was making
17 decisions or -- about the inventory of material that she
18 was turning over. So it wasn't substantive although, as
19 you say, it -- time can drag.

20 I think we can do a better job, Mr.
21 Commissioner, in terms of this kind of challenge in those
22 situations where either a prosecutor is -- has to be
23 replaced for whatever reason. It could be a health reason,
24 it could be that, you know, a new trial is ordered and --
25 out of an abundance of caution, a new trial is ordered by

1 an Appellate Court, a Court of Appeal and the challenge of
2 re-prosecuting has to occur, there shouldn't be -- we
3 should move to reduce the amount of time where -- where the
4 new team needs to get up and running -- formed, up and
5 running, and get going.

6 There are a number of instances like this,
7 and I think you're quite right, Mr. Commissioner, we could
8 do a much better job at, you know, spelling out the
9 requirements to get on with a quick transition.

10 It's not -- it would not be great if from an
11 institutional point-of-view, the prosecution service was --
12 could be said to be contributing to delay in terms of the
13 interests of the case or victims or witnesses, and
14 ultimately under 11(b), so it's a very good point and it's
15 -- it's something that we should do better with.

16 **THE COMMISSIONER:** Thank you. Let's take a
17 break.

18 **MR. ENGELMANN:** Let's take a break.

19 **THE COMMISSIONER:** Thank you.

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

22 This hearing will resume at 11:25 a.m.

23 --- Upon recessing at 11:10 a.m./

24 L'audience est suspendue à 11h10

25 --- Upon resuming at 11:36 p.m./

1 L'audience est reprise à 11h36

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

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

6 **THE COMMISSIONER:** Thank you.

7 --- **MURRAY SEGAL, Resumed/sous le même serment:**

8 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
9 **ENGELMANN: (cont'd/suite)**

10 **THE COMMISSIONER:** Yes, sir? Mr. Engelmann?

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

12 **THE COMMISSIONER:** Merci.

13 **MR. ENGELMANN:** Mr. Segal, I'd like to now
14 turn your attention to a couple of emails that are dealing
15 with the assignment of a prosecutor to get these briefs
16 reviewed for the OPP, and the first is Document Number
17 130712.

18 Mr. Commissioner, the top email on the page
19 is from Murray Segal, May 23rd, 2001 to Susan Kyle and Dinah
20 Watts, and it attaches an email from Jim Miller of the OPP
21 to Mr. Segal.

22 **THE COMMISSIONER:** Thank you.

23 Exhibit Number 3411.

24 --- **EXHIBIT NO./PIÈCE NO. P-3411:**

25 (130712) - E-mail from Jim Miller to Murray

1 Segal re: Project Truth dated May 23, 2001

2 **MR. ENGELMANN:** Mr. Segal, before I ask any
3 questions about that, I want to give you another one as
4 well just to complete the context.

5 **MR. SEGAL:** Okay.

6 **MR. ENGELMANN:** And this is -- Madam Clerk,
7 it's Document Number 726381 and the top email is from Jim
8 Miller, May 28th, 2001 to Glenda Phair, and it attaches an
9 email from Mr. Segal to Mr. Miller.

10 **THE COMMISSIONER:** Thank you.

11 Exhibit Number 3412.

12 **---EXHIBIT NO./PIÈCE NO. P-3412:**

13 (726381) - E-mail from Jim Miller to Glenda
14 Phair re: Project Truth dated May 28, 2001

15 **MR. SEGAL:** Thank you.

16 **MR. ENGELMANN:** Sir, the first email, 3411,
17 there's some handwriting on it. Would that be yours?

18 **MR. SEGAL:** No.

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

20 And the email itself, sir, would suggest
21 that Detective Superintendent Miller is expressing concern
22 to you about the timeframes for these -- these legal
23 opinions that you were talked to, I believe, by Mr. --
24 Superintendent Lewis back in January, February; correct?

25 **MR. SEGAL:** Correct.

1 **MR. ENGELMANN:** And, sir, at this point did
2 you yourself have a concern about the time lag? We're now
3 in May. It's been two-and-a-half months after the stay in
4 the Leduc matter.

5 **MR. SEGAL:** Well, I'm not sure if I have a
6 distinct recollection, but -- of all these events. This
7 would have been a number of -- one of a number of matters
8 on my plate, for sure, but it's clear from the subsequent
9 email -- that document you've given me, 3412?

10 **MR. ENGELMANN:** Yes.

11 **MR. SEGAL:** That I did respond, I think it
12 was on my mind. I generally recall discussions at some
13 point in the spring anyway with Jim Stewart regarding
14 finding a replacement and finding a replacement as quickly
15 as possible. So that I do recall. I do recall general
16 discussions about identifying Lorne McConnery.

17 **MR. ENGELMANN:** Yes.

18 **MR. SEGAL:** And I thought that was terrific
19 because Mr. McConnery was very experienced and I knew him
20 for many years and I thought that was good.

21 So in general, I was becoming increasingly
22 concerned and I do recall these discussions about finding a
23 replacement and getting the job done.

24 **MR. ENGELMANN:** And Mr. McConnery said he
25 was tasked with this on or about May 23rd. So it would be

1 the day after Superintendent Miller writes to you? We know
2 that he and Mr. Phillips were assigned the MacDonald
3 prosecution, but that case had then been adjourned. So
4 they now had some time.

5 **MR. SEGAL:** Right.

6 **MR. ENGELMANN:** And it would appear that
7 Superintendent Miller's email to you might have caused some
8 immediate action on the part of the assignment of Mr.
9 McConnery?

10 **MR. SEGAL:** Well, yeah, that's probably fair
11 that receiving those kinds of inquiries do cause -- you
12 know, cause me to ask people to do things or look into it
13 or sharpen my interest in it, whether they be phone calls,
14 as it happened with Lewis, or Mr. Miller's email or emails.

15 **MR. ENGELMANN:** And it appears in the second
16 email, 3412, that you're advising Superintendent Miller
17 that this is going to be given some priority, "Effective
18 Monday"?

19 **MR. SEGAL:** Yes. Right. I see that.
20 That's right.

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

22 And when Mr. McConnery testified here, he
23 talked about this. He also talked about a meeting that he
24 had with you and Mr. Stewart on June 4th, 2001 about the
25 timeframe for reviewing the briefs, and that is Exhibit

1 3042.

2 It will just be a moment. We can perhaps
3 just put that on the screen, 3042, and the Bates page is
4 1170910.

5 Sir, these are Mr. McConnery's notes. They
6 start near the top:

7 "1:00 p.m. the meeting with Murray
8 Segal, Jim Stewart and Susan Kyle."

9 And Susan Kyle worked in your office, sir?

10 **MR. SEGAL:** Correct.

11 **MR. ENGELMANN:** And her role?

12 **MR. SEGAL:** She was a sort of a right-hand
13 person in my office. She was counsel to me and the Office
14 of the Assistant Deputy Minister that I held.

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

16 And it appears there's a discussion about
17 the timeframe for these briefs, the five individuals and
18 the conspiracy brief, and it says:

19 "Segal would like to have the review of
20 these briefs done in about 30 days."

21 All right?

22 **MR. SEGAL:** Right.

23 **MR. ENGELMANN:** So it appears that you're
24 setting a rough timeline for this.

25 **MR. SEGAL:** Yeah, I would say that's a goal

1 for sure. It's not my nature often to put time limits. I
2 mean, there are statutory time limits, for example, 30 days
3 to appeal and all those kinds of things, but I think I must
4 have been impressed with the passage of time, the interest
5 of the police force, my concerns about the integrity of the
6 cases, you know, the witnesses and victims and the
7 community. I just wanted to get on with it.

8 **MR. ENGELMANN:** Right.

9 And there were concerns about having these
10 matters drag. When Mr. McConnery testified, he certainly
11 said that it was clear to him as a result of this meeting
12 that there was a lot of concern about getting this done as
13 quickly as possible.

14 **MR. SEGAL:** Right.

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

16 And so were you aware at the time that the
17 police who had investigated these six files did not have
18 the subjective belief that there were reasonable and
19 probable grounds with respect to the allegations in those
20 briefs?

21 **MR. SEGAL:** I'm not positive I would have
22 known that ---

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

24 **MR. SEGAL:** --- at that time. I don't think
25 I would have -- I don't think I knew that. I had never

1 seen the briefs, never had possession of them. I don't
2 think I would have discussed that with Ms. Hallett, if
3 indeed those were the bottom lines.

4 When you say that that was the view of the
5 police, I'm assuming, and I may be wrong in this, that
6 that's -- that may have been in the conclusion of the
7 briefs. I don't know if that's so, a separate letter or
8 orally. I don't recall knowing about that.

9 **MR. ENGELMANN:** All right.

10 And we know that Mr. McConnery's review was
11 not completed within the 30 days. In fact, it took him ---

12 **THE COMMISSIONER:** Two and a half months.

13 **MR. ENGELMANN:** It took him two and a half
14 months.

15 **MR. SEGAL:** He may have had his reasons for
16 that, like there may have been some -- I think I read
17 somewhere where he needed some additional material or
18 brought some additional considerations. I mean, I can make
19 up all the time limits you want, but, you know ---

20 **MR. ENGELMANN:** The briefs were voluminous.

21 **MR. SEGAL:** You know, I wanted him to deal
22 with it with dispatch and he -- I think he took that to
23 heart.

24 **MR. ENGELMANN:** Do you recall having any
25 further discussions with him about meeting deadlines at

1 all? And I just -- perhaps I can refer you to one
2 document. I don't believe it was actually entered. It was
3 one of Mr. McConnery's notes that we thought had been
4 entered, 130336. We were trying to find some follow-up,
5 sir, between you and Mr. McConnery, and I believe there is
6 just one reference, if I can; 130336. These are Mr.
7 McConnery's notes.

8 **THE COMMISSIONER:** Thank you. Exhibit 3413.

9 **--- EXHIBIT NO/PIÈCE NO P-3413:**

10 (130336) - Notes of Lorne McConnery dated
11 from 30 Jul 01 to 16 Aug 01

12 **MR. ENGELMANN:** Just at the bottom of the
13 very first page, sir, it says:

14 "Kevin returning to Ottawa. Segal and
15 I taxied back to 720 Bay Street."

16 There was something blacked out and I'm not
17 sure whether that's a legal opinion from someone or what.

18 "He asked me to do opinion letters
19 ASAP."

20 **MR. SEGAL:** Right.

21 **MR. ENGELMANN:** So this is August 2nd. They
22 haven't been done. There appears to be at least some
23 concern on your part by that point because approximately 60
24 days have gone by?

25 **MR. SEGAL:** I'm not sure if you're reading

1 it correctly. I mean, if your question is was there
2 subsequent dealings with ---

3 **MR. ENGELMANN:** Yes.

4 **MR. SEGAL:** --- involving Mr. McConnery and
5 me, the answer is yes.

6 **(SHORT PAUSE/COURTE PAUSE)**

7 **MR. ENGELMANN:** Mr. Kozloff has kindly
8 pointed out another reference, and perhaps I could just
9 refer the witness to it as well, and that was in -- that's
10 in the previous exhibit, the McConnery notes, Exhibit 3042.
11 It's Document Number 130299, Bates page 1170915. We see
12 the reference at 1:00 p.m. If you could enlarge that,
13 Madam Clerk. To reference, this is July 5th of 2001. It's
14 Mr. McConnery noting you arrive from Toronto.

15 **MR. SEGAL:** So I think there were at least
16 two meetings that I participated in high-level. One of
17 them, as you can see, the one that we're currently
18 referring to ---

19 **MR. ENGELMANN:** Yes.

20 **MR. SEGAL:** --- and Bates 1170915 ---

21 **MR. ENGELMANN:** M'hm.

22 **MR. SEGAL:** --- that relates to, I think, a
23 pass-through that I was making to attend in Pembroke for a
24 swearing in. On occasion I substitute for the Attorney
25 General of the province when new Court of Justice judges

1 are sworn in, and so I would have been swinging through
2 Ottawa and would have met the individuals, Mr. Stewart,
3 McConnery and Phillips, and there would have been a brief
4 meeting about -- they would have just kept me apprised.

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

6 **MR. SEGAL:** As to whether I was requesting
7 it or it was a courtesy or a combination of both, I'm not
8 sure. But I have a -- I can almost picture the -- where it
9 is that we met.

10 **MR. ENGELMANN:** All right.

11 And it says that he's briefing you as to
12 your understanding of the conspiracy allegations, and then
13 if we turn it over to the next Bates page, and just if we
14 can enlarge the first half of the page?

15 **MR. SEGAL:** Right. So, you know, as I
16 generally recollect, there was -- I caused the retention of
17 services of someone to provide some additional advice that
18 was involved in -- could be used as somewhat of a resource
19 by Mr. McConnery or myself or both. That process was put
20 in place, and I believe in the reference in Mr. McConnery's
21 notes in relation to August the 2nd, I believe that that is
22 a reference to attendance with that individual.

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

24 Well, it does appear at least -- and just
25 looking at Bates page 916 that's on your screen -- that

1 you're suggesting that he obtain various things in his
2 work, and the last of which is a clear picture of the
3 police view as to RP&G re the six outstanding briefs.

4 **MR. SEGAL:** Right. Correct.

5 **MR. ENGELMANN:** So one of the things you
6 seem to be suggesting is that he should talk to these
7 police officers concerning their own beliefs on RP&G;
8 correct?

9 **MR. SEGAL:** That he obtain a clear picture
10 of ---

11 **MR. ENGELMANN:** Yes.

12 **MR. SEGAL:** --- their point of view with
13 respect to RPG.

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

15 **MR. SEGAL:** Reasonable and probable grounds.
16 That would have been -- you know, that's sort of a normal -
17 - that's a normal process in Ontario and that is --
18 ultimately, the decision to lay charges rests with the
19 police.

20 **MR. ENGELMANN:** Yes.

21 **MR. SEGAL:** They should form a view. It
22 would be incorrect if they took marching orders from a
23 Crown, and I was just reminding him of that. You know,
24 there may be -- there are basically some types of offences
25 that are unduly technical that a police officer doesn't see

1 very often, like perjury or something like that, or they
2 need more guidance, but I thought it would be important
3 with respect to this case to know where the police stood
4 before Mr. McConnery expressed an opinion.

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

6 Sir, one other note then, if we can, to wrap
7 up this area on the assurance, and that's -- I believe it's
8 a note of yours, Document 130705 -- 130705. The Bates page
9 for the screen is 1173482.

10 **THE COMMISSIONER:** Thank you.

11 Exhibit 3414.

12 **--- EXHIBIT NO./PIÈCE NO. P-3414:**

13 (130705) - Handwritten notes dated 14 Aug 01

14 **THE COMMISSIONER:** And whose notes are
15 these?

16 **MR. ENGELMANN:** Madam Clerk, the Bates page
17 1173482.

18 **THE COMMISSIONER:** Sorry, whose notes are
19 these?

20 **MR. ENGELMANN:** I was just going to ask Mr.
21 Segal. I believe they may be his.

22 **MR. SEGAL:** No, they're not.

23 **MR. ENGELMANN:** Oh, they're not. Okay.

24 August 14th, 10:30 there's a reference to a phone call from
25 Lorne McConnery, and there's a reference at the bottom of

1 the page to:

2 "Advised DAG that Crown opinion
3 provided to the OPP."

4 Now, August 14th of 2001 the DAG was not
5 yourself yet; correct? This would have been ---

6 **MR. SEGAL:** Correct.

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

8 Well, I thought these were your notes, sir,
9 so I'll defer that question that I was going to ask.

10 We know also that Mr. McConnery did provide
11 these opinions on the 15th of August. Let me just try one
12 other set of notes if I can. One three zero six nine three
13 (130693). These are all notes that have been disclosed to
14 us either by the OPP or the Ministry of the Attorney
15 General that refer to some of the prosecutions under
16 Project Truth.

17 **THE COMMISSIONER:** Thank you.

18 **MR. SEGAL:** Thank you.

19 **THE COMMISSIONER:** Three four one five
20 (3415).

21 --- **EXHIBIT NO./PIÈCE NO. P-3415:**

22 (130693) - Handwritten notes re: Project
23 Truth Timeline

24 **MR. SEGAL:** These aren't my notes either.

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

1 Then I'll skip those questions as well.

2 There were some issues on timelines and I
3 was wondering, sir, if -- well, just a general question
4 then. You would have been briefed about some of the
5 timelines by either Mr. Stewart or Mr. McConnery or others
6 with respect to some of the outstanding matters?

7 **MR. SEGAL:** Well, in the sense that I've
8 describe, Mr. Engelmann ---

9 **MR. ENGELMANN:** Yes.

10 **MR. SEGAL:** --- certainly with respect to
11 the outstanding number of briefs, the communications by Mr.
12 Lewis and then Mr. Miller; discussions with Mr. Stewart
13 with respect to looking for someone to step into all
14 aspects of Ms. Hallett's shoes, and the assignment, the
15 obtaining the facility of an outside -- outside legal
16 advice from a respected entity and my subsequent
17 involvement. So in that sense ---

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

19 **MR. SEGAL:** --- yes, I was involved.

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

21 So just to go back to the MacDonald matter,
22 if I can, for a few minutes, we've heard that Mr. McConnery
23 gets assigned in April 2001. We know that the case gets
24 postponed. It had been set for trial May 28th, 2001.

25 **MR. SEGAL:** Yes.

1 **MR. ENGELMANN:** By then the original charges
2 are some five years old. It gets put off until the spring
3 of 2002. And I misspoke earlier when I talked about
4 transition of files. The preliminary inquiry transcripts
5 actually were delivered, Mr. Commissioner, at or about
6 November of 2001.

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

8 **MR. ENGELMANN:** It was the correspondence
9 file that was finally delivered by Ms. Hallett to
10 Mr. McConnery at the end of February 2002.

11 **THE COMMISSIONER:** All right.

12 **MR. ENGELMANN:** So I'd misspoken about it.
13 But there were certainly delays but, in any event, we've
14 heard from Mr. Stewart and from Mr. McConnery that another
15 issue that arose in the Charles MacDonald prosecution in or
16 around March of 2002 was there was a second reassignment of
17 the trial judge.

18 There was a first reassignment at the
19 request of the Crown because of a possible conflict with
20 the judge, a judge by the name of Charbonneau. He'd had
21 some dealings with Tim Smith when he was a lawyer and there
22 had been a new judge assigned, Justice Rutherford, and
23 there had been some displeasure expressed to your Crown
24 McConnery about that from defence counsel, a suggestion
25 that another judge, Chilcott, would be more appropriate.

1 Shortly after that, your Crown McConnery is
2 advised by the Court, the trial coordinator, that the
3 matter had been adjourned for some six weeks from March
4 until late April.

5 **MR. SEGAL:** So, Mr. Engelmann, I'm not sure
6 if I agree with all of the characterization that you've
7 just put in relation to the witnesses who have testified,
8 because you're some -- clearly you're ---

9 **MR. ENGELMANN:** I'm summarizing.

10 **MR. SEGAL:** --- trying to help me and you're
11 trying to summarize probably a fair amount of testimony.
12 I'm aware of a general issue that there was a reassignment
13 that occurred.

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

15 **MR. SEGAL:** In preparation for today I've
16 refreshed my memory somewhat with respect to documents and
17 other people's notes of discussions or conversations that
18 may have involved me or did involve me, and I'm in a
19 position generally to comment on the incident but not
20 necessarily how different people perceived ---

21 **MR. ENGELMANN:** I'm not asking you about
22 their perception. I'm just trying to give you some
23 background, sir. Let's just go right to a document if we
24 can then.

25 **MR. SEGAL:** Sure.

1 **MR. ENGELMANN:** It's Exhibit 3063, Document
2 Number 130401. Exhibit 3063. This is a note, perhaps a
3 note to file that Mr. Stewart wrote, and we know it was
4 shared with Mr. McConnery.

5 And I'm wondering, sir, at the time, if this
6 would have been shared with you, if not the note, at least
7 some of the information contained in it?

8 **MR. SEGAL:** I can't say for sure that I can
9 recall this particular email. Certainly, aspects of it
10 would be something that were discussed with me.

11 **MR. ENGELMANN:** Sir, we understand that
12 Messrs. Stewart and McConnery would have contacted you
13 about the approach they were going to be taking and that
14 you would have given them some advice.

15 **MR. SEGAL:** Right.

16 **MR. ENGELMANN:** And because one of the
17 things they were talking about here is trying to get a
18 judge from outside the East Region to hear this matter.

19 Did you have some advice for them on whether
20 they should be doing this and whether they should be
21 bringing a motion?

22 **MR. SEGAL:** Well, I mean, I've refreshed my
23 memory from documents or notes of other people which I
24 don't have before me as I'm telling you this, but in
25 general, I -- it struck me that they were concerned. They

1 had some misgivings about what had occurred or how it had
2 occurred. An explanation had been proffered that had come
3 to their attention. One possible conclusion of where their
4 thinking led them to was to, in essence, take the position
5 that no judge in the Superior Court of the East Region
6 would be an appropriate person to deal with the upcoming
7 case.

8 I thought that was somewhat contentious,
9 that it -- I counselled that it may go too far if that's
10 what they were thinking of, and suggested that they not
11 pursue that particular line of thinking.

12 **MR. ENGELMANN:** All right.

13 Would they have informed you that Mr.
14 Stewart would have written to the regional senior justice
15 seeking a meeting? He received a letter back saying that a
16 meeting was not necessary and this matter had been
17 adjourned purely for scheduling reasons.

18 **MR. SEGAL:** It's quite possible. I just
19 can't recall exactly what I knew.

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

21 **MR. SEGAL:** I remember the general thrust of
22 it. I've refreshed my memory in a general fashion from
23 various documents, including probably the one you've just
24 mentioned, and basically I was just counselling them as
25 I've described.

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

2 And you would have then become aware shortly
3 thereafter, after the matter is heard by Justice Chilcott -
4 - well, there's an application for a stay before him on the
5 basis of unreasonable delay and it's brought by counsel for
6 the defence; correct?

7 **MR. SEGAL:** That rings a bell.

8 **MR. ENGELMANN:** And then of course Justice
9 Chilcott orders the charges stayed on or around the 13th of
10 May, 2002.

11 And, sir, you would have been consulted or
12 aware of discussions about whether or not to have this
13 matter reviewed to determine if there were grounds for
14 appeal?

15 **MR. SEGAL:** Yeah. I mean, as time
16 progressed, I became more aware and more involved in a
17 number of discussions that pertained to what we now know as
18 Project Truth. I mean, in the beginning, and when I first
19 assumed my duties, it didn't seem as complex as it later
20 grew to become or embracing many different strands or
21 investigative themes or court cases and the like. So it
22 sort of grew over time.

23 And as time progressed, I became more
24 involved. And so, for example, if there had been a stay of
25 something, some remaining charges, at that point I was

1 quite attuned to the interest in all quarters, whether it
2 be the community, the media, the legislature, within the
3 Criminal Division, the Bar, various issues. So I would
4 have been made aware or asked questions about the stay. I
5 might even have read the reasons myself.

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

7 **MR. SEGAL:** I think I did.

8 **MR. ENGELMANN:** Well, there had been the
9 stay in the Leduc matter the previous year. This is now a
10 stay in ---

11 **MR. SEGAL:** Yeah.

12 **MR. ENGELMANN:** If we could just take a
13 quick look at Document -- it's Exhibit 3081, and the Bates
14 page 1011282. We can probably just look at this on the
15 screen, sir. I just have a couple of questions.

16 Mr. McConnery, who had been the trial lawyer
17 or trial prosecutor, had written a letter and I presume
18 this is in the normal course, to people on the appeals
19 panel ---

20 **MR. SEGAL:** Right.

21 **MR. ENGELMANN:** --- on June the 5th, 2002 and
22 he had set out that he did not think there was a basis for
23 an appeal. And Mr. ---

24 **THE COMMISSIONER:** Pearson?

25 **MR. ENGELMANN:** --- Pearson appears to be

1 writing to you, indicating that he's looked at it with a
2 couple of his colleagues and they agree.

3 Do you know why you were being written to
4 after the appeal period is over? Was this just to inform
5 you? Because at this point, it's too late to file an
6 appeal June 18th.

7 **MR. SEGAL:** Probably, but it may be that I
8 knew about the decision before June the 18th ---

9 **MR. ENGELMANN:** All right.

10 **MR. SEGAL:** --- because I had expressed
11 interest when I had heard about the stay and, you know, I
12 suppose it's sort of as a courtesy as well to tell me what
13 the thinking was.

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

15 Sir, I want to ask you a few questions about
16 Constable Perry Dunlop.

17 **MR. SEGAL:** Sure.

18 **MR. ENGELMANN:** You would have been aware of
19 his involvement in some of these events as early as late
20 November of '98 when Robert Pelletier would have written to
21 you?

22 **MR. SEGAL:** Right.

23 **MR. ENGELMANN:** Because that letter was
24 replete with references to a lawsuit that Mr. Dunlop had
25 filed against a variety of people, for example.

1 And I just want to give you some background
2 information. I'm going to summarize something for you for
3 a minute. We know there were discussions in the fall of
4 1999. This is after Mr. Dunlop, then Constable Dunlop,
5 discloses some notes in relation to a prosecution of a
6 teacher by the name of Marcel Lalonde. And as a result,
7 there's concerns about possibly investigating Mr. Dunlop
8 for possible perjury and other issues. Outside legal
9 advice is sought by the Cornwall Police Service. It goes
10 to the Regional Director in London, a fellow by the name of
11 Garson, Marc Garson. On the basis of that opinion,
12 Cornwall Police then asked the Ottawa Police to investigate
13 Mr. Dunlop. That happens in 2000. They determine that no
14 charges should be laid.

15 And I'm just wondering; were you briefed on
16 some of that, that Mr. Garson was providing this opinion
17 and that they should go to an outside police force, et
18 cetera? Do you recall any of this by way of background?

19 **MR. SEGAL:** Nothing stands out, Mr.
20 Engelmann.

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

22 **MR. SEGAL:** I may have known at a very high
23 level, but sitting here now, I can't -- I can't point to
24 anything in particular.

25 **MR. ENGELMANN:** Would you have known at all

1 about -- there were -- it was Claudette Wilhelm who was
2 your prosecutor on the Lalonde case. Shelley Hallett was
3 prosecuting a couple of other cases. Were you involved at
4 all with disclosure issues with Mr. Dunlop or any advice to
5 the Cornwall Police about giving him a very specific order,
6 or did that never get to your level?

7 **MR. SEGAL:** I don't think I was involved in
8 those kinds of things as they were happening.

9 **MR. ENGELMANN:** All right.

10 **MR. SEGAL:** I've since absorbed quite a bit
11 in relation to some of those issues.

12 **MR. ENGELMANN:** All right.

13 Well, then let me take you to a letter that
14 Mr. Dunlop writes to the then Attorney General, Mr.
15 Flaherty. That's in the summer of 2000. And I think you
16 get directly involved because you respond, I believe, to
17 this letter on behalf of the Attorney General.

18 The letter itself, I thought this was in
19 evidence, Mr. Commissioner, but I don't think it is. It's
20 Document 109194 -- 109194.

21 **THE COMMISSIONER:** Doesn't seem to be.
22 Thank you.

23 Exhibit 3416 is a letter addressed to the
24 Honourable Jim Flaherty from Constable Perry Douglas
25 Dunlop, June 27th, 2000.

1 --- EXHIBIT NO./PIÈCE NO. P-3416:

2 (109194) - Letter from Perry Dunlop to Jim
3 Flaherty dated June 27, 2000

4 **MR. ENGELMANN:** To very quickly summarize or
5 paraphrase, it's a four-plus page letter; big print though.
6 He's providing some background. He's expressing some
7 concerns about this case I just talked to you about, Marcel
8 Lalonde, where documents come up.

9 He's also expressing concerns about his
10 treatment by the justice system and the handling of some of
11 these sexual abuse allegations more generally, and he
12 concludes the letter by saying because of all these serious
13 and disturbing allegations, he thinks a full public inquiry
14 is necessary.

15 And this is written to your -- to the
16 Honourable Jim Flaherty on June 27th, 2000 and he copies a
17 number of people including two of the Crown Attorneys
18 involved directly in these cases; Shelley Hallett and
19 Claudette Wilhelm. And, of course, you see a c.c. to Mr.
20 Guzzo whom you've dealt with.

21 So it's my understanding, sir, that you were
22 tasked with responding to this letter, and if you would
23 have a quick look at Exhibit 3112, but just keep that
24 letter handy if you need it. Three-one-one-two (3112) and
25 to counsel, it's Document Number 109193 and the Bates page

1 for the screen, 1042391.

2 Mr. Segal, you might want a hardcopy. It's
3 over two pages long, the letter.

4 Exhibit 3112, Madam Clerk, for the witness.
5 I don't know if he has that binder.

6 **MR. SEGAL:** So I don't have a distinct
7 recollection of the incoming or the outgoing. I would have
8 known enough to know that Constable Dunlop -- Constable
9 Dunlop was, sort of, at the centre in many respects of lots
10 of stuff that was happening.

11 When you say that I would have been tasked,
12 it's correct, but I think as I've previously alluded to,
13 the Criminal Division is tasked with -- through the head of
14 the division -- with several hundreds if not thousands of
15 letters like this every year, and so individuals prepare
16 the letters for my signature and, basically, I look through
17 the letters and if I'm generally satisfied with the tone
18 and I don't catch an obvious mistake then I will -- I will
19 sign them. In this respect, I'm assuming this may have
20 been prepared by Shelley Hallett.

21 **MR. ENGELMANN:** I'm assuming, sir, at that
22 point-in-time -- yes, Ms. Hallett would have been involved.
23 You would have tasked her or Ms. Wilhelm who's also -- but
24 you would have had this prepared by a prosecutor involved.

25 And do you know whether you would have had

1 any contact with the OPP to get further information or can
2 you recall?

3 MR. SEGAL: I can't -- I can't really recall
4 that.

5 MR. ENGELMANN: All right. All right.

6 Sir, on the first page of your response --
7 and this was one of the things that Constable Dunlop states
8 in his letter and this letter, by the way, this is at or
9 about the time he leaves the -- he's left the police force
10 here in Cornwall and he's, I believe, just moved to British
11 Columbia.

12 But all that to say, in the third paragraph,
13 you say you have also decried:

14 "...the way the survivors have been
15 treated by the system."

16 And you talk about the fact that there are
17 some special services for male survivors here being
18 provided by the Men's Project of Ottawa.

19 MR. SEGAL: Right.

20 MR. ENGELMANN: Do you see that then?

21 MR. SEGAL: That's what the letter says.

22 MR. ENGELMANN: You would have been informed
23 of that by Ms. Hallett or others?

24 MR. SEGAL: Well, I would have received this
25 letter in draft to sign or not sign and after making any

1 questions or slight changes in tone or whatever, I would
2 have accepted something, such as what was in paragraph 3,
3 at face value. In other words, if my people said "axe," I
4 would assume that is correct unless I had some personal
5 knowledge that was incorrect and then I would -- would have
6 ---

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

8 **MR. SEGAL:** --- asked, as I sometimes do,
9 "Is that for real? Are you sure; double check."

10 So when I look at -- when I look at the
11 third paragraph, it's in that vein that it appears in a
12 draft. I'm assuming that someone thinks it's responsive
13 and accurate and I have no reason to, you know, to
14 challenge it.

15 **MR. ENGELMANN:** Sir, would you have been
16 aware at the time that it wasn't just Constable Dunlop, or
17 Mr. Dunlop, who was concerned about a Victims Witness
18 Assistance Programs in Cornwall? But, I mean, we've heard
19 from Ms. Hallett who testified here ---

20 **MR. SEGAL:** M'hm.

21 **MR. ENGELMANN:** --- we've heard from
22 Detective Inspector Smith who testified here about a lack
23 of those types of services that were available through
24 Project Truth, and in particular from Detective Inspector
25 Smith about how there had been much more available to the

1 male survivors in the Alfred cases he was involved in.

2 MR. SEGAL: Well ---

3 MR. ENGELMANN: Were you aware of that, sir?

4 MR. SEGAL: It -- it may have crossed -- you
5 know, come to my attention. I will say to you a couple of
6 things in response to that.

7 One is it's important to have appropriate
8 victim services when we're dealing with matters that could
9 go before the courts. The -- the victim-witness program,
10 which is court-based, was relatively new in Canada.

11 Ontario was the -- was the trailblazer as you're probably
12 aware, and it may be that at this point it had not reached
13 out to all parts of Ontario. Subsequently, it has ---

14 MR. ENGELMANN: Yes.

15 MR. SEGAL: --- and the funding has been
16 stabilized. The whole program is less than 25 years and it
17 -- it's increased in an iterative way. I think the program
18 today is much more attuned to the issue of providing
19 services as things fall into a court route. And also
20 dealing with issues that may be, sort of, larger stresses;
21 sort of a project and I think you refer to Alfred.

22 Now, Alfred's a little different, as I
23 recall from Project Truth. As I touched upon -- after the
24 break today, in Project Truth, at least from my
25 perspective, when it started to surface it took a while and

1 it grew in size in terms of the number of allegations or
2 issues or complexities, et cetera. It was not concrete at
3 its inception. It went through -- it had gone through, as
4 you're well aware, a number of police investigations on
5 pieces -- small pieces of what later was described as
6 Project Truth. So it didn't, sort of, show up as Alfred or
7 some of the other cases I've seen over the years; whether
8 they be such as Grandview and the like, where there seems
9 to be some cogent evidence of many allegations
10 simultaneously that involve, from an early stage of
11 identification once the matter has been raised, a very
12 large investigation and a great deal of support for a
13 number of alleged victims.

14 Cornwall and the matters in Cornwall didn't
15 quite -- didn't quite start that way and, you know, maybe
16 one should have been more finely attuned to it. It had
17 also suffered from the drawback, as I recall, of not having
18 a dedicated victim-witness program in Cornwall at the time
19 although that's subsequently been remedied.

20 **MR. ENGELMANN:** Sir, the cases you're
21 referring to were institutional abuse.

22 **MR. SEGAL:** Right.

23 **MR. ENGELMANN:** And this was non-
24 institutional.

25 **MR. SEGAL:** Right.

1 **MR. ENGELMANN:** But by a couple of years
2 into this ---

3 **MR. SEGAL:** I believe you're the one who
4 mentioned Alfred so ---

5 **MR. ENGELMANN:** No, no, I know, but that was
6 because Detective Inspector Smith mentioned it because he'd
7 been involved.

8 **MR. SEGAL:** Right.

9 **MR. ENGELMANN:** But by, you know, by a
10 couple of years into this, the OPP had identified dozens of
11 alleged victims of child sexual abuse and one of Detective
12 Inspector Smith's concerns was just that there wasn't
13 enough available for some of these male survivors and
14 they're -- you know, the Men's Project was developed and
15 was ---

16 **MR. SEGAL:** Right. Right.

17 **MR. ENGELMANN:** --- in place, but there were
18 concerns that there wasn't enough.

19 I'm just wondering if you were aware of that
20 at the time and certainly that would have been his view at
21 the time of this letter.

22 **MR. SEGAL:** I wasn't -- I was not made aware
23 that there was a feeling that there wasn't enough, as you
24 describe it.

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

1 **MR. SEGAL:** I was made aware that there were
2 concerns about the program -- Victim/Witness Program in
3 general, and that there was a need to provide support,
4 understandably, for victims. The exact number of victims
5 was not something that -- as I've tried to indicate to you,
6 that was apparent to me from the outset, and it took some
7 time ---

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

9 **MR. SEGAL:** --- to get a better handle on
10 that.

11 **MR. ENGELMANN:** If I could just ask you a
12 couple of other quick questions ---

13 **MR. SEGAL:** Sure.

14 **MR. ENGELMANN:** --- about this letter.
15 Second page in, which is 1042392, the middle paragraph
16 refers to Dunlop boxes, a reasonable expectation of
17 privacy, and that "Ms. Hallett also advised you that it was
18 her intention to have your boxes returned" et cetera,
19 procedural protections.

20 I'm assuming that that whole paragraph would
21 have come from Ms. Hallett, the advice to Dunlop et cetera.
22 She would have written that for you and provided that
23 information to you. Is that fair?

24 **MR. SEGAL:** Yeah, this would not have been
25 something -- this would have been my first knowledge ---

1 **MR. ENGELMANN:** Yes.

2 **MR. SEGAL:** --- from this correspondence.

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

4 And then, sir, at the bottom paragraph you
5 say:

6 "However, I do not share the opinion
7 expressed in your letter that our
8 justice system is not responding
9 effectively to the cases of sexual
10 exploitation investigated by Project
11 Truth. Most of these cases have not
12 yet come to trial. Accordingly, the
13 evidence of sexual abuse with which you
14 are concerned has not yet been brought
15 forward for judicial consideration and
16 disposition. Until such time as this
17 occurs, it is my view that a public
18 inquiry into this matter is premature."

19 **MR. SEGAL:** Right.

20 **MR. ENGELMANN:** Are you in essence
21 indicating that until these cases get through the courts
22 you shouldn't be considering the launching of a public
23 inquiry? Is that ---

24 **MR. SEGAL:** Well, I mean, the decision about
25 whether there's a public inquiry or not is not one that's

1 made by me.

2 **MR. ENGELMANN:** No.

3 **MR. SEGAL:** As you well know, it's made by
4 Cabinet. So, you know, in general terms, my view has been,
5 over many of these kinds of situations -- that is, when
6 there are like active criminal investigations or active
7 potential criminal trials, that that's not an opportune
8 time to have a public inquiry. Indeed, there have been
9 very few that have proceeded when such a state of events
10 has occurred.

11 **MR. ENGELMANN:** All right.

12 Sir, let's go back to the binders for a
13 minute, if we can. I understand that -- and we noticed
14 that Mr. Guzzo raised some concerns and inquiries were
15 made, as I understand it, by yourself as early as 1999 to
16 determine what happened with these four binders of
17 materials that were delivered to the Ministry by Dunlop in
18 April of '97?

19 **MR. SEGAL:** Right.

20 **MR. ENGELMANN:** And that eventually you were
21 involved -- and I use the term "involved" -- in the
22 preparation or delivery of a report ---

23 **MR. SEGAL:** Right.

24 **MR. ENGELMANN:** --- to the then Deputy
25 Attorney General in 2001.

1 And I'd like to just show you a document, if
2 I may, and that is Document Number 130758 which has its
3 caption "Confidential Report to the Deputy Attorney General
4 re: Evidentiary Materials prepared by Murray Segal,
5 Assistant Deputy Attorney General, Criminal Law, June 18th,
6 2001". If that could be the next exhibit?

7 **THE COMMISSIONER:** Thank you.

8 Exhibit Number 3417.

9 **--- EXHIBIT NO./PIÈCE NO. P-3417:**

10 (130758) - Report to the Deputy Attorney
11 General re: Evidentiary Materials prepared
12 by Murray Segal dated 18 Jun 01

13 **MR. SEGAL:** Thank you.

14 **MR. ENGELMANN:** And, sir, just to start with
15 this, when it says "prepared by" does that really mean you
16 had someone prepare it for you under your direction?

17 **MR. SEGAL:** That's correct, Mr. Engelmann.

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

19 And then it was turned over to the Deputy,
20 who at that time was Mr. Mark Freiman?

21 **MR. SEGAL:** Right.

22 I mean, I would have read this.

23 **MR. ENGELMANN:** Yes.

24 **MR. SEGAL:** And, you know, to the point, the
25 issue of the "missing four binders," you know, surfaced, I

1 guess -- I'm losing track of years -- in '99 or ---

2 MR. ENGELMANN: Yes. It surfaced first in
3 '99.

4 MR. SEGAL: And it never went away. Okay?

5 MR. ENGELMANN: And was there ---

6 MR. SEGAL: And here we are and you're still
7 asking me those questions. And so I've had several runs at
8 this and I can just tell you generally that the -- you
9 know, it appears from what I've been -- although I wasn't
10 at all these places -- that Mr. Dunlop, as you well know,
11 delivered sets of materials to three different places. One
12 of those places was the Ministry of the Attorney General.

13 MR. ENGELMANN: Yeah.

14 MR. SEGAL: There's an acknowledgment of
15 receipt from a clerk in the office that I used to run some
16 years ago. I know the fellow, Michael Austin. But there
17 also appears to be some information that the binders may
18 have gone to the Minister's correspondence.

19 MR. ENGELMANN: All right.

20 MR. SEGAL: Where they went, I'm not exactly
21 sure, but at an early stage -- and even before these
22 repeated requests to find them, I came to understand that
23 there may be distinctions between some of the contents in
24 some of the binders. So out of an abundance of caution, I
25 wanted to assure myself and anybody who was asking,

1 principally Mr. Guzzo and repeatedly Mr. Guzzo, that all
2 the right stuff was in the right hands, by my definition at
3 least.

4 And to that end, I took steps both with Mr.
5 Guzzo to make that point and assured myself that the police
6 early on, maybe in '98, certainly 2000, 2001, whatever -- I
7 think I probably made a pain of myself with the police
8 through successive inquiries being made through Mr. Guzzo
9 to various individuals to look under every rock but also to
10 ensure that the police were satisfied, by dealing with
11 Mr. Dunlop and others, that they got everything they should
12 have had, et cetera.

13 So it wasn't perfect and indeed the notion
14 of people providing, as Mr. Dunlop did, a couple of boxes
15 or binders of material to the Ministry is a very rare
16 occurrence.

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

18 **MR. SEGAL:** So maybe it wasn't -- you know,
19 it shouldn't have happened, but it did, but I was satisfied
20 a long time ago that the police had the material. Could it
21 have speeded things up a little bit more? Absolutely. Did
22 it retard things significantly? Probably not.

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

24 Let me just ask you some specific questions
25 about the report, if I may.

1 **MR. SEGAL:** Sure.

2 **MR. ENGELMANN:** Do you recall -- this issue
3 arose in the press. It also arose in the legislature
4 through Mr. Guzzo.

5 **MR. SEGAL:** I told you it never went away.

6 **MR. ENGELMANN:** Yes.

7 **MR. SEGAL:** This kept coming. I couldn't
8 count how many times I've been asked this question.

9 **MR. ENGELMANN:** All right.

10 So you talk about the fact, at Bates page
11 627, which is page 1 of the report introduction, the
12 Minister has asked for a report-back from the Deputy
13 Attorney General regarding the handling of these materials.
14 Do you see that?

15 **MR. SEGAL:** Right.

16 **MR. ENGELMANN:** No doubt because Mr. Guzzo
17 was raising issues in the House, there may have been press,
18 whatever. And then this gets tasked to you; correct?

19 **MR. SEGAL:** Correct.

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

21 And then if we look at the report, there's a
22 chronology.

23 **MR. SEGAL:** Right. And I've reviewed this
24 document in most of its entirety in preparation for ---

25 **MR. ENGELMANN:** Right. So it sets out a

1 chronology of events which would have taken place ---

2 MR. SEGAL: Right.

3 MR. ENGELMANN: --- both with respect to the
4 delivery and then some efforts -- well, certainly some of
5 the requests that were made to look into this. And if we
6 look at Bates page 635, which is page 9 of the report ---

7 MR. SEGAL: Yes.

8 MR. ENGELMANN: --- the report sets out the
9 steps that were taken in '99 and then the steps that were
10 taken in 2001. Is that correct?

11 MR. SEGAL: Correct.

12 MR. ENGELMANN: And it appears in 1999 the
13 file clerk that received the information was asked for his
14 recollection of events, and he undertook a search and was
15 not able to find any materials in the Crown Law Office;
16 correct?

17 MR. SEGAL: You know, I may have asked Mike
18 Austin myself ---

19 MR. ENGELMANN: Yes.

20 MR. SEGAL: --- because I've known him for
21 umpteen years, and he's a very smart fellow, and he's very
22 good at what he does. I think I did as one of the steps.

23 MR. ENGELMANN: Well, this is what the
24 report states happened for '99.

25 MR. SEGAL: Right.

1 **MR. ENGELMANN:** Okay?

2 **MR. SEGAL:** I'm just telling you that it
3 doesn't really indicate the degree of how I tried to get to
4 the bottom of this.

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

6 You don't take any issue with anything
7 that's written in this report, sir?

8 **MR. SEGAL:** Not really, no.

9 **MR. ENGELMANN:** No.

10 And in 2001 there appears to have been a
11 number of other steps taken?

12 **MR. SEGAL:** Right.

13 **MR. ENGELMANN:** And they're listed on pages
14 9 and 10 of the report?

15 **MR. SEGAL:** Right.

16 **MR. ENGELMANN:** And, sir, there's also a
17 reference on page 10, which is Bates page 636.

18 There's an issue about possibly contacting
19 Peter Griffiths, but it's decided that that shouldn't be
20 done at this stage because he is at this stage a judge of
21 the Ontario Courts of Justice and the issue has received
22 considerable publicity and it was determined that he should
23 not be contacted.

24 This is -- I'm reading from the bottom of
25 636 and on to 637.

1 MR. SEGAL: Yes.

2 MR. ENGELMANN: An accurate paraphrase?

3 MR. SEGAL: That's what it says.

4 MR. ENGELMANN: All right. And, sir ---

5 MR. SEGAL: I mean, there could have been or
6 there might have been workarounds. In other words, going
7 to Peter Griffiths' office, his assistant, his documents,
8 his -- you know, his correspondence file so it's not as
9 stark as necessarily it looks.

10 MR. ENGELMANN: All right.

11 And, sir, just by reference to a routing
12 slip, that's what we see at Bates page 693. Is it not the
13 reference to the routing slip and the receipt? Six-nine-
14 three (693), the last three digits on the top left; 1173693
15 for the screen, Madam Clerk.

16 It appears to suggest that the materials
17 were to be forwarded to him. Am I correct?

18 MR. SEGAL: I'm not sure that that's what
19 that means.

20 MR. ENGELMANN: All right.

21 MR. SEGAL: You know, it may be for a
22 response to the -- like a covering letter ---

23 MR. ENGELMANN: All right.

24 MR. SEGAL: --- or that sort of thing.

25 I don't read as you've -- I think you're

1 indicating that this means like the whole kit and caboodle
2 goes to Peter Griffiths.

3 **MR. ENGELMANN:** All right. Well, in any
4 event, neither the clerk nor you nor anyone else working on
5 this were able in fact to locate these materials.

6 **MR. SEGAL:** Right. And it may be because it
7 landed up in -- you know, I've sort of thought about this.

8 I'm not, you know, I'm not sure my thoughts
9 really count, but it may be that it went into Minister's
10 correspondence. Because of the unusual nature of the
11 delivery, they called a clerk because they're not used to
12 having people, especially officers if he had identified
13 himself with official-looking stuff, show up.

14 And so they got the clerk to sort of sign it
15 even though the clerk generally deals with legal filings
16 and not what I can call -- or what I would call things like
17 perceived evidence.

18 They may have kept it in Minister's
19 correspondence and because it was in Minister's
20 correspondence, you know, query whether there it, you know,
21 got lost or there over the years -- because ministers come
22 and go and new ministers don't have access to old
23 ministers' stuff it, you know, it may have gone astray.

24 **MR. ENGELMANN:** Okay. We'll just to get
25 back to my question though, sir.

1 Whether it was in 1999 or in 2001 or at any
2 other time, no one under your direction was able to find
3 these documents?

4 **MR. SEGAL:** Absolutely. No one.

5 **MR. ENGELMANN:** Right. And we know, sir,
6 that it appears that the documents first -- the four
7 volumes first came into the possession of the OPP from
8 Constable Dunlop in July of 1998, about 16 months after
9 they had been delivered to your office.

10 **MR. SEGAL:** I can't say that. Like, you're
11 telling me that and ---

12 **MR. ENGELMANN:** Yes.

13 **MR. SEGAL:** --- and I'm not up on my dates -
14 --

15 **MR. ENGELMANN:** Fair enough.

16 **MR. SEGAL:** --- et cetera.

17 **THE COMMISSIONER:** Sir, what steps have been
18 taken, if any, to ensure -- because one of the questions
19 that the public are asking is, how can four binders go
20 missing ---

21 **MR. ENGELMANN:** Right.

22 **MR. SEGAL:** --- when the Attorney General's
23 office and -- you know, I understand everyone's position
24 that, "Well, look, we confirm that all of that evidence was
25 given and we -- no harm done" so to speak and we'll talk

1 about that later.

2 There would have been only one series and it
3 had gone to the Attorney General. What steps are being
4 taken to make sure this never happens again?

5 **MR. SEGAL:** Well, there are some -- there
6 are some steps related to suggestions or, you know, ideas
7 in this memo.

8 **THE COMMISSIONER:** Where? Where, please?

9 Well, it's lunchtime. Perhaps we can resume
10 (sic) and you can have a peek at it at the lunch break.

11 Let's take lunch.

12 **MR. ENGELMANN:** All right.

13 **THE REGISTRAR:** Order; all rise. A l'ordre;
14 Veuillez vous lever.

15 This hearing will resume at 2:00 p.m.

16 --- Upon recessing at 12:34 p.m./

17 L'audience est suspendue à 12h34

18 --- Upon resuming at 2:03 p.m./

19 L'audience est reprise à 14h03

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

22 This hearing is now resumed. Please be
23 seated. Veuillez vous asseoir.

24 **THE COMMISSIONER:** Thank you. Good
25 afternoon, all.

1 Mr. Engelmann?

2 MR. ENGELMANN: Thank you sir.

3 --- MURRAY SEGAL, Resumed/sous le même serment:

4 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
5 ENGELMANN: (cont'd/suite)

6 MR. ENGELMANN: Good afternoon Mr. Segal.

7 MR. SEGAL: Good afternoon, Mr. Engelmann.

8 MR. ENGELMANN: When we broke off,
9 Mr. Segal, the Commissioner had asked you about protocols
10 that might have been in place, and I note in the report
11 that you had prepared in the summer of 2001, which is
12 Exhibit 3417, there's some reference I believe to this on
13 pages 11 and 12.

14 MR. SEGAL: Yes, that's correct the --
15 Commissioner you were asking me ---

16 THE COMMISSIONER: M'hm?

17 MR. SEGAL: --- about whether there were any
18 steps taken or improvements to ensure that ---

19 THE COMMISSIONER: M'hm?

20 MR. SEGAL: --- this sort of thing didn't
21 happen again, and there was some thought put into that at
22 the time and it's reflected at page 11 -- of the document
23 that we were looking at ---

24 THE COMMISSIONER: M'hm.

25 MR. SEGAL: --- before the break.

1 **THE COMMISSIONER:** Yes.

2 **MR. SEGAL:** And, you know, I must say,
3 Commissioner, it was something that concerned me a great
4 deal.

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

6 **MR. SEGAL:** Documents should not go missing.
7 We took it extremely seriously. I'm not aware of this
8 happening very often. I wish it didn't -- hadn't happened
9 and it's -- everybody was reminded of the seriousness of
10 the process.

11 **THE COMMISSIONER:** Yes.

12 **MR. SEGAL:** Albeit, even in an organization
13 that receives thousands of documents, one should not go
14 missing.

15 **MR. ENGELMANN:** Let me just alert the Clerk
16 to the page -- the page reference, Madam Clerk, would be
17 1173637.

18 And, Mr. Commissioner, the discussion starts
19 under "Document Handling at the Crown Law Office,
20 Criminal."

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

22 **MR. ENGELMANN:** I note for example,
23 Mr. Segal, the second bullet:

24 "Crown Law, Criminal has a computerized
25 log and a manual log to record service

1 of legal documents. The computerized
2 log links the served materials with
3 files that are open within the office.
4 This system has been significantly
5 enhanced since 1997. The manual log
6 for 1997 has been shredded."

7 So that would be one of the improvements,
8 sir?

9 **MR. SEGAL:** Right.

10 **MR. ENGELMANN:** All right.

11 **MR. SEGAL:** I think the -- that all of these
12 issues are an attempt to address something that should not
13 have happened and, as I've indicated, was very rare.

14 And to my knowledge -- you know, I'm not
15 saying it's been perfect since, but it caused quite a lot
16 of concern, certainly on my part, and these steps went a
17 way in trying to improve.

18 **MR. ENGELMANN:** All right. Sir, I just
19 wanted to ask you a couple of questions and I'm going to
20 just paraphrase some of the evidence we've heard.

21 We heard that just shortly after this report
22 -- this report being in June -- in July of 2001, Detective
23 Inspector Hall, who was then the case manager of Project
24 Truth, wrote to Lorne McConnery about concerns still with
25 respect to these binders.

1 This was responded to by James Stewart in
2 the fall of 2001 and then Detective Inspector Hall wrote
3 back in April of 2004, still asking for some kind of a
4 report or independent investigation to be done about the
5 binders issue.

6 And, sir, when he testified here as well,
7 Detective Inspector Hall told us he felt he never received
8 a satisfactory response from the Ministry on the issue of
9 these Dunlop documents.

10 And I guess what I'm wondering is, this
11 report that we're looking at now, 3417, do you know, sir,
12 if this was ever shared with Detective Inspector Hall or
13 others from the OPP?

14 **MR. SEGAL:** I would suggest not, but I
15 wouldn't be somewhat troubled by the rest of -- the context
16 that you gave me. It's something that I think I -- I have
17 to sort of indicate that I believe that Inspector Hall
18 himself sat down with Mr. Dunlop some years ago and ---

19 **MR. ENGELMANN:** Well, certainly in July
20 of '98.

21 **MR. SEGAL:** Yes. And maybe, you know, maybe
22 he had to determine whether or not there were any
23 differences between the -- the binders that went missing
24 and the binders that didn't go missing. Or, in other
25 words, whether the police had everything that they should

1 have had, and I believe that Inspector Hall has indicated
2 that he was so satisfied and I think he's even -- he may
3 have even said that or testified, but I'm not positive.

4 That's certainly my impression. That's
5 certainly what I requested happened. I believe it did
6 happen, so I'm a bit taken with -- he may not have received
7 a copy of this, but he himself was part of the solution, so
8 I'm not sure I follow your point ---

9 **MR. ENGELMANN:** All right.

10 Just speaking part of the solution, just if
11 you could turn to page 13 of the report for just a moment,
12 1173639.

13 And you would have been briefed on this I'm
14 sure as it's in your report. It's the final bullet on that
15 page. The lead investigator in the case, and that would
16 have been Pat Hall at the time ---

17 **MR. SEGAL:** Sorry, which page?

18 **MR. ENGELMANN:** Page 13 of your report, sir?

19 **MR. SEGAL:** Yes.

20 **MR. ENGELMANN:** Bates page 639, Madame
21 Clerk. The bottom bullet. This would have been a
22 reference to Detective Inspector Hall.

23 **MR. SEGAL:** I believe he also met with Mr.
24 Dunlop.

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

1 **MR. SEGAL:** This is like a slightly
2 different ---

3 **MR. ENGELMANN:** The meeting with Dunlop
4 would have been in '98, sir, when he got the additional
5 documents.

6 **MR. SEGAL:** But it's Mr. Dunlop who I viewed
7 as the author or the possessor or -- of -- and most
8 knowledgeable about the binders that he himself was said to
9 have given to our Ministry.

10 So it would be more critical in my mind for
11 Mr. Hall to have met with Mr. Dunlop. I believe that
12 happened relatively early on in the piece.

13 **MR. ENGELMANN:** Yes. Okay. So let's go
14 back to the Leduc matter for a minute.

15 You told us earlier, the Leduc prosecution,
16 that you became more involved in it or had a larger role
17 after the stay decision, which would have been March 1st of
18 2001. I mean, you would have known before then that of
19 course Shelley Hallett, a senior prosecutor from the Crown
20 law office in Toronto, was prosecuting this case?

21 **MR. SEGAL:** Yeah. It's fair to say that I
22 would have had more involvement post-Leduc stay.

23 **MR. ENGELMANN:** Right.

24 **MR. SEGAL:** But what I was trying to
25 indicate before the break is that my involvement generally

1 increased from small knowledge, the Pelletier memo, and
2 kept on growing over time.

3 **MR. ENGELMANN:** Okay, well that's ---

4 **MR. SEGAL:** Sorry, post-Leduc ---

5 **MR. ENGELMANN:** Yes.

6 **MR. SEGAL:** --- is one marker.

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

8 And, sir, just by way of example, I want to
9 show you a document, Document 101621. This is a memo from
10 Shelley Hallett to yourself approximately 12 days after the
11 stay is granted. And there's an issue of costs that are
12 coming up before the judge who had heard the case.

13 **THE COMMISSIONER:** Thank you.

14 Exhibit Number 3418 is a memorandum to
15 Murray Segal from Shelley Hallett dated March 12th, 2000 --
16 2001, sorry.

17 **---EXHIBIT NO./PIECE NO. P-3418**

18 (101621) - Memorandum from Shelley Hallett
19 to Murray Segal re: *R v Leduc* stay
20 proceedings, dated March 12, 2001

21 **MR. ENGELMANN:** Sir, Ms. Hallett in this
22 memo appears to be commenting and expressing some views on
23 the costs application that's upcoming. An application by
24 the defence counsel -- and in fact they were awarded
25 significant costs as you'll recall.

1 And I'm just wondering, sir, if you can help
2 us. Do you know why Ms. Hallett would have been involved
3 in this and why she'd be writing to you?

4 **MR. SEGAL:** Well, I'm trying to figure out
5 what this is. This looks like -- there was -- this is the
6 -- she was in possession of the applicant's claim.

7 **MR. ENGELMANN:** The applicants were making a
8 claim for costs.

9 **MR. SEGAL:** And she's -- so she has it and
10 she wants to turn it over to someone to respond to.

11 **MR. ENGELMANN:** All right.

12 **MR. SEGAL:** Like she's not responding
13 herself.

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

15 **MR. SEGAL:** She just has it and she's
16 forwarding it, and a number of people are c.c.'d. And ---

17 **MR. ENGELMANN:** So she's looking for some
18 reassignment then. Is that how you're reading this?

19 **MR. SEGAL:** I'm not -- like I -- it's not
20 something I invited. I think she's just bringing something
21 to my attention.

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

23 **MR. SEGAL:** I'm not sure when it came. I
24 guess it'll -- you know it was -- she or her office or --
25 must have been served and she just, I guess as a courtesy,

1 thought she should bring this to my attention.

2 **MR. ENGELMANN:** All right.

3 Sir, we talked briefly earlier about an
4 email that you were alerted to. This is an email from
5 Detective Inspector Hall ---

6 **MR. SEGAL:** Right.

7 **MR. ENGELMANN:** --- to James Stewart of
8 April 3rd, 2001. And we know that that email was passed on
9 to you by Mr. Stewart. He also ---

10 **MR. SEGAL:** M'hm.

11 **MR. ENGELMANN:** --- passed it on to Mr.
12 McMahon and Mr. Pearson. And he's told us -- and if we
13 take a look at that email, one example of that email would
14 be Exhibit 3316, which is Document 130740.

15 **THE COMMISSIONER:** Thanks.

16 **MR. ENGELMANN:** Three-three-one-six (3316).
17 It's on the screen as well, the bottom half of the page.

18 And really, sir, what I wanted to take you
19 to first and foremost was the last five or so lines that
20 are circled. And Mr. Stewart said this was very
21 significant when he saw this, the last four lines that
22 start:

23 "What disturbs me most is Ms. Hallett
24 not being truthful."

25 Do you see that?

1 **MR. SEGAL:** Yes.

2 **MR. ENGELMANN:** All right. And John
3 McMahon's email to you, at the top of the page, he's
4 saying:

5 "I'm concerned about the last few lines
6 of this email."

7 **MR. SEGAL:** Right.

8 **MR. ENGELMANN:** So you end up speaking with
9 Mr. McMahon and Mr. Stewart about this email and others
10 perhaps?

11 **MR. SEGAL:** I probably did, yes.

12 **MR. ENGELMANN:** All right. And we've heard
13 from Mr. Stewart that he drafted a response to Detective
14 Inspector Hall. It's the very next exhibit in your book.

15 **MR. SEGAL:** Right.

16 **MR. ENGELMANN:** And he decided not to send
17 this for a variety of reasons, including that he didn't
18 want to become part of an investigation, and he thought
19 others should look at this and he certainly thought that
20 Toronto, I think were his words, would want to do something
21 about this because when he saw an email like this from a
22 senior police officer to a senior Crown about a senior
23 Crown, he was of the view that someone else, someone
24 external, would have to look into this.

25 And, sir, did you in fact get some advice

1 and make -- you made a decision to send this matter out to
2 an external police force?

3 **MR. SEGAL:** Right. I reflected on it. And
4 in addition to forming my own tentative thoughts, I sought
5 outside legal advice. From time-to-time I do -- I have
6 sought the advice of a senior retired jurist, different --
7 not always the same one ---

8 **MR. ENGELMANN:** M'hm.

9 **MR. SEGAL:** --- to confirm my views about
10 the appropriate course of action in a particular challenge
11 that I might be facing in my job.

12 And I did so on this occasion, and as a
13 result of my own thoughts and with the input of external
14 advice, I made a decision to refer the matter that was in
15 this email to an outside police force for such action as
16 they deemed appropriate, which obviously might include them
17 concluding that an investigation should be opened or not.

18 **MR. ENGELMANN:** Right. You didn't ask them
19 to investigate? You simply sent ---

20 **MR. SEGAL:** It's not -- it's never been my
21 nature. People often make, you know, take the shortcut but
22 I refer incidents, I don't refer people. And I refer
23 incidents or fact scenarios to police forces for such
24 action as they see fit because the difficulty is when
25 you're the -- you have a senior position and you purport to

1 direct someone that, you know -- I am -- in other words, if
2 I ask someone to enter into an investigation it would be
3 wrong on -- or use the investigation word, it would be
4 wrong on two counts.

5 First of all, police make those decisions.
6 And, secondly, people might read into my language, because
7 I'm a person with a higher rank, that this should be done.

8 **MR. ENGELMANN:** M'hm.

9 **MR. SEGAL:** And I think the proper way, and
10 I did it in this case, was to pass on information regarding
11 an alleged incident and let a police force do what they
12 want and make sure that they are provided with appropriate
13 legal advice.

14 **MR. ENGELMANN:** So you gave them a copy of
15 the email, and "them" being the York Regional Police?

16 **MR. SEGAL:** Correct.

17 **MR. ENGELMANN:** And, sir, you've testified
18 and Ms. Hallett testified that you met her and you informed
19 her that this was going to happen, and in fact she told us
20 that you met with her at her home on April 23rd, 2001 ---

21 **MR. SEGAL:** Maybe.

22 **MR. ENGELMANN:** --- advised her of the email
23 and explained that as a result of the email you had --
24 well, you had passed this matter on to the York Regional
25 Police?

1 **MR. SEGAL:** Right. It's the timing I'm not
2 -- I'm guessing I may have arranged to do that before I saw
3 her.

4 **MR. ENGELMANN:** Okay.

5 **MR. SEGAL:** It wasn't that there ---

6 **MR. ENGELMANN:** I think you indicated to her
7 that you had done it; yes?

8 **MR. SEGAL:** Yes.

9 **MR. ENGELMANN:** And that she would be
10 provided with counsel of her choice during the course of
11 any ---

12 **MR. SEGAL:** Right.

13 **MR. ENGELMANN:** --- investigation that might
14 be conducted, or words to that effect?

15 **MR. SEGAL:** Correct.

16 **MR. ENGELMANN:** Okay.

17 **MR. SEGAL:** Correct.

18 **MR. ENGELMANN:** And, sir, you informed her
19 about it. Did you inform the OPP about what you were
20 doing, or did you leave that for the York Regional Police?

21 **MR. SEGAL:** I believe I may have informed
22 somebody in the superior ranks about what I had done.

23 **MR. ENGELMANN:** Now, sir, when they
24 concluded their investigation, you were informed of the
25 outcome?

1 **MR. SEGAL:** Correct.

2 **MR. ENGELMANN:** And that was that there were
3 no grounds for criminal charges?

4 **MR. SEGAL:** Right.

5 **MR. ENGELMANN:** And you would have received
6 a copy of their report?

7 **MR. SEGAL:** Correct.

8 **MR. ENGELMANN:** And, sir, I understand --
9 and I'm going to jump ahead a little bit -- but I
10 understand that in or around December of 2001 or January of
11 2002, Ms. Hallett would have requested a copy of the brief
12 from the York Regional Police?

13 **MR. SEGAL:** She would have requested the
14 brief from me.

15 **MR. ENGELMANN:** Yes.

16 **MR. SEGAL:** Correct.

17 **MR. ENGELMANN:** And I understand, sir, that
18 she was requesting this information, at least at that
19 point-in-time, because she was concerned about the appeal.
20 There was this issue of intervention on her part and on
21 behalf of her association, and it's my understanding that
22 she requested this information from you, and you wrote to
23 her indicating that you were not going to be able to
24 provide it.

25 **MR. SEGAL:** Right, and again, before coming

1 to that conclusion -- because it's not an everyday matter -
2 - I formed some views and I also availed myself of some
3 advice from a -- legal advice from a retired jurist of some
4 reputation.

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

6 So let's just take a quick look at that
7 letter if we can, just a couple of questions.

8 **MR. SEGAL:** Sure.

9 **MR. ENGELMANN:** It's Exhibit 3206. I'm not
10 sure if you have that binder, sir, but the Bates page,
11 Madam Clerk, 1070817 -- 1070817. Perhaps we can look at
12 this on the screen if you don't have it, sir.

13 **THE COMMISSIONER:** No, we'll get it.

14 **MR. ENGELMANN:** It's a two-page letter.

15 **THE COMMISSIONER:** Three-two-zero-six (3206)
16 is the ---

17 **MR. ENGELMANN:** Three-two-zero-six (3206),
18 yes.

19 **THE COMMISSIONER:** And that's a letter from
20 Mr. Segal to Ms. Hallett?

21 **MR. ENGELMANN:** Hallett, January 16th.

22 **MR. SEGAL:** I don't believe I have that.

23 **THE COMMISSIONER:** No, no, it will come. It
24 will come.

25 **MR. SEGAL:** Thank you.

1 **MR. ENGELMANN:** And, sir, you do say in the
2 letter that you sought independent legal advice regarding
3 the request, and that's set out in the second paragraph of
4 the letter.

5 You say in the third paragraph:

6 "Of particular concern in this case is
7 the potential impact on any future
8 proceedings of providing you with a
9 copy of the brief at this time."

10 And you then say:

11 "For example, the Crown is seeking a
12 new trial in this case. It's possible
13 you'll be called as a witness."

14 Okay?

15 **MR. SEGAL:** Right.

16 **MR. ENGELMANN:** As a result of advice you
17 received, you write her this letter and you tell her:

18 "I can't give you the information but
19 York Regional has conducted a thorough
20 review."

21 **MR. SEGAL:** Right.

22 **MR. ENGELMANN:** And that:

23 "All persons interviewed in the course
24 of the review were of the opinion that
25 you would not and did not intentionally

1 withhold information from the defence."

2 MR. SEGAL: Right, and the general theory
3 here, Mr. Engelmann, is that police briefs are
4 confidential.

5 MR. ENGELMANN: Yes.

6 MR. SEGAL: And ones where there are no
7 charges are confidential, and if it were any member of the
8 public who said, "Can I please have that brief?" and they
9 asked me for it my answer would be, "No" with "Sorry, I
10 can't accommodate you". So would the fact that the person
11 was an employee of the Ministry put her in any different
12 status? My view was it did not, on that basis, and I
13 sought outside advice in addition to considering the human
14 resources implications of this kind of request.

15 I then also considered the issues that she
16 raised in particular and got some input with respect to
17 that, including from counsel who were involved in the
18 appeal ---

19 MR. ENGELMANN: All right.

20 MR. SEGAL: --- as to what their sense of
21 her point was.

22 MR. ENGELMANN: All right.

23 Sir, just a couple of other things on this
24 area.

25 MR. SEGAL: Sure.

1 **MR. ENGELMANN:** If we could look at Document
2 Number 130706 -- 130706.

3 The top email has -- it's from Murray Segal
4 to Dinah Watts, January 15th, 2002. So it would be the day
5 before you write the letter we've just looked at, sir, and
6 I believe this is some internal advice you're getting about
7 this.

8 If that could be the next exhibit.

9 **THE COMMISSIONER:** Thank you.

10 Exhibit 3419.

11 **--- EXHIBIT NO./PIÈCE NO. P-3419:**

12 (130706) - E-mail from Murray Segal to Dinah
13 Watts re: Letter for review dated 15 January
14 15, 2002

15 **MR. SEGAL:** Thank you.

16 **MR. ENGELMANN:** It appears that Susan Kyle
17 may have done a draft letter. It says:

18 "I think your letter's good but have
19 added a few things [for your
20 consideration]. If the primary concern
21 relates to the future proceedings then
22 Murray could hold out the possibility
23 of access once all future proceedings
24 are completed."

25 **MR. SEGAL:** So this looks like -- this sort

1 of starts off as a dialogue between John Pearson, I take
2 it, who was counsel on the appeal -- the Leduc appeal ---

3 **MR. ENGELMANN:** Right.

4 **MR. SEGAL:** --- and Susan Kyle, who was
5 counsel in my -- to me.

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

7 Now, so given the primary concern that the
8 future proceedings and not wanting to prejudice them in any
9 way, would you agree with the comment there; once
10 proceedings are completed it might be appropriate to give
11 her access to this material?

12 **MR. SEGAL:** It says what it says. These are
13 like individuals who were working for me ---

14 **MR. ENGELMANN:** Sure.

15 **MR. SEGAL:** --- expressing views. I don't
16 think my letter to Ms. Hallett -- I may be wrong but, it
17 does not hold out the possibility of a ---

18 **THE COMMISSIONER:** No.

19 **MR. SEGAL:** --- future change of mind. And
20 so if -- if that's what you're getting at.

21 **MR. ENGELMANN:** Right.

22 **MR. SEGAL:** But I know that there was a
23 second request by Ms. Hallett.

24 **MR. ENGELMANN:** Yes, there was.

25 **MR. SEGAL:** And I think maybe ---

1 **MR. ENGELMANN:** The letter doesn't really
2 set that out, I don't think, but in any event there was a
3 second request and that was in the fall.

4 **MR. SEGAL:** Right.

5 **MR. ENGELMANN:** And, sir, there's an email
6 and that's Exhibit 3207, so that should be in your binder.
7 And this is again an email from Shelley Hallett to you and
8 Mr. Pearson.

9 **MR. SEGAL:** Right.

10 **MR. ENGELMANN:** And she's renewing her
11 demand for access to the file and the reason is really
12 because of the attached email, which starts at the bottom
13 of that page and on to the next. There's a lawyer by the
14 name of -- I believe it's Marlys Edwards, who's assisting
15 the Leduc team on the appeal, and apparently she's bringing
16 a Fresh Evidence Application, wanting to use a letter that
17 Ms. Hallett had written to one of the investigating
18 officers; a letter dated July 7th.

19 **MR. SEGAL:** Right. I mean, ultimately -- I
20 don't know if I recall even at the time sort of how deep I
21 got into the specific facts because there are some very --
22 you know, there are some -- we're in the weeds here of
23 things going on.

24 I do recall that there was a second enquiry.
25 I would have consulted with Mr. Pearson, perhaps others,

1 and my conclusion continued to be the same. In other
2 words, that I would not be releasing the investigative
3 brief to Ms. Hallett.

4 **MR. ENGELMANN:** Yes, and that's she was told
5 us, that she was denied once again this access.

6 Sir, we know that the appeal was successful.
7 A decision came out in the summer of 2003.

8 **MR. SEGAL:** Right.

9 **MR. ENGELMANN:** We know that leave was
10 denied to the Supreme Court of Canada when Leduc's lawyers
11 applied for leave, and I think that was around January of
12 2004. We know that that matter gets back on the trial list
13 and then ends in a stay again in -- I believe it's August
14 of 2004; I may be off by a month or two.

15 Sir, Ms. Hallett testified that she was not
16 provided with the York Regional Police information until
17 Commission counsel provided it to her in her preparation
18 for this Inquiry.

19 Do you know why she wouldn't have had access
20 to that ---

21 **MR. SEGAL:** Well, I think I've alluded to
22 it. You know, she did request it twice and both times --

23 -

24 **MR. ENGELMANN:** Yes.

25 **MR. SEGAL:** --- around the time that she

1 requested it, I said no. I think I can -- it probably was
2 not front of mind, but to the extent that it was on my
3 mind, I still think that there is an issue about providing
4 -- it's not an easy issue, but in my mind the issue is,
5 should an investigative brief into a Ministry employee, and
6 why the Ministry of the Attorney General?

7 What if it was another -- any OPS
8 individual, but let's just say because they worked in the
9 Ministry or because they were a prosecutor or civil Crown
10 counsel, should they be given the brief merely because
11 they're an employee? Or how does that square with the fact
12 that if a member of the public wrote in and said, "I'd like
13 the investigative brief in relation to my neighbour who I
14 think was investigated but not charged" ---

15 **MR. ENGELMANN:** But ---

16 **MR. SEGAL:** So I'm trying to indicate to you
17 that I tried to approach this in a way that would be -- not
18 show favouritism, be sensitive to Ms. Hallett's needs and
19 issues, but at the same time, resemble what would be normal
20 if any member of the public made the same request.

21 **MR. ENGELMANN:** All right. But this isn't
22 the neighbour. This is about her and this case has
23 received widespread publicity because of the stay.

24 **MR. SEGAL:** Right.

25 **MR. ENGELMANN:** And then there are the

1 allegations that ---

2 **MR. SEGAL:** And she's been strongly
3 vindicated on -- you know, in relation to that appeal
4 result.

5 So what I'm telling you is I felt
6 comfortable not distinguishing between an employee and --
7 because I could, you know -- I'm absolutely convinced I
8 would be the recipient of criticism by giving an employee a
9 brief by reason of, as you say, they're not just any
10 person; they're an employee.

11 **MR. ENGELMANN:** Well, I ---

12 **MR. SEGAL:** And so I'm trying to find -- I'm
13 trying to find an equilibrium here that respects all
14 things. There are employees of the Ministry and government
15 who are charged from time-to-time. I have had this sort of
16 experience before. I have never done anything differently
17 and I have not done anything differently since with respect
18 to employees, including prosecutors when they have run into
19 some degree of difficulty, at least as best as I can
20 remember.

21 **MR. ENGELMANN:** I think we had a
22 misunderstanding because I -- anyway, it doesn't matter.
23 I'll move on.

24 I want to talk to you a little bit about --
25 this is a -- Ms. Hallett received a letter from Gary Guzzo

1 asking for some specific information from the ---

2 MR. SEGAL: Yes, I know ---

3 MR. ENGELMANN: --- Leduc file.

4 MR. SEGAL: I know the letter you're
5 speaking about in relation -- this is in relation to the
6 jury trial and questions.

7 MR. ENGELMANN: Right. So the letter
8 itself, sir, is Exhibit 1142, and I don't really need to
9 get into the contents of the letter. It's a letter where
10 he asks specific questions about what was put to jurors,
11 and this has to do with Colin MacKinnon, who was the judge,
12 and his knowledge and whether he should have been alerted
13 to a potential judicial conflict of interest at an earlier
14 point in the trial.

15 MR. SEGAL: Right.

16 MR. ENGELMANN: And Ms. Hallett writes to
17 you, sets out some draft answers, and I understand that you
18 passed this over to Mr. Stewart to respond and he responds
19 with a letter that essentially says, "This matter is before
20 the courts", and doesn't answer the specific questions as
21 Ms. Hallett had in the draft.

22 And that was on your instruction, sir, that
23 Mr. Stewart would have responded in that fashion?

24 MR. SEGAL: It was -- I'd like to see ---

25 MR. ENGELMANN: Yes.

1 **MR. SEGAL:** --- the response letter, if it
2 can help me here.

3 **MR. ENGELMANN:** Yes. The response letter is
4 Exhibit 3319. That may be a binder you have.

5 **THE COMMISSIONER:** The letter is on the
6 screen, sir, as well.

7 **MR. SEGAL:** Okay.

8 **THE COMMISSIONER:** It's very brief.

9 **(SHORT PAUSE/COURTE PAUSE)**

10 **MR. SEGAL:** Right. And is there anything
11 preceding this? So we have the letter from ---

12 **MR. ENGELMANN:** There is a draft, sir, and
13 it's 3320.

14 **MR. SEGAL:** Right. Okay. So this looks
15 like -- so this is a draft letter. I've seen it. The
16 cross-outs in the body ---

17 **MR. ENGELMANN:** Yes.

18 **MR. SEGAL:** --- of the letter, the words
19 "me" and "comment" are in my handwriting.

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

21 **MR. SEGAL:** The bottom part is -- I believe
22 it's Ms. Kyle ---

23 **MR. ENGELMANN:** Yes.

24 **MR. SEGAL:** --- scribbling a note to me. So
25 that would have been my -- one aspect of my involvement on

1 the area you're questioning.

2 MR. ENGELMANN: All right.

3 MR. SEGAL: And it's possible that my minor
4 changes, one is a tone one and the other one is it doesn't
5 -- when I say "me" meaning Jim Stewart ---

6 MR. ENGELMANN: Yes.

7 MR. SEGAL: --- it doesn't preclude the
8 possibility that the answer may change, but I was just
9 trying to deal with Mr. Guzzo's letter in a timely way.
10 Whether or not it satisfied him would be another issue.

11 MR. ENGELMANN: You didn't want to get into
12 the specifics because the matter was before the court?

13 MR. SEGAL: I ---

14 MR. ENGELMANN: The specific requests that
15 he was ---

16 MR. SEGAL: Well, I think that's correct as
17 well.

18 MR. ENGELMANN: Yes.

19 MR. SEGAL: For sure.

20 MR. ENGELMANN: All right.

21 And just a follow-up on the Leduc matter,
22 again, it's a document not yet in evidence. I just wanted
23 to ask if these were in fact your comments because you do
24 make some -- it appears you may make some comments on the
25 factum itself.

1 **MR. SEGAL:** That's definitely my
2 handwriting.

3 **MR. ENGELMANN:** Okay. So 102133 is the
4 document number, and it's a fax from -- sorry, it's a fax
5 to John Pearson from yourself, sir, and I believe it's a
6 draft factum for the appeal.

7 **THE COMMISSIONER:** Three-four-two-zero
8 (3420).

9 **--- EXHIBIT NO./PIÈCE NO. P-3420:**

10 (102133) - Draft Factum re: *R. v. Jacques*
11 *Leduc* dated January 12, 2002

12 **MR. ENGELMANN:** So these are in fact some of
13 your handwritten suggestions on a draft factum?

14 **MR. SEGAL:** That's true.

15 **MR. ENGELMANN:** Did you do this often, sir,
16 or was this case of particular interest?

17 **MR. SEGAL:** I think it became of particular
18 interest as much of Project Truth became -- you know,
19 became an issue that I was dealing with on a number of
20 levels, and I did have interest because -- on a number of
21 counts. I thought, you know, the stakes were high. I
22 thought the Crown at large, the reputation was high. There
23 was not a lot of law with respect to this kind of issue or
24 this kind of -- including questions of costs. I think I
25 was concerned about the public profile and I wanted to make

1 sure that some of my thoughts were going into this.

2 I had a particular interest in this area and

3 ---

4 **MR. ENGELMANN:** Let me take you just to a
5 couple of your comments, if I may?

6 **MR. SEGAL:** Sure.

7 **MR. ENGELMANN:** Because it appears these
8 were of particular import to you.

9 Bates page 176, it's page 123 of the factum
10 and it's Part III, Issues in Law. The Bates page for the
11 screen, 1011176.

12 Again, you comment at the top:

13 "John, the law is very good, a few
14 points only."

15 This is your handwriting; correct?

16 **MR. SEGAL:** Yeah. I can't read what's at
17 the bottom of the page.

18 **MR. ENGELMANN:** But the bottom of the page -
19 - and this is under this delay of disclosure.

20 **MR. SEGAL:** Some of it is missing.

21 **MR. ENGELMANN:** Right. And we can just pull
22 up what we've got, but it appears to be you are stressing
23 the issue of, well, was this really relevant in any event,
24 this contact.

25 **MR. SEGAL:** You know, I haven't read this

1 factum over ---

2 MR. ENGELMANN: Yeah.

3 MR. SEGAL: --- since whenever this was,
4 several years ago, seven years ago or so, so it's hard for
5 me to say. And, in addition, I can't read the last line or
6 so of the handwriting. It's not fully -- I just don't know
7 what the context is.

8 MR. ENGELMANN: Well, you're talking about
9 the following relevant information and you say:

10 "How relevant was it, this contact? In
11 other words, although I appreciate that
12 the parties may have agreed it was
13 relevant, if the now adult complainant
14 says he knew diddly-squat about
15 Constable Dunlop in relation to his
16 complaint..."

17 MR. SEGAL: And then I can't read the rest,
18 so I'm not sure what I can help you with here.

19 MR. ENGELMANN: All right. Well, your
20 comment really here is "How relevant was this?" and that
21 seems to be the focus, at least the start of it.

22 MR. SEGAL: You know, this is like -- it's
23 almost a 100-page -- 100-paragraph factum. So I can't tell
24 you, sitting here today, how relevant was my comment about
25 relevance on paragraph 49.

1 **MR. ENGELMANN:** I'm not asking you for it.
2 It appeared to be a concern of yours at the time. That's
3 all I'm asking you.

4 **MR. SEGAL:** That, I would agree with you.

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

6 **MR. SEGAL:** But, you know, concern may be a
7 little strong. They're observations.

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

9 **MR. SEGAL:** One has to respect ---

10 **MR. ENGELMANN:** Well, it was an observation
11 you wanted Mr. Pearson to have?

12 **MR. SEGAL:** Yeah.

13 **MR. ENGELMANN:** And likewise on page 27,
14 which is Bates page 180, you wanted him to have your
15 observation about the finding of intentional non-
16 disclosure.

17 **MR. SEGAL:** Sorry, can I have that again?

18 **MR. ENGELMANN:** You wanted -- the bottom of
19 the page, finding of intentional non-disclosure, there's a
20 reference to a paragraph from Justice Chadwick's decision
21 which says:

22 "Ms. Hallett, the Crown, did not give
23 evidence on the stay."

24 And it goes on and you say:

25 "Although no one, not the least the

1 learned judge, indicated that her own
2 conduct was the apex of concern and
3 without a rational basis..."

4 **MR. SEGAL:** I'm not even sure I can figure
5 out my own meanderings there. I mean, all I know is that
6 the Court of Appeal came to a conclusion. They're much
7 more, you know, learned than I am. I don't know -- I can't
8 tell you exactly -- I'm having difficulty finding kernels
9 of -- of sort of intelligence in my own handwriting here.

10 **MR. ENGELMANN:** All right. I'll move on.

11 Sir, I want to ask you about a website and
12 about -- in fact, a couple of websites that were known as
13 Project Truth and then Project Truth 2.

14 **MR. SEGAL:** Right.

15 **MR. ENGELMANN:** And these involved
16 individuals by the names of James Bateman, Richard Nadeau,
17 and in July of 2000, Mr. Bateman sent an email to the then
18 Attorney General, James Flaherty.

19 If the witness could be shown Document
20 Number 726801?

21 And it appears from his email that he wants
22 the Attorney General to look at his website.

23 **THE COMMISSIONER:** Thank you.

24 Exhibit 3421 is email correspondence from
25 James Bateman ---

1 **MR. SEGAL:** Yes.

2 **THE COMMISSIONER:** --- to Jim Flaherty on
3 July 1st, 2000.

4 **MR. SEGAL:** Right.

5 **--- EXHIBIT NO./PIÈCE NO. P-3421:**

6 (726801) - E-mail from James Bateman to Jim
7 Flaherty re: Project Truth dated July 1,
8 2000

9 **MR. ENGELMANN:** The email directs the
10 Attorney General to the website projecttruth.com and I
11 understand, sir, that this email was forwarded to you for a
12 response, and that response is Document Number 109213.

13 **THE COMMISSIONER:** Thank you.

14 Exhibit 3422 is a letter to Mr. James
15 Bateman, August 29th, 2000 from Murray Segal.

16 **--- EXHIBIT NO./PIÈCE NO. P-3422:**

17 (109213) - Letter from Murray Segal to James
18 Bateman dated August 29, 2000

19 **MR. ENGELMANN:** So, sir, at the same time as
20 Mr. Bateman is asking the Attorney General to look at his
21 website and you're being asked to respond, were you aware
22 that issues had been raised about this website by the local
23 Crown here, Murray MacDonald, by Detective Inspector Hall
24 and by Shelley Hallett, concerns that they had about these
25 websites -- this website?

1 **MR. SEGAL:** In general terms, I can recall
2 that there were some issues that were brought to my
3 attention with respect to websites.

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

5 **MR. SEGAL:** Over time, in relation to, I
6 think this individual, Mr. Bateman, and a subsequent
7 fellow, Mr. Nadeau.

8 **MR. ENGELMANN:** Yes.

9 **MR. SEGAL:** As to who brought them to my
10 attention, I'm not sure. They probably would have come
11 through, in part, Mr. Stewart, maybe it's possible,
12 depending on the timing, Ms. Hallett, and then there was
13 this correspondence.

14 **MR. ENGELMANN:** This correspondence that
15 went to the Attorney General?

16 **MR. SEGAL:** You know, no, I don't recall the
17 incoming correspondence to the Minister. I obviously
18 signed the letter that went out on August the 29th, Number
19 3422.

20 **MR. ENGELMANN:** Would it be fair to say,
21 sir, that given her involvement at the time and given the
22 note at the bottom of the first page of 3422, "Shelley,
23 attached is the response that was mailed out around
24 September 8th, Jacqueline," that Ms. Hallett would have
25 assisted you in preparing this response?

1 **MR. SEGAL:** It's possible. It's possible.
2 I wouldn't know exactly who had input and I certainly
3 couldn't remember it now, whether it came through Mr.
4 Stewart or it came through Ms. Hallett and Ms. Hallett's
5 supervisor. It's hard for me to say at this stage.

6 **MR. ENGELMANN:** All right.
7 But in your response on the second page,
8 you're referring to some concerns about the website?

9 **MR. SEGAL:** Right.

10 **MR. ENGELMANN:** And in particular -- and you
11 name the website projectruth, which is the same name as the
12 official police investigation which could confuse the
13 public. So that was a concern; correct?

14 **MR. SEGAL:** Right.

15 **MR. ENGELMANN:** And there were also concerns
16 that victims and other witnesses who may not have yet come
17 forward to the police may be inhibited from doing so as a
18 result of their perception that the police, contrary to
19 accepted practices, have disseminated confidential
20 information because some of these statements -- some of
21 these statements were victim statements that were on the
22 website, and that was a concern of yours and the Ministry.
23 Is that fair?

24 **MR. SEGAL:** It certainly appears that way
25 and it would be the case if that's correct.

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

2 And, sir, if we could look at Document
3 Number 109214, and this appears to be a draft of Exhibit
4 3422.

5 **THE COMMISSIONER:** Thank you.

6 And that will be Exhibit 3423.

7 **--- EXHIBIT NO./PIÈCE NO. P-3423:**

8 (109214) -Draft letter from Murray Segal to
9 James Bateman dated August 24, 2000

10 **MR. SEGAL:** Thank you.

11 **MR. ENGELMANN:** This is a slightly longer
12 letter and it's a slightly harsher letter, if I can use
13 that term.

14 For example, if you look at the second page

15 ---

16 **MR. SEGAL:** I haven't had a chance to read
17 both letters word for word. If you say it's slightly
18 harsher, I ---

19 **MR. ENGELMANN:** Let me just take you to one
20 paragraph, sir, the penultimate paragraph on the page, the
21 second page:

22 "I strongly denounce the projecttruth
23 website as a dangerous and misguided
24 alternative to our justice system..."

25 Then it goes on.

1 **MR. SEGAL:** So it's not -- remember I told
2 you before that I reviewed the hundreds and thousands of
3 letters for content and tone. So there appears to be a
4 difference in the tone, and you're quite right, the draft
5 has a harsher aspect to it and, frankly, I don't speak like
6 that. So it has to be somewhat in the range of my voice.

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

8 Sir, we've heard that shortly after the
9 formal letter went out in early September, that there was
10 another meeting about the website -- there was a meeting
11 about the website on September 13th between yourself, Ms.
12 Hallett and a couple of other Crowns, and those would have
13 been Paul Lindsay and James Stewart.

14 And if you have Exhibit 3189, this is -- Ms.
15 Hallett told us these were her background notes of the
16 meeting to provide information to you and others there.

17 **MR. SEGAL:** Sorry. And is this Bateman or
18 Nadeau, or both?

19 **MR. ENGELMANN:** I believe this was still the
20 first one. I think this was Bateman.

21 **MR. SEGAL:** Okay. So I -- you know, anyway,
22 these notes, I understand that they've been identified as
23 Ms. Hallett's ---

24 **MR. ENGELMANN:** I ---

25 **MR. SEGAL:** --- preparing for a meeting or

1 something.

2 MR. ENGELMANN: --- I'm sorry, I'm not sure
3 which one you have. I'm on ---

4 MR. SEGAL: Oh, 3189.

5 MR. ENGELMANN: Yeah, 3189.

6 MR. SEGAL: Right.

7 MR. ENGELMANN: Document -- sorry, page --
8 Bates page for the screen, 1042481. And I'm not looking at
9 the notes. I'm looking at the typed version.

10 MR. SEGAL: Right, but I'm not -- I guess
11 what I'm saying is I don't believe -- I don't recall seeing
12 this or having a recollection of seeing it at the time.

13 MR. ENGELMANN: Oh, okay.

14 MR. SEGAL: So ---

15 MS. McINTOSH: I -- Sorry, I don't mean to
16 interrupt the witness or my friend, but my recollection,
17 and it's actually reflected in the response to Mr. Bateman,
18 is that the Bateman website might have been down by now and
19 this might have been about the second one.

20 MR. ENGELMANN: Right. I -- I may be
21 mistaken, sir. This may be Project Truth 2 then ---

22 MR. SEGAL: Yeah.

23 MR. ENGELMANN: --- at this point. All
24 right.

25 So do you recall the meeting at all that you

1 would have had with these prosecutors?

2 MR. SEGAL: Vaguely, Mr. Engelmann. I --
3 you know, these notes might have been Ms. Hallett's own
4 notes to -- in case some questions came up or she wanted
5 to, sort of, make sure that she mentioned a few things.

6 MR. ENGELMANN: Okay.

7 MR. SEGAL: But it doesn't -- I don't recall
8 this document necessarily or this being transmitted to me
9 either orally or in writing.

10 MR. ENGELMANN: All right. The proposal she
11 said she brought up at the meetings, on the second page:

12 "To bring an application for an order
13 before the Superior Court in Ottawa
14 temporarily closing down the website
15 until completion..."

16 And she sets out her views on that.

17 And she also had some notes from the meeting
18 and those are at Exhibit 3190. And according to her notes,
19 some of the concerns that were raised by either yourself,
20 Mr. Lindsay or Mr. Stewart or -- and we see the first page
21 -- "not our fight".

22 Do you see that:

23 "To protect persons wrongfully accused
24 by..."

25 I'm not sure what ---

1 **THE COMMISSIONER:** "...by press"?

2 **MR. ENGELMANN:** "...by press..." maybe.

3 **MR. SEGAL:** Well, I can't -- I can't, sort
4 of help you as to who said what.

5 **MR. ENGELMANN:** That's fine.

6 **MR. SEGAL:** And, you know, what I would tell
7 you generally is, I have a vague recollection of the
8 meeting that -- to the extent that the notes indicate that
9 there was a discussion of a balancing between on the one
10 hand, having a website that might be problematic, and on
11 the other side, the response to such a website, you know,
12 in general issues relating to freedom of expression ---

13 **MR. ENGELMANN:** Yes.

14 **MR. SEGAL:** --- and restrictions on freedom
15 of expression, freedom of expression, fair trial interests,
16 the likelihood of success.

17 **MR. ENGELMANN:** Yes, those were raised.

18 **MR. SEGAL:** In all of those kinds of issues,
19 that would be sort of a normal discussion.

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

21 **MR. SEGAL:** The notion of shutting down a
22 website is something that would -- is rarely contemplated
23 and rarely, and even more rarely pursued in my experience.

24 **MR. ENGELMANN:** All right. And that was
25 the decision at the end of the day; that she was not to

1 file this action to try and shut it down based on ---

2 MR. SEGAL: Well, it ---

3 MR. ENGELMANN: --- this discussion.

4 MR. SEGAL: --- like I'm not sure it was
5 hers to -- that action -- advancing it was not going to be
6 pursued at that time.

7 MR. ENGELMANN: Right.

8 MR. SEGAL: It wasn't so much about her
9 doing it.

10 MR. ENGELMANN: No.

11 MR. SEGAL: That was -- that's a separate
12 issue.

13 MR. ENGELMANN: She said she had -- she came
14 to the meeting with that proposal and it appears ---

15 MR. SEGAL: Right. Right.

16 MR. ENGELMANN: --- and the notes would
17 indicate ---

18 MR. SEGAL: Yeah, I think we're talking
19 about ---

20 MR. ENGELMANN: --- this discussion.

21 MR. SEGAL: --- we're talking about the same
22 thing. I'm just talking about the assignment of who does
23 what ---

24 MR. ENGELMANN: Oh, fair enough.

25 MR. SEGAL: --- bearing in mind there are

1 other responsibilities, is sort of a separate issue.

2 **MR. ENGELMANN:** But in any event, the
3 consensus at the meeting was that she should not proceed or
4 someone -- the Ministry ---

5 **MR. SEGAL:** Right. Right.

6 **MR. ENGELMANN:** --- should not proceed with
7 ---

8 **MR. SEGAL:** At that time.

9 **MR. ENGELMANN:** Okay.

10 And were you aware, sir, that this issue --
11 the re-incarnation or the Project Truth 2 -- became an
12 issue at the Leduc trial? For example, that there was an
13 investigation and a prosecution of this fellow, Richard
14 Nadeau, for contempt of an order issued by Justice
15 MacKinnon during the course of that trial?

16 **MR. SEGAL:** I retained the lawyer who took
17 charge of that so, yes, I would know that.

18 **MR. ENGELMANN:** Right. And, in fact,
19 there's just a -- there are some documents on that that I
20 wanted to take you to very quickly.

21 First of all, 130700.

22 **THE COMMISSIONER:** Thank you.

23 Exhibit 3424, a letter dated May 9th, 2001.
24 It's a memorandum to Murray Segal from Jim Stewart.

25 --- **EXHIBIT NO./PIÈCE NO. P-3424:**

1 (130700) - Memorandum from James Stewart to
2 Murray Segal re: Contempt Charge - Cornwall,
3 Richard Nadeau, dated May 9, 2001

4 **MR. ENGELMANN:** All right. And I understand
5 that Terry Cooper, who was someone who worked for Mr.
6 Stewart in the East Region, prepared these documents
7 originally ---

8 **MR. SEGAL:** Correct.

9 **MR. ENGELMANN:** --- with respect to Nadeau?

10 **MR. SEGAL:** Correct.

11 **MR. ENGELMANN:** And then after that, if we
12 could look at 130702.

13 (SHORT PAUSE/COURTE PAUSE)

14 **THE COMMISSIONER:** Thank you.

15 Exhibit Number 3425 is a letter to Murray
16 Segal dated June 5th, 2001 from one Jeffrey Manishen.

17 --- **EXHIBIT NO./PIÈCE NO. P-3425:**

18 (130702) - Letter from Jeffrey Manishen to
19 Murray Segal re: *R. v. Richard Nadeau* dated
20 June 5, 2001

21 **MR. SEGAL:** Right.

22 **MR. ENGELMANN:** And so you retained outside
23 counsel to deal with this issue?

24 **MR. SEGAL:** I did.

25 **MR. ENGELMANN:** And the reason for that,

1 sir, at the time?

2 MR. SEGAL: I think just to provide some
3 additional distance and objectivity and, you know, leave it
4 in the hands of someone for better or worse as to what they
5 thought was appropriate; whether there was a case or not
6 and if there was a case, what the approach of the ---

7 MR. ENGELMANN: All right.

8 MR. SEGAL: --- Crown should be.

9 MR. ENGELMANN: And, sir, you were apprised
10 that Mr. Nadeau was found guilty of two counts of contempt?

11 MR. SEGAL: I think that -- I think that's
12 right.

13 MR. ENGELMANN: Yeah. And subsequent to his
14 conviction, I understand a further complaint was sent
15 directly to you by one of the defence counsel in the Leduc
16 case, a fellow by the name of Steven Skurka.

17 I just want to show you a letter, if I may,
18 and that is Exhibit -- sorry, it is Document Number 705927.

19 THE COMMISSIONER: Thank you.

20 Exhibit Number 3426 is a letter dated
21 January 15th, 2002(sic) to Murray Segal from Mr. Skurka.

22 --- EXHIBIT NO./PIÈCE NO. P-3426:

23 (705927) - Letter from Steven Skurka to
24 Murray Segal dated 15 Jul 02

25 MR. ENGELMANN: Sir, Mr. Skurka goes through

1 a number of matters -- a number of paragraphs that are up
2 on this website, ProjectTruth2.com, and at the very end of
3 this letter to you, he says:

4 "It is my considered opinion that the
5 comments noted in this website, and in
6 particular the latter comments about
7 Justice MacKinnon feigning ignorance of
8 Perry Dunlop, are defamatory libel
9 within the meaning of Section 298.1 of
10 the *Criminal Code*, as well as a
11 repetition of Mr. Nadeau's contempt of
12 court. Bring this matter to your
13 attention for further investigation as
14 an officer of the court. Concern about
15 the potential criminal conduct
16 exhibited by the operator of this
17 website."

18 And I understand, sir, after you received
19 this letter that Mr. McConnery had a look at this and would
20 have recommended -- or would have written to you suggesting
21 that he didn't think you could make out a charge of
22 defamatory libel. Do you recall this, sir?

23 **MR. SEGAL:** No. I mean, was this like --
24 I'm wondering if this was referred to the police.

25 **MR. ENGELMANN:** Oh, I'm sorry. If you could

1 just give me a moment. You're very right.

2 MR. SEGAL: So ---

3 MR. ENGELMANN: I think there's an opinion
4 from him at some point, but you do refer this to the
5 police.

6 MR. SEGAL: Right.

7 MR. ENGELMANN: If we could look at Document
8 Number 726471. It's a letter dated July 19th, 2002 from
9 yourself to Detective Superintendent Ross Bingley.

10 THE COMMISSIONER: Thank you.

11 Exhibit 3427; a letter dated July 19th, 2002.

12 --- EXHIBIT NO./PIÈCE NO P-3427:

13 (726471) - Letter from Murray Segal to Ross
14 Bingley dated July 19, 2002

15 MR. SEGAL: Right. So anyway, Mr. Skurka
16 writes in -- I don't know if you've heard from Mr. Skurka,
17 but he's raising criminal allegations ---

18 MR. ENGELMANN: Right.

19 MR. SEGAL: --- whether the defamatory libel
20 or a repeat of criminal contempt, so I refer it to the
21 police and leave it to them to determine what they think
22 the appropriate course of action this.

23 MR. ENGELMANN: This is the kind of language
24 you use on a referral?

25 MR. SEGAL: Yeah, that's pretty -- that's

1 sort of what I'm speaking about.

2 **MR. ENGELMANN:** All right.

3 Mr. Segal, I just wanted to end by asking
4 you a couple of questions that we've asked all other
5 witnesses who have appeared, and that is, sir, as someone
6 who's worked in this area and worked with prosecutors who
7 prosecute cases of child sexual abuse and done so yourself,
8 whether you want to comment on any impact or effect doing
9 this type of work has had on yourself or on some of your
10 colleagues or others?

11 And lastly, sir, in your role as Deputy
12 Attorney General, if you have any recommendations or
13 suggestions for the Commissioner with respect to
14 institutional response of your Ministry?

15 ---**SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. SEGAL:**

16 **MR. SEGAL:** Right.

17 So in terms of the impact or effect on
18 colleagues or others, I would say that, certainly, these
19 are a very difficult and challenging type of matter to deal
20 with.

21 They're difficult in terms of those who may
22 have suffered -- victims. They're difficult with respect
23 to families and witnesses, communities, people who are said
24 to have committed these particular matters.

25 They're very challenging in relation to the

1 historical nature of them and, as well, the issues of
2 privacy and confidentiality of records.

3 There's a lot of stresses on a lot of
4 individuals, including those who are charged with working
5 in the administration of justice. I include jurists, I
6 include the defence counsel but also, at the end that I'm
7 more familiar with, the police, the Crowns, victim/witness.

8 Certainly, these cases sometimes take a toll
9 on anyone who's involved in these, and they may even take a
10 toll on the community when there are questions that linger
11 or remain unanswered for a great deal of time.

12 The criminal justice system is not a perfect
13 system to deal with all aspects of some of these very
14 difficult changes, but we often look to the criminal
15 justice system to provide those kinds of responses.

16 Certainly, there have been issues with
17 respect to the impact on staff. I know, for example,
18 Ms. Hallett, speaking about her in particular, that this
19 has been a very difficult go for her -- in great part
20 because of the Lower Court ruling in Leduc.

21 But I know, generally, that those who are
22 involved in the difficult work of supporting individuals
23 who may have been abused, that kind of work, there's a toll
24 on the individuals and it's something that for sure in the
25 prosecution service we have to be alive to and we talk

1 about those sorts of stresses.

2 So it's, in general, the whole area of a
3 horrible spectre of abuse or child abuse, abuse on minors
4 or young people, represents extremely important work, but
5 significant challenges to anybody who touches those kinds
6 of files and those kinds of questions as well at a more
7 systemic basis.

8 With respect to my own views as now Deputy
9 and former Chief Prosecutor, there are probably a number of
10 issues that -- or questions that have crossed my mind in
11 relation to the matters that are being touched on in this
12 Inquiry.

13 At one level, there's the issue of
14 resourcing, and resourcing has many levels.

15 I certainly would say that the Criminal
16 Division and, certainly, the Prosecution Division over the
17 last number of years has grown in numbers in a significant
18 way. Now, the challenges have grown as well, the
19 complexity of cases has increased somewhat, but the number
20 of Crowns has increased dramatically and there's been a
21 commitment on my part and by those in government to
22 increase the number of Crown resources in a noticeable way
23 over the last 20 years so on a continuous basis.

24 Equally, the resources that have been
25 dedicated to victim/witness and victim/witness programs

1 have increased over the years. Cornwall was one of those
2 sites where they needed to catch up with other parts of the
3 province that had services inserted earlier and,
4 eventually, that's been done.

5 And some good work goes on in the Victims
6 Division with respect to trying to live up to the
7 challenges of the services needed by victims.

8 The Ministry has a Crown Policy Manual that
9 has lots of guidance and resources for Crowns and is one
10 source for guidance, and I look on it as an interim
11 document, one that continues to improve, including with
12 respect to best practices, and certainly the lessons that
13 we learn from this kind of project.

14 Any recommendations that are received by
15 from this Commission are, of course, matters that we would
16 have to look at our Crown Policy Manual to see if they
17 should be enhanced or improved, and certainly looking
18 forward to those sorts of issues.

19 Over the last, I'd say, about a dozen years
20 there has been a movement towards, in the Criminal
21 Division, having a more acute sense of what we would
22 describe as "Major Case Management".

23 I know Jim Stewart has testified. I don't
24 intend to repeat what he may have said. He was selected by
25 me, when I was the Assistant Deputy Minister, to lead a

1 significant initiative regarding major case management,
2 including the beginning of some flex resources to deal with
3 the pressures of larger complex undertakings.

4 Over time, that has increased and the
5 guidance offered to Crowns involved, in terms of major
6 cases or major projects -- and I would certainly include
7 Project Truth as it developed into that category --
8 emphasis on "as it ultimately developed".

9 Recently, there have been some -- a report
10 that was received by the Attorney called the "LeSage Code
11 Report into Large and Complex Matters". I think some of
12 the lessons talked about in that report also are issues
13 that are being looked at by the Ministry and in some ways
14 implemented; three in particular that I will speak about
15 that may have an impact on the kinds of cases that were
16 under the Project Truth umbrella.

17 The first is the notion of embedded Crowns.
18 I know that's an odd word, but Crowns working more closely
19 with police on complex matters at the front end; each
20 respecting their respective areas of independence and role
21 within the criminal field but, at the same time, making
22 sure that connections are made early.

23 So the example we might use is: Was the
24 advice available in a timely fashion?

25 In this particular case, and I -- going back

1 to the questions you were asking me about the briefs that
2 went from Ms. Hallett to Mr. McConnery, as one example.

3 The second is an endorsement by that report
4 that the Ministry has -- is embracing, and that is moving
5 toward mandatory peer review in terms of large and complex
6 matters.

7 And although a lot resides with the
8 discretion of individual Crowns, there is something to
9 getting assistance from those who have experienced similar-
10 type cases before, and ensuring that that is something that
11 is obtained in a mandatory fashion, as opposed to somewhat
12 of a discretionary fashion.

13 A third aspect would be that there are a
14 number of suggestions in that Code LeSage Report relating
15 to those things that could be the subject of *Criminal Code*
16 amendments, and last week in -- at the semi-annual meeting
17 of Deputies Attorney General in Regina I obtained -- I
18 moved and obtained approval for those suggestions in that
19 report, dealing with large and complex matters that require
20 *Criminal Code* consideration, to go to a committee of senior
21 officials to see whether they were appropriate or right for
22 possible *Criminal Code* amendments.

23 The -- so those are some areas in terms of
24 major case management. I think it's very important to do a
25 better job at ensuring that the right number of resources

1 get attributed to investigative -- complex investigative
2 and prosecution files in a timely way.

3 And I think we can do better, and there's
4 some -- probably some lessons learned in this particular
5 case, in terms of those particular areas.

6 I think as this -- as the Project Truth
7 matter evolved, one became more attuned to that, and the
8 radar at the front end of projects, to sort of get a better
9 sense of what they might entail and to make sure that the
10 right attribution of resources, the right skill sets, the
11 right numbers of Crowns and victim/witness and so forth are
12 involved, is something we need to continue to improve upon,
13 and I have every confidence that our initiative regarding
14 major case management will do so.

15 I think one more issue that I would like to
16 refer to is that, in general terms, our current Minister is
17 a very strong proponent of an initiative that is described
18 as Justice on Target.

19 There are two sorts of cases in the criminal
20 law system, and I'm being very general here. The large and
21 complex-type cases -- large and/or complex -- and all of
22 the rest of the cases.

23 There are about 600,000 charges in Ontario
24 every year, about a quarter of a million accused. And we
25 are committed, with respect to the Justice on Target

1 initiative regarding the 90 percent of cases, or the 90 or
2 95 percent, to try to reduce the number of appearances and
3 the number of -- the length to trial by one-third in each
4 case over the remaining period of the current government's
5 mandate.

6 In this fashion all victims and witnesses
7 may have an earlier court date, less time would be wasted,
8 and more time would be available for the large and complex
9 challenges, including those who are said to have committed
10 extremely serious crimes. So we're trying to do work on
11 both fronts.

12 We would be, of course, very interested in
13 any of the lessons learned and look forward to the report
14 of these proceedings to assist us in continuous improvement
15 to improve criminal justice in Ontario.

16 Thank you.

17 **THE COMMISSIONER:** Thank you.

18 **MR. ENGELMANN:** Thank you, Mr. Segal.

19 I think it's time for our afternoon break
20 and then several of my friends will have questions for you.
21 They'll identify themselves and let you know who they're --
22 -

23 **THE COMMISSIONER:** And you'll canvass them
24 so we can ---

25 **MR. ENGELMANN:** I'm sorry?

1 **THE COMMISSIONER:** You'll canvass the
2 parties to see how much time we should be setting aside?

3 **MR. ENGELMANN:** Sir, I did canvass the
4 parties already ---

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

6 **MR. ENGELMANN:** --- and I don't know if I
7 spoke to everybody, but there was very little by way of
8 time.

9 **THE COMMISSIONER:** Okay.

10 **MR. ENGELMANN:** It was an hour or less.

11 **THE COMMISSIONER:** All right, good.

12 **MR. ENGELMANN:** That's what I heard.

13 **THE COMMISSIONER:** Because we have other
14 matters to be dealt with afterwards.

15 **MR. ENGELMANN:** We do.

16 **THE COMMISSIONER:** Okay, thank you. We'll
17 take the afternoon break.

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

20 This hearing will resume at 3:30 p.m.

21 --- Upon recessing at 3:14 p.m. /

22 L'audience est suspendue à 15h14

23 --- Upon resuming at 3:34 p.m. /

24 L'audience est reprise à 15h34

25 **THE REGISTRAR:** Order; all rise. A l'ordre;

1 Veillez vous lever.

2 This hearing is now resumed. Please be
3 seated. Veillez vous asseoir.

4 **THE COMMISSIONER:** Mr. Strawczynski?

5 --- **MURRAY SEGAL, Resumed/sous le même serment:**

6 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

7 **MR. STRAWCZYNSKI:**

8 **MR. STRAWCZYNSKI:** Good afternoon,
9 Mr. Commissioner, and good afternoon, Mr. Segal.

10 **MR. SEGAL:** Good afternoon.

11 **MR. STRAWCZYNSKI:** My name is Juda
12 Strawczynski and I represent the Citizens for Community
13 Renewal. It's one of the local community groups here with
14 full standing at the Inquiry, and my group has an interest
15 in institutional reform for the protection of youth and
16 justice for all.

17 I just have a few short questions for you
18 with respect to Garry Guzzo and your impressions. You have
19 commented at length about your interactions with him and
20 your impressions.

21 And you've been referred to one article
22 entitled "MPP Knocks Project Truth" and you've testified
23 that you were aware of other public statements that
24 Mr. Guzzo would have made. So you would agree with me that
25 Mr. Guzzo's comments would have fuelled the allegations of

1 institutional conspiracy and cover-up; correct?

2 MR. SEGAL: It -- I believe that what he
3 said contributed to that kind of concern.

4 MR. STRAWCZYNSKI: Okay.

5 MR. SEGAL: "Fuelled" sounds a little
6 strong, but ---

7 MR. STRAWCZYNSKI: Thank you. And his
8 public statements would have needlessly caused additional
9 alarm for residents of Cornwall and Ontarians in general?

10 MR. SEGAL: I'm not really in a position to
11 comment on that statement. I hadn't thought about it in
12 those terms.

13 MR. STRAWCZYNSKI: Well, you've certainly
14 seen his critique of the policing work that was done by the
15 Ontario Provincial Police; correct?

16 MR. SEGAL: But I couldn't tell you what the
17 impact would be on ordinary citizens.

18 I mean, I could guess that he would raise
19 expectations and raise concerns that -- and there would be
20 some individuals who would support what he was raising, but
21 in terms of your use of the words "needlessly" and so
22 forth, I don't know if I'm competent to ---

23 MR. STRAWCZYNSKI: It would be a reasonable
24 inference, sir, that an individual from this community,
25 reading about allegations of improper policing by the OPP,

1 might lead individuals within the community to lose
2 confidence in that institution?

3 **MR. SEGAL:** Criticisms aimed at the police
4 may have that impact, for sure.

5 **MR. STRAWCZYNSKI:** And that victims of
6 sexual assault who may have come across these sorts of
7 articles with these allegations may have, as a result, be
8 dissuaded or felt less comfortable in reporting allegations
9 to the police?

10 **MR. SEGAL:** It's possible. I hope not, but
11 I don't know for sure.

12 **MR. LEE:** Sir, I object to this line of
13 questioning. I don't see the value in asking Mr. Segal to
14 comment on this, whether or not victims of abuse did or
15 were dissuaded.

16 We've had a number of them testify here, and
17 you can weigh that evidence. These are issues for you to
18 go to, sir, and for you to decide upon the impacts of Mr.
19 Guzzo's actions, Mr. Dunlop's actions, and those of others,
20 and given Mr. Segal's involvement in this matter and the
21 levels at which he was scrutinizing behaviour, I'm not sure
22 that his evidence on these points is going to be helpful to
23 you.

24 **THE COMMISSIONER:** Mr. Strawczynski?

25 **MR. STRAWCZYNSKI:** Sir, we've heard about

1 the interactions and this was just to complete the
2 narrative. That was my final question for the witness, and
3 I'm in your hands.

4 **THE COMMISSIONER:** Good.

5 (LAUGHTER/RIRES)

6 **THE COMMISSIONER:** Have a seat.

7 **MR. STRAWCZYNSKI:** Thank you, Mr. Segal.

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

9 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. HORN:

10 **MR. HORN:** Yes, my name is Frank Horn and
11 I'm representing the Coalition for Action and we represent
12 a viewpoint that, as a result of the allegations that have
13 taken place in this area, that there has been a
14 institutional response in which institutions and other
15 individuals within the -- particular individuals in the
16 institutions did whatever they could to suppress the
17 knowledge, the prosecutions that took place.

18 So it was kind of like an attempt at a
19 cover-up, and so our position has always been that there
20 has been an attempted cover-up and the -- and because of --
21 and only because of the efforts of someone like Mr. Guzzo,
22 Perry Dunlop, Carson Chisholm and Helen Dunlop that
23 something was finally done about the situation. That's
24 our position and it's always been our position.

25 **THE COMMISSIONER:** Okay, Mr. Horn, you've

1 introduced yourself.

2 I think this gentleman knows pretty well
3 where you're coming from. Let's ask some questions.

4 **MR. HORN:** Okay. Thank you.

5 Now, when you were given the task of
6 speaking to Mr. Guzzo, when he was in Florida, on that
7 phone call that took place -- you recall giving that
8 testimony today?

9 **MR. SEGAL:** I do.

10 **MR. HORN:** Yes.

11 And now, in that -- in that conversation,
12 you had a certain feeling that was coming from him that he
13 was very reluctant to get into a conversation with you.

14 Did you feel that was because he was afraid
15 of who he was dealing with?

16 **MR. SEGAL:** Um, no. No, not at all.

17 **MR. HORN:** Like, if you get a phone call
18 from the Assistant Deputy Minister of the Attorney
19 General's Office who's in charge of prosecutions for the
20 Ontario Government, wouldn't that be a little bit alarming
21 to some people?

22 **MR. SEGAL:** Theoretically, it's possible but
23 I don't think I conduct myself in a way that would alarm
24 anyone, and I sort of actually was trying to put him at
25 ease and talk to him in as -- you know, in as friendly and

1 a normal fashion as possible.

2 I just -- I sensed that he had -- he was not
3 -- he didn't feel maybe that I was -- he didn't know what
4 he was dealing with. It wasn't a fear.

5 It might have been a question of trust or
6 those sorts -- those kind -- sorts of sentiments, but there
7 was nothing -- well, I've talked to a number of people over
8 the years and I try to take into account the concerns
9 you're raising, Mr. Horn, and put people at ease.

10 **MR. HORN:** Okay.

11 But, in a way, it never got to the point
12 where you and him can, "Let's go and have a coffee, sit
13 down and we'll talk this thing over." It never got to that
14 point.

15 It still continued to be a situation in
16 which you were talking to him and he was always -- had that
17 hesitancy in really opening up to you?

18 **MR. SEGAL:** I tried.

19 I tried to -- you know, to have open
20 discussions with him, but it just -- you know, we just
21 didn't seem to -- we weren't -- we weren't dating.

22 **(LAUGHTER/RIRES)**

23 **MR. SEGAL:** And it didn't seem -- it didn't
24 seem to -- it didn't seem to take off in the way you were
25 suggesting.

1 **MR. HORN:** Okay.

2 So that, when you were dealing with him, you
3 had -- you had to realize -- I mean, you had to know that
4 he was pushing for a public inquiry.

5 He was basically a maverick MPP. He had
6 become involved in other controversial matters that were
7 before the House in the past. You had to know that.

8 **MR. SEGAL:** I didn't know all of those
9 things and -- but I -- I knew a little bit about him from
10 his previous careers ---

11 **MR. HORN:** Yes.

12 **MR. SEGAL:** --- but I didn't know all of
13 those things that you're describing.

14 I didn't know how or what his track record
15 was in the legislature.

16 **MR. HORN:** Okay.

17 **MR. SEGAL:** I became -- I did learn, as time
18 progressed, of some of those -- I'll call it -- like as you
19 say, "maverick tendencies".

20 **MR. HORN:** Yes.

21 **MR. SEGAL:** Including being critical of his
22 own Premier, which I hadn't quite seen before, at least
23 based in my limited political experience.

24 **MR. HORN:** Okay, so the -- I mean, you knew
25 what you were dealing with in an individual like

1 Mr. Guzzo, who was pushing a -- basically, almost like a
2 cause.

3 He believed in something very strongly, he
4 was pushing it, and it's very hard -- difficult to deal
5 with somebody who is fighting a matter -- on the matter of
6 principle.

7 You can't ---

8 **MR. SEGAL:** I respected him for his belief
9 in the cause that he was espousing.

10 All I was trying to do, Mr. Horn, was to
11 open up a -- an avenue of communication or understanding
12 between the two of us.

13 That was difficult because of his style or
14 personality, but I had no concerns at all, and indeed I
15 -- you know, I respect all individuals in relation to the
16 kinds of -- the kinds of beliefs that they form, and I
17 certainly respected him for -- for pushing what he thought
18 to be -- to be a legitimate series of concerns.

19 It's how he pushed them, or how he pushed
20 them in relation to the dialogue with me, that I found
21 somewhat difficult.

22 **MR. HORN:** Okay.

23 The number one concern that he had was
24 Mr. Dunlop has a number of documents.

25 **MR. SEGAL:** Right.

1 **MR. HORN:** He's got to make sure it goes
2 into the right hands ---

3 **MR. SEGAL:** Right.

4 **MR. HORN:** --- and it will eventually get to
5 the right people.

6 **MR. SEGAL:** Right.

7 **MR. HORN:** And he figured that the way he
8 did it, or that Mr. Dunlop did it, was the right way.

9 He took it to the Attorney General. He went
10 -- tried to deliver it to the Solicitor General's Office
11 and then he took it to Mr. Fantino who was, at the time,
12 the Chief of Police in London.

13 He took three copies and he did -- he gave
14 it to them.

15 Did you think that that was a wise thing for
16 him to have done?

17 **MR. SEGAL:** For who to do, sorry?

18 **MR. HORN:** For Mr. Dunlop ---

19 **MR. SEGAL:** Sorry.

20 **THE COMMISSIONER:** Excuse me.

21 **MR. HORN:** --- and Mr. Guzzo was asking on
22 this issue.

23 **MR. KOZLOFF:** Can we get the order right?

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

25 **MR. KOZLOFF:** Thank you.

1 **MR. HORN:** Oh yeah, Fantino was the first
2 one. Okay, I'm sorry.

3 So Mr. Dunlop delivers these documents to
4 government officials, police departments, and he just gives
5 everything that he has to them.

6 **THE COMMISSIONER:** Oh, you're -- Mr. ---

7 **MR. HORN:** Well, what he thought he had.

8 **THE COMMISSIONER:** Mr. -- No. I don't know
9 if you can characterize it that he gave everything he had.
10 I think he gave four binders.

11 **MR. HORN:** Okay, and also later on there was
12 quite a number of other material, boxes of material and so
13 forth.

14 So when Mr. Dunlop is doing this, did you
15 think that this is a person that you wanted to make sure
16 that he's not going to be accused of holding back
17 information?

18 **MR. SEGAL:** Which one are you talking about?

19 **MR. HORN:** All the documents that he had.

20 **MR. SEGAL:** No, no, Mr. Dunlop or
21 Mr. Guzzo?

22 **THE COMMISSIONER:** Excuse me ---

23 **MR. HORN:** Mr. Dunlop, and Mr. Guzzo happens
24 to be his advocate with you.

25 **MR. SEGAL:** I wasn't really very familiar

1 with Mr. Dunlop. I couldn't tell you what was on his mind.

2 Certainly, he chose a way to deliver
3 material. I probably could have improved on it if you --
4 you know, because a part of your questions included how
5 would I grade it.

6 I think it would have been great if he had
7 told someone he was coming with this so we would have had
8 maybe some people pay more attention to the documents.
9 They may not have gone -- we don't usually get evidence or
10 something that looks like evidence presented in the fashion
11 Mr. Dunlop did.

12 **MR. HORN:** Did ---

13 **MR. SEGAL:** Having said that, I'm sure
14 Mr. Dunlop thought he was doing what was right for
15 Mr. Dunlop and the right thing for him.

16 And, as to what Mr. Guzzo -- Mr. Guzzo's
17 advocacy in relation to that delivery pattern, it's really
18 hard for me to comment on that.

19 **MR. HORN:** Why I'm asking this question is
20 this: Mr. Dunlop is now being used as the reason why all
21 these cases against the alleged paedophiles failed, because
22 of withholding documents.

23 **MR. SEGAL:** I don't think I've ever said
24 that, so I have some difficulty responding to wherever this
25 is going.

1 **MR. NEVILLE:** Commissioner, Mr. Dunlop's
2 role in certain prosecutions was the matter of findings
3 after evidence was heard, including his.

4 **THE COMMISSIONER:** That's a narrow -- that's
5 one case.

6 It has nothing to do with the rest of it.

7 **MR. NEVILLE:** Well, Mr. Horn said it was
8 being used as the excuse for why certain cases didn't
9 succeed or failed.

10 **THE COMMISSIONER:** M'hm. Oh.

11 **MR. NEVILLE:** And if he wants to eliminate
12 two where findings were made, fine.

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

14 **(SHORT PAUSE/COURTE PAUSE)**

15 **MR. HORN:** Would you agree that the
16 perception of what Mr. Dunlop has done is that he was the
17 one that, because of withholding documents, that that was
18 one of the major causes of a lot of these prosecutions to
19 fail?

20 That was a perception that has been used by
21 the police and by the prosecution in order to put the blame
22 on him for the prosecutions failing.

23 That is a perception that ---

24 **THE COMMISSIONER:** Mr. -- No, no, Mr. ---

25 **MR. HORN:** --- has been permeating this

1 ---

2 **THE COMMISSIONER:** No, no, Mr. Neville's

3 ---

4 **MR. HORN:** --- not only this Inquiry but

5 ---

6 **THE COMMISSIONER:** Mr. Horn ---

7 **MR. HORN:** --- during the whole process.

8 **THE COMMISSIONER:** Mr. Horn, what

9 Mr. Neville said was that the judges had made findings
10 about Mr. Dunlop's contribution to the delay argument in
11 that.

12 So I don't know that we can go behind that
13 and challenge the judges with respect to that. In fact, I
14 know I can't.

15 So can you manage your question somehow?

16 You see ---

17 **MR. HORN:** Okay.

18 **THE COMMISSIONER:** --- because in the Leduc
19 matter, under "Other Reasons for Delay" ---

20 **MR. HORN:** Were you aware of this idea that
21 some police officers may have had that Mr. Dunlop
22 deliberately withheld information from the prosecution?

23 **MR. SEGAL:** No.

24 I would say that I'm aware generally, and
25 this is, you know -- generally, that Mr. Dunlop's role,

1 whatever that is, may have contributed to the complexity of
2 the investigation and the prosecution course.

3 That's where I'll -- you know, what I would
4 say about that.

5 I'm not quite sure about -- I'm not up on
6 this issue of withholding, and certainly, you know, from my
7 standpoint, as I've already indicated, I certainly
8 apologize for the fact that the document -- certain
9 documents that he had and he appeared to turn over to the
10 Ministry of the Attorney General have not -- you know, went
11 missing and were not found. That contributed to a bit of
12 delay.

13 In terms of other delays in relation to Mr.
14 Dunlop's -- in relation to Mr. Dunlop, I'm not really up on
15 that whole -- any issues surrounding whether he withheld or
16 didn't withhold documents.

17 I'm not sort of a student of Mr. Dunlop's
18 actions. I just know that his involvement at different
19 levels made it a much more complex task.

20 **MR. HORN:** You do know that he did deliver
21 some documents to the Attorney General's Department and you
22 knew that happened, and you did everything within your
23 power to find those documents to make sure that they were
24 delivered to the proper authorities?

25 **MR. SEGAL:** I did try repeatedly, as much as

1 I could, to find out where they had been, and when I wasn't
2 meeting with any success -- and I've never met with any
3 success in that respect.

4 As I've indicated earlier in my testimony,
5 Mr. Horn, I tried to ensure that whatever it was that was
6 said to have been different about this set of documents
7 that came to the Ministry of the Attorney General and other
8 -- and the other two sources or recipients were covered off
9 so that the police had sort of a -- the exact equivalent of
10 what it is that went missing within the Ministry.

11 **MR. HORN:** So would you say that all the
12 documents that you knew about that Mr. Dunlop delivered
13 eventually did get to where they were supposed to go?

14 **MR. SEGAL:** That is my strong understanding,
15 Mr. Horn.

16 **MR. HORN:** And did they get to the police in
17 time so that the delay issue was alleviated?

18 **MR. SEGAL:** There was some degree of delay,
19 obviously, but I don't think it was substantial.

20 That's for others to comment on.

21 **MR. HORN:** Okay.

22 Now, there's another issue, and that's
23 regarding -- were you -- you wrote a letter to
24 Mr. Dunlop, yes, on July the 12th, 2000, Exhibit Number
25 3112?

1 MR. SEGAL: Three one one two (3112)

2 (SHORT PAUSE/COURTE PAUSE)

3 MR. SEGAL: Yes, I have it.

4 MR. HORN: Can we look at page 2?

5 MR. SEGAL: Sure.

6 MR. HORN: And look at the third paragraph
7 from the bottom.

8 MR. SEGAL: I see it.

9 MR. HORN: Okay.

10 THE COMMISSIONER: Is that the one:

11 "It is my further understanding and Ms.
12 Hallett also reassured you that she
13 intended to meet with you before the
14 trial upon which you would be a witness
15 to review your statement."

16 MR. HORN: That's right.

17 THE COMMISSIONER:

18 "And she indicated it would likely
19 take a few days and that she would
20 arrange with your police service for
21 you to be freed up for that purpose."

22 MR. SEGAL: Right.

23 MR. HORN: Now, is that a general statement
24 or is that only regarding Ms. Hallett?

25 MR. SEGAL: I'm not sure what you mean by "a

1 general statement".

2 **MR. HORN:** All the prosecutors are going to
3 be involved in having Mr. Dunlop appear, that they're all
4 going to be under that same mandate that you've said that
5 you imposed on your Crown Attorneys.

6 **MR. SEGAL:** Well, I think the letter says
7 what it says, and it's for others to interpret.

8 I -- you know, it seems pretty clear to me
9 it's in reference to Ms. Hallett but, beyond that, I'd be
10 parsing out a paragraph that appears -- appears to mean
11 what it says.

12 **MR. HORN:** Okay.

13 Would it also apply to Ms. Narozniak, who
14 took over files for Ms. Hallett?

15 **THE COMMISSIONER:** Excuse me.

16 You mean the undertaking ...

17 Mr. Callaghan?

18 **MR. CALLAGHAN:** He was no longer a police
19 officer. So presumably, it's irrelevant.

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

21 **MR. CALLAGHAN:** Well, to make him available
22 from his force ---

23 **THE COMMISSIONER:** Oh, well, the police
24 force.

25 Right.

1 But the question still stands. What you're
2 trying to say, sir, is that Ms. Hallett had undertaken that
3 she would prepare Mr. Dunlop and would take a few days
4 before the proceedings to make sure he knew all about the
5 documents and the questions he might face? Is that what
6 you mean?

7 **MR. HORN:** That's right.

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

9 **MR. SEGAL:** I'm not -- you know, the word
10 "undertaking" has been used in that ---

11 **THE COMMISSIONER:** Excuse me, Mr. Segal.

12 Mr. Horn, I thought that that Crown that
13 testified, Ms. Narozniak, talked about she wanted
14 Mr. Dunlop to come in four days before, that he refused,
15 that he wanted to come in on the Sunday night.

16 So there's evidence there from her that she
17 wanted him to come in four days before so she could talk to
18 him.

19 **MR. HORN:** I know, but he -- according to
20 this, they were going to give him two days.

21 If he would have come in on a Sunday, that
22 means they would have had to postpone it because -- to
23 maybe appear on Thursday. He didn't have to appear on
24 Monday.

25 **THE COMMISSIONER:** Well -- whoa -- whoa --

1 whoa -- whoa ---

2 **MR. SEGAL:** I'm ---

3 **THE COMMISSIONER:** No. Thank you very much.
4 Mr. Horn?

5 **MR. HORN:** He was given this promise.

6 **THE COMMISSIONER:** Mr. Horn, Mr. Horn,
7 Mr. Horn, we have the evidence of Ms. Narozniak about her
8 attempts to get him to come in on the Thursday.

9 Courts, as you know, fix their own schedule;
10 right?

11 And so, when the trial starts, the trial
12 starts. She wanted him in on the Thursday; he didn't want
13 to come.

14 So are you going to suggest that she didn't
15 do that?

16 **MR. HORN:** No, I'm suggesting that this was
17 a letter from the Assistant Deputy Minister saying that
18 he's going to make -- they're going to make sure that he's
19 going to be properly prepared before he gets on the stand.

20 That's really what you're saying.

21 **THE COMMISSIONER:** Well, no, it's not his --
22 he says "It's my understanding".

23 Mr. Segal is saying, "It's my understanding
24 that Ms. Hallett has reassured him".

25 So -- and all I'm saying, though,

1 Mr. Horn, is that the offer was made to him and he refused.

2 MR. HORN: He still complained about not
3 being given adequate time to go over the documents and he
4 was complaining also of not being given a lawyer when he
5 was on the stand.

6 THE COMMISSIONER: Mr. Horn ---

7 MR. HORN: He was not given independent
8 legal advice.

9 THE COMMISSIONER: Mr. Horn ---

10 MR. HORN: There was a lot of things that
11 occurred.

12 THE COMMISSIONER: M'hm.

13 MR. HORN: I'm just asking if what
14 Mr. Segal was suggesting to Mr. Dunlop was that he was
15 going to make sure that those kind of problems did not
16 occur.

17 THE COMMISSIONER: Mr. Segal.

18 MS. McINTOSH: I'm sure Mr. Segal can answer
19 for himself.

20 But this paragraph does not constitute a
21 promise to Mr. Dunlop with respect to anything except what
22 it says in the paragraph.

23 THE COMMISSIONER: Exactly.

24 MR. SEGAL: Could I see the letter,
25 Mr. Horn, that preceded this?

1 The -- if you could tell me the -- I think
2 it's the one with the big print.

3 **MR. ENGELMANN:** It's Exhibit 3416. Bates
4 page for the screen is ---

5 **THE COMMISSIONER:** Three four one six
6 (3416)?

7 **MR. ENGELMANN:** Yeah, 1042396. Exhibit
8 3416.

9 **(SHORT PAUSE/COURTE PAUSE)**

10 **THE COMMISSIONER:** Yeah, that's the one.

11 **MR. SEGAL:** Do you have a hard copy of that,
12 Madam Registrar?

13 Thank you.

14 **THE COMMISSIONER:** I think you're looking at
15 the bottom of page 2:

16 "I have had little to no guidance
17 or assistance from the Crown
18 Attorney's office or any police
19 agency dealing with this matter.
20 In fact, with one exception in all
21 the cases currently before the
22 courts, the defence has subpoenaed
23 me as a witness I would have
24 thought that at some time over the
25 past seven years the Crown

1 Attorney's office would have
2 contacted me for a consultation."

3 **MR. SEGAL:** So I guess what I'm wondering
4 about as I -- you asked me this question is: Did
5 Ms. Hallett meet with Mr. Dunlop?

6 And if the answer is "yes", that may be --
7 may be a response.

8 I can't -- I don't know the details. I
9 don't view it as an undertaking. Certainly, like a
10 promise.

11 It certainly was an intention in 2000. As
12 to what happened a couple of years later and how it relates
13 to this paragraph, I couldn't tell you.

14 So I -- and I'm not sure who all met with
15 Mr. Dunlop from the prosecution world, on which matters and
16 on which cases.

17 I'm also not sure if and when he met with
18 police officers; if he did and who they were and in
19 relation to what and when.

20 So you're probably at a level of detail, Mr.
21 Horn, that's beyond my ability to respond.

22 **MR. HORN:** You are aware that after he got
23 on the stand ---

24 **THE COMMISSIONER:** Which trial, which stand?

25 **MR. HORN:** I'm talking about when he -- it

1 was the 11(b) Application and he got on the stand.

2 **THE COMMISSIONER:** For which ---

3 **MR. HORN:** Afterwards, there was a request
4 to have him charged for perjury.

5 You know about that?

6 **MR. SEGAL:** In which ---

7 **MR. HORN:** To Ms. Narozniak?

8 **MR. SEGAL:** Sorry?

9 **MR. HORN:** To give an opinion as to whether
10 he should be charged for perjury or not.

11 **MR. SEGAL:** I'm not sure if I do recall.

12 If there's something you want to point me to
13 that may refresh my memory?

14 **MR. HORN:** I don't know if I have that
15 letter but I know that ---

16 **THE COMMISSIONER:** Mr. Horn.

17 **MR. HORN:** So you're not aware of that?

18 **MR. SEGAL:** I said I don't recall and if you
19 had something you wanted to refresh my memory with I'd be
20 happy to look at it.

21 **MR. HORN:** If Mr. Dunlop were here and told
22 you that ---

23 **THE COMMISSIONER:** Mr. ---

24 **MR. HORN:** --- that he was put on the stand
25 and that the police were going to charge him with perjury.

1 **MR. SEGAL:** It wouldn't make my answer any
2 better if that hypothetical happened.

3 **MR. HORN:** M'hm. Okay.

4 Now, one of the things -- you are aware of
5 the fact that Mr. Dunlop did go to Shelley Hallett's office
6 in the year 2002, on August 23rd, to deliver some documents.

7 **MR. SEGAL:** That rings a bell in terms of
8 something that I've seen in preparation for testifying.

9 **MR. HORN:** Do you ---

10 **MR. ENGELMANN:** Sorry, I think it was
11 June 27th, 2000.

12 **MR. HORN:** Oh, June the 27th, that's right.
13 There's two different dates on here.

14 But you were aware that they -- and one of
15 the things that he was concerned about is he wanted to give
16 it to Ms. Hallett because he trusted her.

17 **THE COMMISSIONER:** Whoa, whoa ---

18 **MR. HORN:** Do you know about that?

19 **THE COMMISSIONER:** Whoa, whoa, whoa.

20 **MR. SEGAL:** I don't know what the "it" is.

21 **MR. HORN:** Well, we can take a look at the
22 document then.

23 **THE COMMISSIONER:** Mr. Horn, I don't know
24 that we have evidence that Mr. Dunlop was going over there
25 because she -- he trusted her.

1 **MR. HORN:** He -- well, he did mention that.

2 **THE COMMISSIONER:** He did?

3 **MR. HORN:** He said:

4 "I want to make sure the top cop and
5 the top Crown Attorney knows what's
6 going on due to all the games, over
7 the last seven years."

8 **THE COMMISSIONER:** Yeah. Right.
9 Except is she the "top Crown"?

10 **MR. HORN:** It sounds like it.

11 **THE COMMISSIONER:** Oh, it sounds like ---

12 **MR. HORN:** It sounds like it.

13 He's talking about her because that's why he
14 took it to her because he trusted her.

15 **THE COMMISSIONER:** Well, I think you're
16 reading in a lot into that, Mr. Horn.

17 So let's assume for a minute -- we'll humour
18 you -- that he did trust her. Okay, what's the question?

19 **MR. HORN:** Okay.

20 So there's somebody in your department that
21 works right with you that Mr. Dunlop trusts.

22 **THE COMMISSIONER:** Wait a minute. Wait
23 ---

24 **MR. HORN:** Had you become aware of that at
25 any time?

1 **MR. SEGAL:** Not -- no, I can't say I was
2 aware of it in those terms.

3 And just on your point about "she works
4 right with me", you know, there's many, many hundreds of
5 prosecutors and many of whom have -- have relations and big
6 time cases going on so I wasn't -- I'm not up on every
7 interaction.

8 Having said that, you know, Ms. Hallett
9 certainly would inspire confidence; so it's possible.

10 **MR. HORN:** Okay.

11 If you had known that, would you -- would
12 you have thought it was all -- I'll get together with her,
13 she could talk to Mr. Dunlop and we can finally have a --
14 some dialogue rather than him being out there distrusting
15 everybody?

16 **MR. SEGAL:** Could you rephrase that?

17 **MR. HORN:** I'm just saying if you would have
18 known that he trusted somebody that was in your -- in the
19 Crown's office and he trusted somebody, would you have
20 said: Let's -- we've finally got somebody that can --
21 he'll talk to.

22 Because up until now he wouldn't talk to
23 anybody. He was afraid of everybody.

24 **MR. SEGAL:** But I wouldn't know that,
25 Mr. Horn. I wouldn't know what his fears were.

1 I wouldn't know necessarily -- I'm not sure
2 -- I've told you that I knew then that there was a trust
3 issue.

4 It doesn't surprise me. Lots of witnesses,
5 important witnesses to proceedings develop a relationship
6 of trust with counsel on all sides of the bar.

7 So, you know, and yes it's great in theory
8 that the people who have a degree of trust are
9 communicating. So, in general, that -- that makes sense.

10 But it wouldn't have -- it wouldn't have
11 been something that would have meant what it is you're
12 saying it would mean.

13 **MR. HORN:** Okay.

14 So you've had a lot of experience dealing
15 with witnesses that are sometime difficult and you -- and
16 then they trust somebody and then you can use that
17 individual who they trust maybe to talk to them and get
18 them to open up.

19 Isn't that one of the strategies when you're
20 doing your prosecution?

21 **MR. SEGAL:** It's important that everybody
22 has confidence in the persons that they're dealing with,
23 whether they're friendly witnesses or not so friendly
24 witnesses.

25 Whether -- like no matter who it is having a

1 trust in abilities and communications is an important
2 factor in a relationship.

3 **MR. HORN:** What I'm getting at is this: You
4 have a major project, Project Truth. It's culminating in a
5 number of cases that went to court and you have -- you must
6 have known by then that you have one individual, Mr.
7 Dunlop, who is difficult and you wanted somebody to be able
8 to talk to him.

9 You had to know that.

10 **MR. SEGAL:** In general terms, what you're
11 saying makes sense.

12 But Mr. Dunlop is not the -- I'm not quite
13 sure what his role is. I'm not quite sure now what his
14 role was that will be for others to decide.

15 You're -- you know, when you're describing
16 him -- he's not a classic witness, he's not a classic
17 investigating officer, he's not -- I don't know what he was
18 quite doing. I do know that he must have felt passionately
19 in whatever he was advancing, but I'm not quite sure of
20 what his exact role was.

21 **MR. HORN:** So you don't know even now?

22 **MR. SEGAL:** If it's material, it will be for
23 others to decide as to whether he was helpful, hurtful,
24 witness, investigating officer, private investigator,
25 impassioned -- I have no idea. I really don't.

1 **MR. HORN:** Because you never met him?

2 **MR. SEGAL:** I certainly never met him.

3 **MR. HORN:** But you must have talked to other
4 people who did talk to him or knows about his background
5 and what he represented?

6 **MR. SEGAL:** I'm not positive that that would
7 be correct. I would have had some discussions with
8 individuals. They may or may not have had dealings with
9 Mr. Dunlop. I wouldn't know to what extent they've had
10 dealings. It wouldn't be something that would be top of
11 mind for me.

12 **MR. HORN:** I'm suggesting to you that
13 because -- maybe not you, but other people. Because they
14 didn't do what they should have done to make -- to have
15 sent out the hand of friendship to this individual, as a
16 result prosecutors fell by the wayside and they're blaming
17 it all on him. It's not all his fault.

18 **MR. SEGAL:** I can't comment, Mr. Horn, about
19 the hand of friendship of the flipside there that you
20 described. You're talking about a whole range of people,
21 most of whom I never would have spoken to in -- or spoken
22 to about this, the issue you're raising.

23 **MR. HORN:** Because I'm suggesting to you
24 that if it had been done initially, we wouldn't even have
25 to have a public inquiry. There would have been

1 prosecutions, there would have been convictions.

2 MR. SEGAL: That would be for ---

3 MR. HORN: That's what I'm suggesting would
4 have happened.

5 MR. SEGAL: That would be for others to
6 determine, if that's material to determine.

7 THE COMMISSIONER: So, Mr. Horn, your
8 question should have been that, had all of that happened,
9 the cases would have taken their course. Whether people
10 are found guilty or not, who knows.

11 MR. HORN: We believe that there was -- that
12 they would. And Ms. Hallett said that she had strong cases
13 and she believed in her cases, and she thought that she was
14 going to get convictions. And she believed that, and I
15 believe that she knew what she was doing. I'm sure she
16 would have gotten convictions ---

17 THE COMMISSIONER: Mr. Horn.

18 MR. HORN: --- but a lot of things ---

19 THE COMMISSIONER: Mr. Horn.

20 MR. HORN: --- had happened.

21 Thank you very much.

22 THE COMMISSIONER: Thank you, Mr. Horn.

23 Mr. Neville -- Mr. Lee?

24 MR. LEE: No questions, thank you.

25 THE COMMISSIONER: Thank you.

1 Mr. Neville?
2 **MR. NEVILLE:** No questions.
3 **THE COMMISSIONER:** Thank you.
4 Mr. Chisholm is not here. Mr. Rose?
5 **MR. ROSE:** No questions.
6 **THE COMMISSIONER:** Mr. Crane or Callaghan?
7 Mr. Callaghan?
8 **MR. CALLAGHAN:** No questions, sir.
9 **THE COMMISSIONER:** Thank you.
10 Mr. Kozloff?
11 **MR. KOZLOFF:** Thank you. Good afternoon,
12 sir.
13 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR
14 **MR. KOZLOFF:**
15 **MR. KOZLOFF:** Good afternoon, Mr. Segal.
16 **MR. SEGAL:** Good afternoon, sir.
17 **MR. KOZLOFF:** Mr. Commissioner, I'm mindful
18 of the time. I will try to be as efficient as I can.
19 **THE COMMISSIONER:** I think the last time you
20 said that, Mr. Kozloff ---
21 (LAUGHTER/RIRES)
22 **MR. KOZLOFF:** I know, I know, I know.
23 **THE COMMISSIONER:** --- we went from five
24 minutes to half-an-hour, but who's counting?
25 **MR. KOZLOFF:** I take this from Mr. Carroll

1 on a daily basis, sir ---

2 **THE COMMISSIONER:** Is that right?

3 **MR. KOZLOFF:** --- so I'm grateful that you
4 only do it from time-to-time.

5 **THE COMMISSIONER:** Well, we'll hear from Mr.
6 Wallace's partners shortly.

7 **MR. KOZLOFF:** Mr. Segal, I want to address
8 in the main the issue of the four lost binders and the
9 issues related to Mr. Guzzo and their interrelation. And
10 I've prepared a little timeline to assist us all, I hope,
11 and I just want to take you through it as quickly as I can.

12 I begin with December the 18th, 1996, which
13 is the date that the delivery of the original binder was
14 made to Chief Fantino by Mr. Bourgeois, counsel to
15 Mr. Dunlop.

16 **MR. SEGAL:** If you say so.

17 **MR. KOZLOFF:** I think the evidence would
18 reflect that.

19 **THE COMMISSIONER:** Yeah, we can take that as
20 a fact.

21 **MR. KOZLOFF:** The second date is the 7th of
22 April, 1997, which is the day that Mr. Dunlop attended at,
23 amongst other places, the Ministry of the Attorney General
24 and delivered a letter with four binders, and you have seen
25 the evidence of that delivery and made efforts to locate

1 those binders.

2 The third date is the 24th of April of 1997,
3 which is a meeting held, convened by Peter Griffiths, the
4 Director of Crown Law Operations, East Region, with
5 Detective Inspector Smith and others, including Murray
6 MacDonald, the Crown Attorney for Cornwall, Mr. Pelletier,
7 who was at that time the Crown Attorney in L'Orignal, and
8 that's the genesis of Project Truth.

9 The fourth date is the commencement of, or
10 the announcement of the commencement of Project Truth,
11 which had in effect been in ongoing, in September of 1997.
12 And the fifth date is the 31st of July, 1998 when Mr. Dunlop
13 delivered what he represented as four binders identical to
14 the ones he had delivered to the Ministry of the Attorney
15 General, to then Detective Sergeant Hall.

16 So that's the starting point. From my
17 review of the documents and from the documents that have
18 been put in evidence at the Inquiry, it would appear that
19 your initial involvement with this matter commences
20 immediately after a letter written by Mr. Guzzo to Premier
21 Harris -- and I'll call that letter number 1 to Premier
22 Harris. It was dated the 18th of September, 1997 and it's
23 Exhibit 983.

24 And I don't know that we have to bring it
25 up, but would it be fair to say that as a result of that

1 letter you were involved in the process and had occasion to
2 communicate with Mr. Pelletier, who then provided you with
3 an update?

4 **MR. SEGAL:** It sounds reasonable but I may
5 have known about Project Truth before, in small compass,
6 from reports from the Regional Director or Acting Regional
7 Director sometime earlier in my tenure as ---

8 **MR. KOZLOFF:** I understood that from your
9 evidence this morning. I'm really reflecting or directing
10 you to this particular issue.

11 And then you get a memo from Mr. Pelletier
12 dated the 25th of November, which is Exhibit 3306, and I'm
13 going to suggest to you that that was a response to the
14 contents of the letter written by Mr. Guzzo, and you would
15 have at that point been aware that Mr. Guzzo's initial
16 letter dated the 18th of September contained, at least from
17 Mr. Pelletier's point of view, inaccuracies and misleading
18 information?

19 **MR. SEGAL:** It's hard to -- I don't have the
20 two documents right in front of me, but I'm not sure about
21 the endorsement of the word "misleading", but probably
22 "inaccuracies" is at least correct.

23 **MR. KOZLOFF:** All right.

24 And then the next thing that happens is that
25 you make an effort, I suggest, as a result of receiving

1 that information in December of 1998, to contact Mr. Guzzo
2 without success?

3 **MR. SEGAL:** I don't know if it's the next
4 thing but that does happen.

5 **MR. KOZLOFF:** All right.

6 And then in February, on the 23rd of
7 February, 1999, Mr. Guzzo writes the second letter to the
8 Premier, which is Exhibit 984?

9 **MR. SEGAL:** Right.

10 **MR. KOZLOFF:** And as one of the consequences
11 -- I won't say the only one -- but one of the consequences
12 of that is a telephone conversation between you and Mr.
13 Guzzo on the 8th of March, 1999?

14 **MR. SEGAL:** It's -- you're describing a link
15 but there are certain things that you're not covering, and
16 one of them is at some point in the December to March
17 period, I had a very brief discussion with the then
18 Attorney General, who asked me to take this on. So it's
19 not just correspondence, it's ---

20 **MR. KOZLOFF:** No, I understand that.

21 **MR. ENGELMANN:** It might be of assistance to
22 the witness -- most of these dates, including the reference
23 the witness has just made, are in ---

24 **MR. KOZLOFF:** The memo to ---

25 **MR. ENGELMANN:** It's Exhibit ---

1 MR. KOZLOFF: --- Karakatsanis.

2 MR. ENGELMANN: --- 3417.

3 MR. SEGAL: Okay, 3417.

4 MR. ENGELMANN: It's 3417. The Bates page
5 for the screen, 1173628.

6 It's the chronology. Most of these dates
7 are there.

8 MR. KOZLOFF: Okay, thank you.

9 MR. ENGELMANN: So just of assistance to the
10 witness ---

11 MR. KOZLOFF: Thank you.

12 MR. ENGELMANN: --- and, in fact, the
13 reference to the Harnick discussion as well.

14 MR. KOZLOFF: Thank you.

15 THE COMMISSIONER: The chronology's on page
16 -- Bates page 628, page 2 of this document.

17 MR. SEGAL: Thank you.

18 THE COMMISSIONER: The bottom page. All
19 right.

20 MR. KOZLOFF: Following that phone call on
21 the 8th, there's an effort by you again on the 12th of March
22 to reach Mr. Guzzo and there's a -- I believe a message
23 left with Mr. Grant as his constituency office?

24 THE COMMISSIONER: What page are you on now?

25 MR. KOZLOFF: I'm -- I'm doing this ---

1 **THE COMMISSIONER:** Where are you?

2 **MR. KOZLOFF:** --- from memory at this point,
3 sir.

4 **THE COMMISSIONER:** Good. So March 16th?

5 **MR. KOZLOFF:** March 12th, actually. It's
6 referred to in a subsequent document that there was an
7 effort to reach Mr. Guzzo and he spoke to Mr. Grant and
8 left a message, and that engendered Mr. Guzzo's memo to you
9 of the 15th of March.

10 **MR. SEGAL:** But I ---

11 **MR. KOZLOFF:** If you want to look at the
12 memo, sir, it's Exhibit 988.

13 **MR. SEGAL:** I believe I spoke to him before
14 that memo so I'm not -- there are some pieces that are
15 missing. I don't disagree in general with the stream that
16 you're paddling down, but there are some other pieces that
17 even I have testified about.

18 **MR. KOZLOFF:** Well, if you put up -- you
19 know what, I don't want to get into a debate on the
20 minutiae. I'm really trying to get to a point.

21 Let's just say there's a series of
22 communications in March of 1999 between yourself, Mr.
23 Guzzo. There's a conversation on the 19th of March and
24 subsequent to that, you speak with Detective Inspector
25 Smith. We've heard about that; his note. And there are

1 articles in the newspaper and there's your memo to Deputy
2 Attorney General Karakatsanis on the 31st of March, 1999.
3 And then Mr. Guzzo writes a letter to Mr. McLaughlin on
4 April 3rd, 1999, which contains what you have described
5 euphemistically as a significant difference in versions of
6 the telephone conversation that you'd had with him. Is
7 that fair?

8 **MR. SEGAL:** That's fair.

9 **MR. KOZLOFF:** All right.

10 And what is beginning to appear more and
11 more in Mr. Guzzo's correspondence and in the press is the
12 suggestion that these four binders were never delivered and
13 the police never got this information. You're aware of
14 that?

15 **MR. SEGAL:** I'm aware -- I'm aware of it
16 from -- the seeds of that, I think, are in my initial
17 discussion with Mr. Guzzo.

18 **MR. KOZLOFF:** And Mr. Guzzo and the media
19 are reporting -- Mr. Guzzo is suggesting and alleging and
20 the media's reporting that one of the consequences of that
21 is that matters which were contained in the binders have
22 not been investigated by the police; that they are not
23 investigating the matters that were contained in those
24 binders?

25 **MR. SEGAL:** I can't comment on what the

1 media was saying because I don't think I had time or I
2 followed all of the media. Certainly, the implication is
3 correct and certainly it was coming from Mr. Guzzo that if
4 you didn't have X then, you know, did you have everything
5 and then you were -- it wasn't being followed up in an
6 expeditious fashion.

7 **MR. KOZLOFF:** Okay.

8 One of the things that you did, Mr. Segal,
9 at this time in 1999 as a consequence of what was going on,
10 was that you attempted, for the first time, to determine
11 what had happened to the four lost binders; correct?

12 **MR. SEGAL:** I'm not quite sure when the
13 first time was, but it seemed that it may have started in
14 '99. I can't disagree with you. I'm not looking at the
15 documents here ---

16 **MR. KOZLOFF:** Well ---

17 **MR. SEGAL:** --- and I -- once it started, it
18 never stopped.

19 **MR. KOZLOFF:** All right.

20 **MR. SEGAL:** And there were renewed attempts
21 by me, you know, to get to the bottom of it.

22 **MR. KOZLOFF:** I understand that.

23 There's an exchange of correspondence again.
24 This time -- before that, in 2000 are you aware of the fact
25 that Detective -- now Detective Inspector Hall attended at

1 a meeting with Mr. Guzzo in order to correct the
2 inaccuracies that had been contained in his correspondence
3 and had been subsequently reported in the media?

4 **MR. SEGAL:** I recall seeing that in
5 preparation for testifying. I couldn't tell you exactly if
6 I had a recollection of that or knew that at the time. It
7 doesn't -- it doesn't stand out in my mind.

8 **MR. KOZLOFF:** All right.

9 Would it be fair to say, sir, that you were
10 unsuccessful in convincing Mr. Guzzo in 1999 that some of
11 the things that he was suggesting in his correspondence to
12 the Premier and to Mr. McLaughlin were inaccurate?

13 **MR. SEGAL:** I didn't take him on in terms of
14 all of the things in that -- if you're talking about that
15 eight-page letter. It has all kinds of stuff that ---

16 **MR. KOZLOFF:** Right.

17 **MR. SEGAL:** --- wouldn't be in my knowledge
18 base and I would never even get into that. I focussed on
19 such things as I've described earlier today, as the briefs.

20 **MR. KOZLOFF:** Yes.

21 **MR. SEGAL:** The -- I believe videotape or
22 videotapes, hotel receipts come to mind, and a general
23 probing by him about whether everything that ought to be
24 done was being done and that sort of thing.

25 **MR. KOZLOFF:** And you encouraged him to take

1 whatever information and documentary evidence that he had
2 in his possession to the police?

3 **MR. SEGAL:** Absolutely.

4 **MR. KOZLOFF:** All right. I'm going to
5 suggest -- well, you may not know it, but his subsequent
6 public statements would indicate that you were not
7 successful in convincing him of the inaccuracy of the
8 information that he was putting out.

9 **MR. SEGAL:** He put out so much information
10 that as I've described in relation to the letter to Mr.
11 McLaughlin, I didn't sort of go through that line by line,
12 point by point. I restricted it to certain things that
13 were important from the point of view of the position that
14 I held, such as ensuring that any evidence was in the hands
15 of the police as one prime example.

16 **MR. KOZLOFF:** All right.

17 Getting into the year 2001, it's apparent,
18 sir, that the issue of the lost binders is still a live
19 issue; correct?

20 **MR. SEGAL:** It keeps being raised, and if
21 I'm not mistaken in the legislature, and ministers come and
22 premiers come and governments come and go and it -- so the
23 -- it's quite possible that the new incumbents -- the
24 incumbents are faced with the old questions and you got to
25 do it all over again. That's just sort of the way life

1 works.

2 **MR. KOZLOFF:** And this is despite your
3 efforts to assure Mr. Guzzo that whatever had happened to
4 the four binders, the material contained in them had been
5 received by the police at least no later than the 31st of
6 July 1998; correct?

7 **MR. SEGAL:** I couldn't go by the dates.
8 Like I just have a general -- I can't -- I'm not up on all
9 of the dates or what exactly I told him or regarding what
10 day.

11 My overall impression is that, Mr. Kozloff,
12 that -- that I knew -- I began to know that there was a
13 problem. I just wanted a duplicate, every last scrap of
14 paper that we didn't have, to make sure that we had it and
15 it was in the hands of the police. As to when exactly that
16 happened and when the police satisfied themselves or I
17 asked the police to satisfy themselves, I can't sort of say
18 sitting here exactly. It was -- it was an ongoing process.

19 **MR. KOZLOFF:** Well, I'm going to -- I'm
20 going to suggest to you, Mr. Segal, that the -- you had
21 been assured by Mr. Pelletier, by Detective Inspector Smith
22 and others, that the police had the information that was
23 contained in the four binders. The only issue was what had
24 happened to the four binders from your point.

25 **MR. SEGAL:** My general recollection is that

1 I had received some assurances. I can't tell you at this
2 stage from whom. You know, maybe the documents can help
3 here regarding that.

4 At certain points, and I haven't said and,
5 you know, talked about this before, I got the sense that
6 the difference in the binders wasn't one of significant
7 scope distinctions, that, for example, there was some
8 material in there that -- if I can give this example, where
9 there was a covering letter but one or two attachments were
10 not included. There were some things that I believe I
11 found out were missing, a couple of statements that were in
12 some public record of individuals who had been interviewed
13 by the police in any event.

14 I'm not -- anyway, it wasn't great that the
15 stuff went missing, but at various points I was assured
16 that either people have it or people had the substance of
17 it, or people had the exact -- every darn document because
18 they had gone through page by page by page.

19 **MR. KOZLOFF:** And in any event, sir, you
20 again, in the spring of 2001, culminating in the report of
21 June 18th, 2001, caused a second and more fulsome effort to
22 be made to respond to the mystery of the four missing
23 binders. Fair?

24 **MR. SEGAL:** It's fair and I've described to
25 you the probable reason why.

1 **MR. KOZLOFF:** Right. Okay.

2 If I could ask you to look at Exhibit 3051,
3 which is Document Number 130317? For your assistance, sir,
4 these are more notes of Mr. McConnery.

5 **MR. SEGAL:** Three-zero-five-one (3051),
6 okay. So I have it up on the screen, I believe.

7 **MR. KOZLOFF:** And that also addresses the
8 continuing dialogue between you and Mr. McConnery between -
9 --

10 **MR. SEGAL:** Sorry, could I have that blown
11 up somewhat? I can't -- I'm having trouble reading it.

12 **MR. KOZLOFF:** I'm actually going to ask that
13 the portion that starts "TC to M. Segal 5:00 p.m." and the
14 portion just below that.

15 Just to put that in context, sir, you had
16 met with Mr. McConnery on the 4th of June and indicated that
17 you wished -- what you wished for was in terms of a speedy
18 turnaround. There was a subsequent meeting at the swearing
19 in of Mr. Waugh, and now we have a further phone call on
20 the 17th of July ---

21 **MR. SEGAL:** Yeah, it wasn't at the swearing
22 in of Mr. Waugh. It was before I got driven to it.

23 **MR. KOZLOFF:** I appreciate that, but that's
24 the occasion where you met?

25 **MR. SEGAL:** Yeah.

1 **MR. KOZLOFF:** Now, it says here:
2 "Also discussed P. Hall's concern re.
3 brief missing in AG's office."
4 **MR. SEGAL:** What date is this?
5 **MR. KOZLOFF:** This is July 17th, sir.
6 **MR. SEGAL:** Of what year?
7 **THE COMMISSIONER:** Of 2001.
8 **MR. KOZLOFF:** Of 2001.
9 **MR. SEGAL:** Right.
10 **MR. KOZLOFF:** This is while Mr. McConnery is
11 engaged in preparing the opinions which he delivers on the
12 15th of August, 2001.
13 **MR. SEGAL:** Right. Okay.
14 So what would you like to know?
15 **MR. KOZLOFF:** All right.
16 Well, you'll agree, sir, that one of the
17 opinions that Mr. McConnery is working on is an opinion
18 with regard to the allegation of a widespread conspiracy to
19 suppress evidence, protect paedophiles in Cornwall that
20 came out of the Dunlop binder delivered to Mr. Fantino and
21 the four binders delivered to the Ministry of the Attorney
22 General which were subsequently duplicated?
23 **MR. SEGAL:** Can you -- I want to see that
24 chronology again that Mr. Engelmann referred me to before.
25 **MR. KOZLOFF:** It's 3417, I believe.

1 **THE REGISTRAR:** Pardon me?

2 **MR. KOZLOFF:** Exhibit 3417, I believe was
3 the number.

4 **THE COMMISSIONER:** Thirty-fifty-one (3051)?
5 No, that's not it.

6 **MR. SEGAL:** Okay. I see 3417. Okay. Thank
7 you.

8 **MR. KOZLOFF:** It doesn't go that far, sir.

9 **MR. SEGAL:** So, okay -- sorry, Mr. Kozloff,
10 what's the question?

11 **MR. KOZLOFF:** If I'm wrong, I'll be
12 corrected. Mr. McConnery had been tasked with providing
13 opinions in relation to six briefs.

14 **MR. SEGAL:** M'hm.

15 **MR. KOZLOFF:** Five individuals, priests, and
16 a conspiracy. Okay?

17 And so what is being addressed here, sir:

18 "Also discussed P. Hall's concern re.
19 brief missing in AG office. Segal says
20 a thorough research done and Susan Kyle
21 aware of issue. He will refer this to
22 her. Ministry has been assured that
23 the material is received from Dunlop
24 was same as material given to Fantino
25 and SOLGEN, that the material in fact

1 made it to the parties it was intended
2 for. OPP have confirmed that contents
3 are complete in Dunlop boxes (i.e. fact
4 that AG boxes lost has not led to
5 anything in fact being lost)..."

6 That's the note.

7 **MR. ENGELMANN:** The note says ---

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

9 **MR. ENGELMANN:** "...with a few
10 exceptions."

11 **MR. KOZLOFF:** "...with a few exceptions."

12 **MR. SEGAL:** So what would you like to know?

13 I mean, as far as I'm concerned, any -- you know, this is
14 Mr. McConnery. He's new on the case, relatively new on the
15 case. Again, I'm hearing about Inspector Hall, who I
16 thought was tasked to compare stuff page-by-page.

17 So if you're asking me to ---

18 **MR. KOZLOFF:** Mr. Segal ---

19 **MR. SEGAL:** --- read into this somebody
20 else's notes, I'm having trouble with that.

21 **MR. KOZLOFF:** --- let me get to the point,
22 sir.

23 I tried to give you a chronology in order to
24 make my question as fair as I could. I'm going to get to
25 my question.

1 **MR. SEGAL:** M'hm.

2 **MR. KOZLOFF:** You have a conspiracy
3 allegation that involves, amongst others, the Crown
4 Attorney for Cornwall; correct?

5 **MR. SEGAL:** So I understood.

6 **MR. KOZLOFF:** Right.

7 And Detective Inspector Hall and his team,
8 the Project Truth team, are, amongst other things, tasked
9 to investigate that allegation; correct?

10 **MR. SEGAL:** Right.

11 **MR. KOZLOFF:** You have material which is
12 delivered by Mr. Dunlop to the Ministry of the Attorney
13 General on April 7th, 1997; correct?

14 **MR. SEGAL:** Right.

15 **MR. KOZLOFF:** It is represented, sir, by Mr.
16 Guzzo, Mr. Dunlop and others, and reported in the media
17 that that missing material is material to the
18 investigation?

19 **MR. SEGAL:** Correct.

20 **MR. KOZLOFF:** So one of the concerns that
21 Detective Inspector Hall has is to be able to answer the
22 allegation that the Ministry deliberately didn't deliver
23 relevant material to the investigative police agency in
24 order to protect one of its own.

25 **MR. SEGAL:** That may be in his mind.

1 **MR. KOZLOFF:** That may be in his mind, sir,
2 and was reported in the press.

3 **MR. SEGAL:** I don't know what press you're
4 talking about, but what -- lots of things are reported in
5 the press. It doesn't do anything for me.

6 **MR. KOZLOFF:** All right.
7 Did you -- did you -- or your Ministry make
8 a public statement in 1999 with respect to the fact that
9 the four binders had been lost?

10 **MR. SEGAL:** I have no recollection.

11 **MR. KOZLOFF:** Well, I'm going to suggest to
12 you, sir, there's no evidence that you did. It's not in
13 any of the documents that we've been provided, so it
14 doesn't appear that it was done.

15 **MR. SEGAL:** I'm not sure what the point --
16 what you're asking me, though.

17 **MR. KOZLOFF:** I'm asking you a question.
18 Did the Ministry, yourself, because you had tasked yourself
19 with the responsibility of locating these documents or
20 attempting to source them, unsuccessfully in 1999, did you
21 make a public announcement that the Ministry had lost these
22 documents and at the same time explain the police were in
23 possession of ---

24 **MR. SEGAL:** We asked Pat Hall to find the
25 exact duplicate ---

1 **MR. KOZLOFF:** That's not the question, sir.

2 **MR. SEGAL:** He's the person you're talking
3 about.

4 **MR. KOZLOFF:** That's not the question.

5 **MR. SEGAL:** He was tasked with looking at
6 this.

7 **MR. KOZLOFF:** No, no, he couldn't -- he was
8 not tasked, sir, with ascertaining what happened to the
9 documents delivered ---

10 **MR. SEGAL:** No, but he was tasked with
11 investigating this conspiracy. That's what you've just
12 told me.

13 **MR. KOZLOFF:** Right.

14 **MR. SEGAL:** And I've told you he was the one
15 who was tasked with making sure that the documents that had
16 gone missing -- ergo, he would know that they had gone
17 missing, but he had them.

18 **MR. KOZLOFF:** Did you make a public
19 announcement with respect to the lost documents, sir?

20 **MR. SEGAL:** Not that I recall.

21 **MR. KOZLOFF:** All right.

22 **MR. SEGAL:** But I did provide information to
23 superiors so that they could if the question arose, and I
24 couldn't tell you if it arose or not in the public domain
25 or a scrum or whatever.

1 **MR. KOZLOFF:** All right.

2 **MR. SEGAL:** Because I didn't keep track of
3 that.

4 **MR. KOZLOFF:** In 2001 there's a more fulsome
5 effort to get an answer with respect to the documents. Did
6 you make a public announcement in 2001 to tell the public
7 with respect to what had happened to the four binders?

8 **MR. SEGAL:** Not that I recall.

9 **MR. KOZLOFF:** Did you advise or cause anyone
10 at the OPP -- if not Detective Inspector Hall, someone else
11 -- to be advised of the 1999 search?

12 **MR. SEGAL:** I probably did.

13 **MR. KOZLOFF:** Well, I'm going to suggest --
14 -

15 **MR. SEGAL:** But I'm telling you I asked Hall
16 -- the reason Hall was asked to do this was because they
17 were missing.

18 **MR. KOZLOFF:** I understand ---

19 **MR. SEGAL:** He's with the OPP.

20 **MR. KOZLOFF:** I understand how ---

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

22 **MR. KOZLOFF:** I understand the Ministry was
23 -- I beg your pardon, sir.

24 **THE COMMISSIONER:** Thank you.

25 We all understand what you're saying. It's

1 a different issue now. The issue is what happened to the
2 lost binders and was there a public statement from the
3 Ministry ---

4 **MR. SEGAL:** I've said there's no public
5 statement, Commissioner.

6 **THE COMMISSIONER:** Okay.

7 **MR. SEGAL:** Twice now.

8 **THE COMMISSIONER:** No, no, no, in fairness
9 to Mr. Kozloff -- and I don't know that I need to defend
10 Mr. Kozloff all that much -- there are two times that --
11 twice that the issue came up; once before and then when the
12 second one came up. So you answered twice, but it was two
13 different questions.

14 Mr. Kozloff.

15 **MR. SEGAL:** I think that's -- sorry,
16 Commissioner, I think that's what I said.

17 **THE COMMISSIONER:** All right.

18 **MR. SEGAL:** That, as I understood it, both
19 times there was -- you know, as he put it, after each one
20 there was no public announcement that I can recall.

21 **MR. KOZLOFF:** Is it fair to infer, sir, from
22 Mr. McConnery's note of the 17th of July, 2001 that Mr. Hall
23 was still concerned about the appearances of the lost
24 binders and the fact that he had no answer?

25 **MR. SEGAL:** I can't tell what Mr. -- I'm

1 happy to answer your question. I can't tell what Mr.
2 McConnery was thinking. You heard his testimony. I'm not
3 even sure what he said and I can't read into his notes. It
4 does indicate at some degree that Mr. Hall continued to be
5 concerned. For all I know, he continues to be concerned.
6 All I can say is I didn't find them.

7 **MS. McINTOSH:** I think this falls under the
8 category of beating a dead horse, Mr. Commissioner, and I'm
9 suggesting that the witness has answered -- been asked and
10 answered this question a number of times.

11 **THE COMMISSIONER:** Well ---

12 **MR. KOZLOFF:** I would never refer to
13 Mr. Segal as a dead horse, no.

14 **(LAUGHTER/RIRES)**

15 **THE COMMISSIONER:** No, the issue may have
16 been flogged a little bit, but not quite. The horse isn't
17 quite dead yet.

18 **(LAUGHTER/RIRES)**

19 **THE COMMISSIONER:** Mr. Kozloff, any further
20 questions?

21 **MR. KOZLOFF:** Mr. Segal, here is my
22 suggestion. The OPP was never advised about the report
23 that was prepared in 2001 or about the search that took
24 place in 1999. Detective Inspector Hall provided a brief
25 to Mr. McConnery. He was concerned about one question left

1 unanswerd, and that's what happened to the four binders,
2 and he was never able to address it. The Ontario
3 Provincial Police was never able to address the issue
4 because the information wasn't provided, either to the
5 police directly or to the public at large. That's my
6 point.

7 **MR. SEGAL:** Well, I commented about what I
8 think the answer is on the public at large. I don't recall
9 a public statement in that respect. As to whether it was
10 in the public domain, I can't tell you. You know, whether
11 it came up in some response that the Ministry
12 communications person gave or a Minister gave in a scrum,
13 I have no idea.

14 It was the subject of testimony, including
15 by Mr. Hall, at various -- at least on one occasion. And
16 the notion that Mr. Hall didn't know that -- or let me
17 stop. You said that he had one remaining concern. I don't
18 know that. You're telling me he had one remaining concern.
19 He may have had more than one remaining concern.

20 With respect to that particular concern, it
21 makes no sense to me, full stop, because he himself was the
22 person who was tasked early on to make sure that because of
23 the Ministry's problem in losing the stuff, to make sure
24 that he had everything and replace it document for
25 document, page for page.

1 So for him to still be complaining about it
2 doesn't really make sense. It's beyond my ability to
3 comprehend things. And he knew clearly that the stuff was
4 missing. That's why he was tasked. It was a full
5 admission: "The stuff is missing. Please can we get to
6 the bottom of it? Can we reconstruct it and get on with
7 life?"

8 **MR. KOZLOFF:** Thank you, sir.

9 **THE COMMISSIONER:** M'hm. Mr. Carroll?

10 **MR. CARROLL:** Nothing, sir.

11 **THE COMMISSIONER:** Thank you.

12 Ms. McIntosh?

13 **MS. McINTOSH:** One question.

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

15 **MS. McINTOSH:** Yes, I just have one
16 question.

17 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

18 **MS. McINTOSH:**

19 **MS. McINTOSH:** Mr. Segal, just for the
20 record, I am Leslie McIntosh from the Ministry of the
21 Attorney General.

22 In response to a question from Mr. Engelmann
23 early on, you said somewhat colloquially that Project Truth
24 was not identified as a big deal in March of 1999, and
25 would I be right in saying that -- I think that was the

1 word -- those were the words you used? Would I be right in
2 suggesting that you meant that the size and complexity of
3 the project was not known at that time?

4 **MR. SEGAL:** That's what I meant, and I'm
5 also -- it's more apt in relation to the beginning of my
6 involvement in '97 and onwards, not necessarily focused in
7 March. It grew incrementally in terms of complexity and so
8 forth.

9 **MS. McINTOSH:** All right.

10 And when a case grows in size like that now,
11 do we in the Ministry have some capacity to deal with cases
12 that turn out to grow incrementally at this point in time?

13 **MR. SEGAL:** Well, as I indicated, there was
14 an initiative that Mr. Stewart was asked to lead involving
15 major case management. It was given a flex capacity some
16 years ago. I couldn't tell you the precise year, but it
17 was about -- started off at about nine, ten Crowns where
18 individuals would go make a case for some additional
19 resources. But there always is the goodwill or the ability
20 of, for example, regional directors within a region to ask
21 for help, or to ask from other regions or offices.

22 Some of that went on in this particular
23 case. You know, with the -- if we knew everything that we
24 later knew about the size, the complexity, the challenges
25 on this particular matter, I think that there may have been

1 some additional resources contemplated at a much -- you
2 know, at an earlier time.

3 **MS. McINTOSH:** Right.

4 **MR. SEGAL:** And we've got -- you know, we've
5 got better at that and 11(b) and issues are firmly in our
6 mind, and it's -- you know, it's obviously a failure of the
7 system if we cannot get a trial to proceed on its merits,
8 and when it's a serious allegation involving alleged abuse
9 of children or young individuals, it's especially
10 problematic and it's especially concerning to the Ministry
11 in relation to circumstances involving historical assaults,
12 in situations where after some years, for whatever
13 appropriate reasons, individuals come forward. It takes
14 great courage. And for those cases not to come to a
15 conclusion on the merits is extremely concerning. It's
16 extremely concerning to the Ministry. It's concerning to
17 me, and it would be extremely concerning to the citizenry
18 and the alleged victims.

19 **MS. McINTOSH:** And this flex capacity of
20 nine or ten Crowns that you talked about, that came into
21 the system after these cases were prosecuted? Is that
22 correct?

23 **MR. SEGAL:** It would have come in some years
24 after; I'm guessing it's around 2000, 2002.

25 It wasn't in existence at the beginning of

1 my tenure as the Chief Prosecutor, but I did institute
2 that, and worked with Mr. Stewart, who became the first
3 chair of that particular program.

4 That -- it's not just about resources, it's
5 also about providing guidance or wisdom respect -- with
6 respect to difficult cases.

7 And we do that not only on major cases, but
8 we also do it in certain other problematic areas, like
9 jailhouse informants, where there's a committee of senior
10 officials who will meet in the prosecution service to give
11 guidance about the shape of cases, and the streamlining of
12 cases, and the wisdom of proceeding with -- with which
13 number of counts and which number of witnesses, and the
14 shape of legal arguments and so forth.

15 **MS. McINTOSH:** Right, thank you. And I
16 believe there was something else you wanted to add just
17 before you left the stand, Mr. Segal?

18 ---SUBMISIONS BY/REPRÉSENTATION PAR MR. SEGAL:

19 **MR. SEGAL:** Yes. The only other matter I
20 would like to raise is to express my appreciation for the
21 counsel, for the Commission, and all counsel and the staff
22 of the Commission for the very terrific amount of work that
23 has been put into this important Inquiry, and we very much
24 look forward to the report of the Commissioner, and it will
25 be given the great weight that it deserves.

1 So thank you for having me, and thank you
2 for hearing me out, and I hope you can move to the next
3 phase; I understand I'm the last witness. Thank you.

4 **MS. McINTOSH:** Thank you.

5 **THE COMMISSIONER:** Thank you.

6 Mr. Engelmann, do you have any questions?

7 **MR. ENGELMANN:** No, I don't.

8 Thanks very much for coming, Mr. Segal.

9 **MR. SEGAL:** Thank you.

10 **THE COMMISSIONER:** Thank you very much

11 Mr. Segal.

12 **MR. SEGAL:** Thank you.

13 **THE COMMISSIONER:** So why don't we take 10
14 minutes and then we'll return and finish off the rest of
15 the day?

16 **MR. ENGELMANN:** Thank you, sir.

17 **THE COMMISSIONER:** Thank you.

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

20 This hearing will resume at 5:00 p.m.

21 --- Upon recessing at 4:50 p.m. /

22 L'audience est suspendue à 16h50

23 --- Upon resuming at 5:05 p.m. /

24 L'audience est reprise à 17h05

25 **THE REGISTRAR:** Order; all rise. A l'ordre;

1 Veillez vous lever.

2 This hearing is now resumed. Please be
3 seated. Veillez vous asseoir.

4 **THE COMMISSIONER:** Thank you.

5 **MR. DUMAIS:** A few housekeeping matters, Mr.
6 Commissioner.

7 --- HOUSEKEEPING MATTERS BY/MATIÈRES ADMINISTRATIVES PAR

8 **MR. DUMAIS:**

9 **MR. DUMAIS:** The first one is Exhibit 3034,
10 something that went in in the cross-examination of Justice
11 Griffiths.

12 It's a document that was identified as being
13 the Fantino brief, dated March 5th, 1999. It is Document
14 Number 116242.

15 That document is actually the brief that was
16 delivered to OCCOPS, so the only thing I'm requesting with
17 respect to that is that the description be changed on the
18 exhibit, and I guess that we have a record of that fact.

19 **THE COMMISSIONER:** All right. All right, so
20 amended.

21 **MR. DUMAIS:** The rest of the issues that we
22 have to deal with, Mr. Commissioner, are a number of
23 documents that the parties or the Commission want to have
24 entered before we close off.

25 The first document -- and I addressed you on

1 that issue yesterday. It is Document Number 200359 and
2 200360 that the CCR requested that we file following the
3 introduction of the Tyrell ODE.

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

5 **MR. DUMAIS:** They are two documents that
6 don't necessarily contradict the ODE but certainly explain
7 one paragraph, or explains the belief that Ms. Carol Tyrell
8 had.

9 I don't know how we want to do this,
10 Mr. Commissioner, whether or not we want to canvass each
11 and every party after I address each category of document,
12 but I told the CCR that I would file these two documents
13 today.

14 **THE COMMISSIONER:** Any objections to that
15 being done? No-one rising; it will be done. So what
16 exhibit numbers will we give it?

17 **THE REGISTRAR:** Three four two eight (3428).

18 **THE COMMISSIONER:** So which one is 3428?
19 Let me identify it.

20 **MR. DUMAIS:** Three four two eight (3428)
21 should be Document Number 200359.

22 **THE COMMISSIONER:** Well, can I see -- thank
23 you. Exhibit 3428 is an article in the Ontario School Bus
24 Association, August of '99.

25 ---EXHIBIT NO./PIÈCE NO P-3428:

1 (200359) - Carol Tyrell Ontario School Bus
2 Newsletter dated Aug 99

3 **THE COMMISSIONER:** The second document is --
4 Exhibit 3429 is a letter dated June 30th, 1999, to Richard
5 Donaldson from Frank D'Onofrio.

6 **---EXHIBIT NO./PIÈCE NO P-3429:**

7 (200360) - Letter from Frank D'Onofrio to
8 Richard Donaldson dated 30 Jun 99

9 **MR. DUMAIS:** And that was actually a MAG
10 request, rather than a CCR request ---

11 **THE COMMISSIONER:** Oh.

12 **MR. DUMAIS:** --- Mr. Commissioner.

13 **THE COMMISSIONER:** There you go.

14 **MR. DUMAIS:** The second category, if I could
15 call it that, is the Progress Report on Ministry
16 Recommendations that was prepared by Probations &
17 Corrections.

18 This is essentially an update of the
19 original document that had been filed. I had canvassed
20 that with the parties at the last all-counsel meeting; I'm
21 not sure if anyone is objecting.

22 **THE COMMISSIONER:** Anybody objecting? No.
23 So what document do you want admitted?

24 **MR. DUMAIS:** The Progress Report on Ministry
25 Recommendations. That document does not have a document

1 number, Mr. Commissioner.

2 **THE COMMISSIONER:** That's fine, just -- do
3 we have a copy of it?

4 **MR. DUMAIS:** I'm sure Mr. Rose has a copy
5 with him.

6 **THE COMMISSIONER:** No, no, I just need one
7 for now.

8 **MR. DUMAIS:** It's in four separate
9 documents.

10 **THE COMMISSIONER:** Mr. Lee, do you have any
11 comments to make?

12 **MR. LEE:** I do, sir. It's just that I'm --
13 I don't think I'm necessarily objecting to these going in,
14 but I should point out that presumably the only purpose
15 that you would use these for, as a progress update, is when
16 you're considering recommendations and what you might look
17 for the Ministry to do, going forward.

18 I can't cross-examine a document, and so I'm
19 not sure that we can -- I think we need to be very careful
20 when we're looking at these documents -- when I look at
21 them for submission purposes, and when you look at them for
22 making recommendations -- that you don't necessarily take
23 the documents as absolute proof of the fact that the
24 implementation -- these things have been implemented, and
25 that they're working smoothly and that everything's fine.

1 And I wouldn't want, in the end analysis,
2 for you to not make a recommendation you might have
3 otherwise made but for these documents going in--

4 **THE COMMISSIONER:** You can rest assured,
5 sir, that even I see it in a document and I feel that it's
6 a recommendation that should be made it will be made as a
7 recommendation.

8 **MR. LEE:** Perfect, thank you sir.

9 **THE COMMISSIONER:** Thank you.

10 **MR. DUMAIS:** The next two documents ---

11 **THE COMMISSIONER:** Whoa, whoa, whoa.

12 Where are the documents? Let's make them as
13 exhibits.

14 **(SHORT PAUSE/COURTE PAUSE)**

15 **THE COMMISSIONER:** Would you like some extra
16 time, Mr. Dumais, to get this all straightened out?

17 **MR. DUMAIS:** No, I think we're okay,
18 Mr. Commissioner.

19 **THE COMMISSIONER:** All right.

20 Thank you. Exhibit Number 3430 is a
21 document dated January 14th, 2009, a progress update.

22 Exhibit 3431 is a document dated January,
23 2009 Probation, Parole and Conditional sentences, Policy
24 and Procedures.

25 And 3432 is a document dated July, 2008, New

1 Course working with male victims of sexual abuse.

2 Okay.

3 ---EXHIBIT NO./PIECE NO. P-3430

4 MCSCS Response to Recommendations made at
5 the Cornwall Public Inquiry dated 14 Jan
6 09

7 ---EXHIBIT NO./PIECE NO. P-3431

8 MCSCS Policy re: Allegations of Criminal
9 Conduct and Sexual Impropriety dated Jan
10 01 MCSCS

11 ---EXHIBIT NO./PIECE NO. 3432

12 "Work with Male Victims of Sexual Abuse
13 dated July 08 MCSCS Memo re: File Review
14 for Parole"

15 **MR. DUMAIS:** So the next document we propose
16 to file is the -- is called the "Report of the review of
17 large and complex case procedures".

18 There was -- which is commonly known as the
19 "LeSage Report".

20 Madame Clerk should have copies with her.

21 **MR. CALLAGHAN:** Mr. Commissioner, just a
22 comment.

23 I have no problem with it being filed. I
24 don't think it's necessary that -- I just want to make it
25 clear that I don't think it's necessary that reports of

1 this nature need to be filed as exhibits and that I can
2 -- there are other reports that you may want to consider
3 such as there was one done by Chief Justice LeSage on
4 police discipline issues that you may want ---

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

6 **MR. CALLAGHAN:** I just want to make that
7 clear.

8 I'm not sure this necessarily needs to be
9 filed as an exhibit.

10 **THE COMMISSIONER:** Yes, I understand that.

11 And when there was some discussion about it,
12 I said let's put the ones that are here so that everybody
13 knows that they're there and that way you can get a copy
14 and people can comment.

15 It is absolutely clear that we're not
16 limited by any of those things.

17 **MR. CALLAGHAN:** Yeah, and indeed the public
18 should understand you're building on a whole bunch of other
19 reports.

20 And you should have ---

21 **THE COMMISSIONER:** Absolutely.

22 **MR. CALLAGHAN:** --- regard to the whole wide
23 range of them. Thank you.

24 **THE COMMISSIONER:** Absolutely. Thank you.

25 Okay. So do we have that document?

1 Thank you. Exhibit Number 3433 is the
2 Report of the Review of Large and Complex Criminal Case
3 Procedures, November 2008

4 ---EXHIBIT NO./PIECE NO. P-3433

5 LeSage Report - Report of the Review of
6 Large and Complex Criminal Case Procedures

7 **MR. DUMAIS:** Next report I propose to put in
8 is of a similar nature, Mr. Commissioner.

9 It's the report on financial assistance for
10 victims of violent crimes in Ontario.

11 **(SHORT PAUSE/COURTE PAUSE)**

12 **THE COMMISSIONER:** Thank you.

13 Exhibit 3434 is a Report on Financial
14 Assistance for Victims of Violent Crime in Ontario, dated
15 May 2008.

16 ---EXHIBIT NO./PIECE NO. 3434

17 Report on Financial Assistance for Victims
18 of Violent Crime in Ontario, dated May 2008

19 **MR. DUMAIS:** The next series of document,
20 Mr. Commissioner, are all related to Constable Dunlop in
21 one way or another.

22 As you know, Mr. Commissioner, we did
23 attempt to have Constable Dunlop testifying here. He did
24 not.

25 We did as well over a long period of time

1 attempt to prepare an overview of documentary evidence. We
2 did consult with the parties. Suffice it to say that we
3 were not able to complete an ODE that we are prepared to
4 file here today.

5 Over time and with different witnesses,
6 different documents that relate to Constable Dunlop were
7 put to witnesses and filed in evidence. There are a number
8 of them that have not yet been filed that we feel should be
9 filed to complete the record.

10 And there are a number of these documents
11 and perhaps -- I've identified each and every one of them
12 for the parties.

13 Perhaps we canvass with the parties whether
14 or not there's any objection and then I will identify them.

15 **THE COMMISSIONER:** Thank you.

16 Any objections?

17 Mr. Callaghan to the end.

18 **MR. CALLAGHAN:** Well, you know, I think I
19 was one of the first counsel to speak so maybe I'll be the
20 last one to speak.

21 Mr. Commissioner, there are a series of
22 documents, notes of Mr. Dunlop. There are various other
23 documents that are proposed to be filed with the exception
24 of one document which I'll speak about.

25 We do object.

1 You know we've been at this for some 345
2 days of evidence, 177 witnesses and we are at a stage now,
3 the last day, the last hour filing documents to fill out
4 the record.

5 My concern is these documents, some of which
6 contain his discussions or what he believed to be
7 discussions with people have not been available. It has
8 not been a situation where people can answer it as being a
9 document that has been filed on the record.

10 There's no opportunity to respond to these
11 documents and I don't think that the public inquiry's
12 actions intended that, at the end, the documents would be
13 put in in this fashion.

14 There has been a slew of documents put in
15 and one would have thought amongst the 345 -- 3,400, I
16 should say, some odd documents you've seen, those that are
17 relevant have been put in.

18 And I am concerned that there will be
19 snippets taken out of documents and used by people when, in
20 fact, they haven't been the subject of the inquiry. They
21 haven't been put before any witnesses. People haven't had
22 the opportunity to deal with it.

23 We had said long ago when the ODE came that
24 we were of the belief the ODE should have been filed prior
25 to the conclusion of my client's evidence because a lot of

1 it dealt with him -- to allow people to respond.

2 And here we are quite literally the last day
3 and with any luck the last hour and we'd object and say
4 that it's not appropriate to do so.

5 The one document that is appropriate simply
6 because it is a matter of public record is the Divisional
7 Court decision.

8 I think you can -- I don't you even need to
9 have it filed because you could have taken -- you can take
10 notice of it anyway being a judicial decision. That's
11 the only one. The rest of them, notes, et cetera pretty
12 much and I object. Thank you.

13 **THE COMMISSIONER:** Thank you.

14 Anyone else want to echo Mr. Callaghan?

15 Anybody in opposition?

16 Everybody agree with Mr. Callaghan?

17 Anybody, no -- Mr. Strawczynski?

18 **MR. CALLAGHAN:** This may not surprise you
19 but Mr. Sherriff-Scott had told me he agreed with my
20 position.

21 (LAUGHTER/RIRES)

22 **MR. STRAWCZYNSKI:** Mr. Commissioner, just to
23 go on record to say that CCR supports the inclusion of
24 these notes to fill the record.

25 Thank you.

1 **THE COMMISSIONER:** Thank you.

2 **MR. HORN:** We concur with that position.

3 **THE COMMISSIONER:** Very well. Thank you.

4 I'm going to admit the notes. If you look
5 at the Order in Counsel it does permit the filing of
6 documents.

7 I note that the ODE would -- had an ODE been
8 provided, the documents would have likely come in through
9 that method.

10 I'm going to attach -- it's going to go to a
11 matter of weight as to what is pulled out of those
12 documents, if anything.

13 And given the fact that they are dealing
14 with Mr. Dunlop, I think that it's incumbent on the Inquiry
15 to look into whatever evidence and material one can take
16 out of those notes.

17 Thank you. Go ahead.

18 **MR. DUMAIS:** There are 19 documents,
19 Mr. Commissioner.

20 **THE COMMISSIONER:** Yes.

21 **MR. CALLAGHAN:** Mr. Commissioner, just -- I
22 advised my friend, these documents come from the box of
23 documents Mr. Dunlop had.

24 Unlike the notes that you received from the
25 Cornwall Police earlier, they were not redacted.

1 It has been discovered that there was one
2 incident, at least one incident -- in other words, an
3 incident unrelated to anything in one of his notebooks
4 where he's recording an incident.

5 We will try to endeavour to look at that and
6 have that redacted. But, unfortunately, these are coming
7 out of his boxes, not from -- with respect to the Cornwall
8 Police productions.

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

10 **MR. CALLAGHAN:** Okay, if that's acceptable.

11 **THE COMMISSIONER:** Sure is. Thank you very
12 much then.

13 **MR. DUMAIS:** The first document is Document
14 Number 719596.

15 I think, Madame Clerk, you have those
16 documents organized numerically; is that correct?

17 **THE REGISTRAR:** Yes.

18 **MR. DUMAIS:** Then, perhaps just go ahead and
19 take them in order. It's going to be easier.

20 Yes?

21 **THE COMMISSIONER:** Thank you.

22 Exhibit 3435 is a statement -- yeah, okay,
23 this is a statement of Perry Dunlop taken on the -- no, the
24 27th of March 1997. Exhibit 3435. So a statement.

25 --- **EXHIBIT NO./PIÈCE NO. P-3435:**

1 (122141) - Statement of Perry Dunlop re:
2 Robert Renshaw dated 27 Mar 97

3 **THE COMMISSIONER:** Thank you.

4 Exhibit 3436 is a Chatelaine magazine
5 article dated March of 1999.

6 --- EXHIBIT NO./PIÈCE NO. P-3436:

7 (123162) - Chatelain Article, Would you Blow
8 the Whistle on Sex Abuse Mar 99

9 **THE COMMISSIONER:** Thank you.

10 Exhibit 3437 is Perry Dunlop's civil case.
11 It's March 1999, a sequence of events pertaining to the
12 case.

13 --- EXHIBIT NO./PIÈCE NO. P-3437:

14 (124803) - Perry Dunlop Civil Case Sequence
15 of Events Mar 99

16 **THE COMMISSIONER:** Thank you.

17 Exhibit 3438 is a letter -- I think this
18 might already be an exhibit, but in any event, a letter to
19 the Honourable Jim Flaherty from Perry Dunlop.

20 **MR. DUMAIS:** Mr. Commissioner, you're
21 correct about that. That document has already been entered
22 as an exhibit. It is Exhibit 3416.

23 **THE COMMISSIONER:** Thank you.

24 Exhibit 3438 is a radio report, the World
25 this Weekend. It's a segment and it's called -- it's dated

1 Sunday, January 17th, 1999.

2 --- EXHIBIT NO./PIÈCE NO. P-3438:

3 (706267) - CBC Radio: Whistle Blowers 17 Jan
4 99

5 THE COMMISSIONER: Exhibit 3439 is a copy of
6 CBC News World, February 9th, 1999.

7 --- EXHIBIT NO./PIÈCE NO. P-3439:

8 (713697) - CBC News World dated 09 Feb 99

9 THE COMMISSIONER: You said 19?

10 MR. DUMAIS: Yes, Mr. Commissioner, less
11 three which I understand have been entered today.

12 THE COMMISSIONER: Thank you.

13 Exhibit Number 3440 is what?

14 MR. DUMAIS: Can I have the Document Number,
15 Mr. Commissioner?

16 THE COMMISSIONER: Seven one six three nine
17 five (716395).

18 MR. DUMAIS: It's the Index of Book I of the
19 Dunlop material.

20 THE COMMISSIONER: Thank you.

21 --- EXHIBIT NO./PIÈCE NO. P-3440:

22 (716395) - Dunlop Tab Book 1 Index undated

23 THE COMMISSIONER: Exhibit Number 3441 is
24 the Index to Book 2.

25 --- EXHIBIT NO./PIÈCE NO. P-3441:

1 (716451) - Dunlop Tab Book 2 Index undated

2 **MR. DUMAIS:** Madam Clerk, which document is
3 the next document?

4 **THE REGISTRAR:** Seven one six four eight one
5 (716481).

6 **MR. DUMAIS:** That document has been entered
7 today.

8 **THE COMMISSIONER:** Thank you.

9 Exhibit Number 3442 is the Index to Book 3.

10 --- **EXHIBIT NO./PIÈCE NO. P-3442:**

11 (716503) - Dunlop Tab Book 3 Index undated

12 **THE COMMISSIONER:** Thank you.

13 Exhibit Number 3443 is the Index to Book 4.

14 --- **EXHIBIT NO./PIÈCE NO. P-3443:**

15 (716553) - Dunlop Tab Book 4 Index undated

16 **THE REGISTRAR:** Document Number 719596.

17 **THE COMMISSIONER:** Thank you.

18 Exhibit Number 3444 are what?

19 **MR. DUMAIS:** Dunlop notes.

20 **THE COMMISSIONER:** Dunlop notes. The first
21 date -- no date. Okay.

22 --- **EXHIBIT NO./PIÈCE NO. P-3444:**

23 (719596) - Notes of Perry Dunlop dated 18

24 May 94 to 12 Oct 95

25 **THE REGISTRAR:** Document Number 722145.

1 **THE COMMISSIONER:** Thank you.

2 Exhibit 3445 is a document called Constable
3 Perry Dunlop's Notes.

4 **MR. DUMAIS:** That should be the index to the
5 notes, Mr. Commissioner.

6 **THE COMMISSIONER:** The index to the notes?
7 Okay.

8 **--- EXHIBIT NO./PIÈCE NO. P-3445:**

9 (722145) - Index of Constable Perry Dunlop
10 Notes

11 **THE REGISTRAR:** Document Number 722146.

12 **MR. DUMAIS:** These are Dunlop notes as well.

13 **THE COMMISSIONER:** Thank you.

14 Three four four six (3446), Dunlop notes,
15 June 11th, 1997.

16 **--- EXHIBIT NO./PIÈCE NO. P-3446:**

17 (722146) - Constable Perry Dunlop Duty Notes
18 dated 11 Jun 97 to 06 Mar 00

19 **THE REGISTRAR:** Document Number 722346.

20 **THE COMMISSIONER:** Thank you.

21 Exhibit 3447 is the Police Complaints
22 Commissioner v. Constable Perry Dunlop Factum of the
23 Appellant.

24 **--- EXHIBIT NO./PIÈCE NO. P-3447:**

25 (722346) - Police Complaints Commissioner v.

1 Perry Dunlop Factum of the Appellant dated
2 12 May 95

3 **THE REGISTRAR:** Document Number 722814.

4 **THE COMMISSIONER:** Thank you.

5 Exhibit 3448 is a letter addressed "To whom
6 it may concern" ---

7 **MR. DUMAIS:** To the insurance adjuster, Mr.
8 Commissioner.

9 **THE COMMISSIONER:** Oh, to the Sutton
10 Adjusting Bureau Limited. And from whom? It's addressed
11 to them, but who wrote it? Mr. Dunlop. Okay.

12 --- **EXHIBIT NO./PIÈCE NO. P-3448:**

13 (722814) - Letter from Perry Dunlop to
14 Sutton Adjusting Bureau 21 Jun 94

15 **THE REGISTRAR:** Document Number 722583.

16 **THE COMMISSIONER:** Thank you.

17 **MR. DUMAIS:** That document has been entered
18 today.

19 **THE REGISTRAR:** Document Number 723584.

20 **MR. DUMAIS:** That as well.

21 **THE REGISTRAR:** Document Number 723733.

22 **THE COMMISSIONER:** Thank you.

23 Exhibit Number 3449 is a Board of Inquiry
24 Affidavit of Perry Dunlop, sworn the 30th of August 1994.

25 --- **EXHIBIT NO./PIÈCE NO. P-3449:**

1 (723733) - Affidavit of Perry Dunlop dated
2 30 Aug 94

3 **THE REGISTRAR:** Document Number 723867.

4 **THE COMMISSIONER:** Thank you.

5 Exhibit 3450 is the Police Complaints
6 Commissioner v. Dunlop Decision of the Ontario Divisional
7 Court, December 7th, 1995.

8 --- **EXHIBIT NO./PIÈCE NO. P-3450:**

9 (723867) - Ontario Court Ruling Police
10 Complaints Commissioner v. Perry Dunlop
11 dated 07 Dec 95

12 **THE REGISTRAR:** Document Number 727725.

13 **MR. DUMAIS:** Mr. Commissioner, the last
14 document that the Commission propose to introduce are notes
15 of Detective Constable Genier. As you know, Mr.
16 Commissioner, he was one of the investigating officers in
17 the Project Truth and he was unable to testify here by
18 reason of sickness, and we propose to introduce his notes
19 prepared during Project Truth investigations.

20 **THE COMMISSIONER:** Anyone objecting?

21 All right.

22 **MR. DUMAIS:** So, Madam Clerk, they're in a
23 number of document numbers, the first one being 727725
24 Bates pages ending in 676, and 063 to 084.

25 What we've done, Mr. Commissioner, just to -

1 - these were not all dedicated notebooks, which meant that
2 a number of his pages had been redacted or blanked out, so
3 rather than copy all those pages we split them up and we're
4 only filing the excerpts that contain information.

5 **THE COMMISSIONER:** Okay. Are those they?
6 Exhibit Number 3451, excerpts of Document 727725, was
7 Detective Genier's notes.

8 This doesn't have an exhibit number, Madam
9 Clerk.

10 **MR. DUMAIS:** The Bates page ending with 676

11 ---

12 **THE COMMISSIONER:** No, just a second. Just
13 a second. I have this page and I have this.

14 **MR. DUMAIS:** They should -- they're the same
15 document number, Mr. Commissioner, so they're one exhibit -

16 --

17 **THE COMMISSIONER:** They should be stapled
18 together. All right, thank you.

19 --- **EXHIBIT NO./PIÈCE NO. P-3451:**

20 (727725) - "7105676- 7106063-84" -D/Cst.

21 Genier Notebook 1

22 **MR. DUMAIS:** So the document is 727726 and
23 the Bates pages are ending in 089, 204, 316 and 359 through
24 to 436.

25 **THE COMMISSIONER:** Thank you. Exhibit

1 Number 3452 is excerpt of 727726, Officer Genier's Notebook
2 No. 2.

3 --- EXHIBIT NO./PIÈCE NO. P-3452:

4 (727726) - 7106089 -7106204- 7106316 -
5 7106359-436" - D/Cst. Genier Notebook 2

6 MR. DUMAIS: Next document is Number 727727,
7 Bates pages 437 through to 471, then 561 through 562. And
8 then 614 and 631 through to 633.

9 THE COMMISSIONER: Okay, wait a minute now.
10 Madam Clerk?

11 THE REGISTRAR: Yes?

12 THE COMMISSIONER: Can you help me out here?
13 We've got two that are 2453 but they're the same exhibit.
14 Exhibit 3453 are notes of Officer Genier.

15 --- EXHIBIT NO./PIÈCE NO. P-3453:

16 (727727) - "7106437-71- 7106561-62- 7106614-
17 7106631-33" D/Cst. Genier Notebook 3

18 MR. DUMAIS: Next document number is 727730
19 and they are pages -- excerpt pages 042 through 044 and 120
20 through to 243.

21 THE COMMISSIONER: Thank you. Exhibit 3454.

22 --- EXHIBIT NO./PIÈCE NO. P-3454:

23 (727727) - "7107042-44- 7107120-243" -
24 D/Cst. Genier Notebook 6

25 MR. DUMAIS: The next document is number

1 727731.

2 THE COMMISSIONER: Thank you. Exhibit
3 Number 3455.

4 --- EXHIBIT NO./PIÈCE NO. P-3455:

5 (727731) - D/Cst. Genier Notebook 7

6 MR. DUMAIS: Next exhibit is Document Number
7 727732.

8 THE COMMISSIONER: Thank you. Exhibit
9 Number 3456.

10 --- EXHIBIT NO./PIÈCE NO. P-3456:

11 (727732) - D/Cst. Genier Notebook 8

12 MR. DUMAIS: Next exhibit is Document
13 727733.

14 THE COMMISSIONER: Thank you. Exhibit 3457.

15 --- EXHIBIT NO./PIÈCE NO. P-3457:

16 (727733) - D/Cst. Genier Notebook 9

17 MR. DUMAIS: The next exhibit, Document
18 Number 727734.

19 THE COMMISSIONER: Thank you. Exhibit 3458.

20 --- EXHIBIT NO./PIÈCE NO. P-3458:

21 (727734) - D/Cst. Genier Notebook 10

22 MR. DUMAIS: The next exhibit, 727735.

23 THE COMMISSIONER: Thank you. Exhibit 3459.

24 --- EXHIBIT NO./PIÈCE NO. P-3459:

25 (727735) - D/Cst. Genier Notebook 11

1 **MR. DUMAIS:** Document Number 727736 is the
2 next exhibit.

3 **THE COMMISSIONER:** Thank you. Exhibit 3460.

4 --- **EXHIBIT NO./PIÈCE NO. P-3460:**

5 (727736) - D/Cst. Genier Notebook 12

6 **MR. DUMAIS:** Document Number 727737.

7 **THE COMMISSIONER:** Thank you. Exhibit 3461.

8 --- **EXHIBIT NO./PIÈCE NO. P-3461:**

9 (727737) - D/Cst. Genier Notebook 13

10 **MR. DUMAIS:** The next documents are
11 excerpts, so it's 727738, Bates page 688 through to 715 and
12 then Bates page 774, 767 and 769 through 770, 798 through
13 799, 825 through 826, 887 through 889, and finally 894.

14 **THE COMMISSIONER:** Exhibit 3462.

15 --- **EXHIBIT NO./PIÈCE NO. P-3462:**

16 (727738) - "7108688-715 -7108744- 7108767-
17 7108769-70- 7108798-99- 7108825-26 -7108887-
18 89-7108894" -D/Cst. Genier Notebook 14

19 **MR. DUMAIS:** Six two, Mr. Commissioner?

20 **THE COMMISSIONER:** That's what it is; 3462.

21 **MR. DUMAIS:** The next document is 727739,
22 excerpts once again, 897 through 900, then 915 and 918
23 through 922, and then 940, 947, 959, 972 through to 973,
24 012, 029 through 032, then 056, 066 through 072, then 096,
25 and finally 099 through 101.

1 **THE COMMISSIONER:** Thank you. Exhibit 3463.

2 **--- EXHIBIT NO./PIÈCE NO. P-3463:**

3 (727739) - "7108897-900- 7108915 -7108918-
4 22- 7108940- 7108947 -7108959- 7108972-73-
5 7109012- 7109029-32 -7109056- 7109066-72-
6 7109096- 7109099-101" - D/Cst. Genier
7 Notebook 15

8 **MR. DUMAIS:** And then finally Document
9 Number 727740.

10 **THE COMMISSIONER:** Thank you. Exhibit 3464.

11 **--- EXHIBIT NO./PIÈCE NO. P-3464:**

12 (727740) - D/Cst. Genier Notebook 16

13 **MR. DUMAIS:** So now we've received a number
14 of notices, most of them today, Mr. Commissioner, from a
15 number of parties dealing with a number of different
16 documents. I propose to perhaps just identify the issue in
17 the document and the let the parties who want to introduce
18 this document address you.

19 The first list of documents are transcripts
20 that the Ministry of the Attorney General proposes to have
21 us introduce.

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

23 Have they been in our database? I guess
24 that's the main question.

25 **MR. DUMAIS:** They have, Mr. Commissioner,

1 save and except two outstanding ones which are presently
2 being typed up as we speak. That's my understanding, there
3 are two outstanding ones.

4 **THE COMMISSIONER:** Typed up.

5 **MR. DUMAIS:** Yes, Mr. Commissioner. There
6 were recordings, as I understand it, and administrative
7 staff are typing it up now.

8 **MS. McINTOSH:** Thank you.

9 Mr. Commissioner, those were the two
10 transcripts of Ms. Narozniak's submissions in Leduc number
11 2 that weren't ready as I explained on ---

12 **THE COMMISSIONER:** Right.

13 **MS. McINTOSH:** --- the record the last time.

14 **THE COMMISSIONER:** Right.

15 **MS. McINTOSH:** And there are actually two
16 documents that are not transcripts on the list, but they're
17 both court documents. One is the actual Notice of
18 Application from Ms. Henein's office in Leduc number 2 and
19 the other is the production order made by the court.

20 **THE COMMISSIONER:** Any objections to those
21 documents going in?

22 **MR. CALLAGHAN:** I will say this once. I
23 objected to the Commission's documents. I object to all
24 the documents on the same basis. I know you've ruled. I
25 just think, for the record, all these documents I object to

1 because they weren't available -- at least available in the
2 record at the time when others testified. In fact, two
3 I've never even seen.

4 **THE COMMISSIONER:** So what about Officer
5 Genier's notes?

6 **MR. CALLAGHAN:** I -- I assumed I objected to
7 -- I objected to all of it. I think -- I just think it's -
8 - I respect your ruling and I'm not going to ---

9 **THE COMMISSIONER:** You don't respect ---

10 **MR. CALLAGHAN:** --- restate it again.

11 **THE COMMISSIONER:** You're going to restate
12 the argument.

13 **MR. CALLAGHAN:** No, I'm not. I'm not
14 because you don't -- it's -- I won't restate the argument.

15 **THE COMMISSIONER:** Yeah.

16 **MR. CALLAGHAN:** I just -- and I assume your
17 -- your comments apply to it all saying that you recognize
18 it's gained weight and it's a matter of weight, but for the
19 record, thank you. And I won't rise again on this point,
20 if that's acceptable.

21 **THE COMMISSIONER:** Go ahead. Do it. Do
22 what you have to do.

23 **MR. CALLAGHAN:** I take it -- can I take it
24 as a blanket objection on ---

25 **THE COMMISSIONER:** Absolutely.

1 **MR. CALLAGHAN:** Thank you then.

2 **THE COMMISSIONER:** Absolutely. Absolutely.

3 **MS. McINTOSH:** Now, Mr. Commissioner, I have
4 not provided Madam Clerk with copies of all these
5 transcripts. I'm sorry.

6 **MR. LEE:** I just don't understand what the
7 proposal is in relation to the two transcripts not yet
8 received. Will you agree in advance of their production to
9 mark them as exhibits after the conclusion of the hearings.
10 Is that what we're proposing here?

11 **THE COMMISSIONER:** Well, I can't *functus* on
12 that. The Order-in-Council is very, very, very, specific.

13 **MR. LEE:** I don't -- I don't have a clever
14 solution. I'm just a little bit confused about what we're
15 supposed to do if we don't have them by the time you close
16 today. And I don't object to the interruption of the rest
17 of them, but I -- I just am, sort of, asking a rhetorical
18 question, I suppose, of what we're supposed to do.

19 **MS. McINTOSH:** Well, it seems to me that
20 it's very easy to mark as an exhibit, a transcript, or to
21 assign them the next document number and mark them for that
22 -- for those dates. I guess what I would say generally is,
23 as I understand the Order-in-Council, it permits you to
24 refer to transcripts anyway and ---

25 **THE COMMISSIONER:** No, no, but the end date

1 says I must stop the proceedings which means that
2 technically, I can't do anything the day after.

3 **MS. McINTOSH:** But what I'm suggesting is --
4 and the way I read it and perhaps I'm mistaken, but I would
5 argue if I had to on the topic of these two outstanding
6 transcripts, that you don't even need to mark any of these
7 exhibits as a transcript; that they fall into the category
8 like -- like reports, as Mr. Callaghan said, that you can
9 refer to whether or not they've been adduced in evidence
10 and whether or not they've been marked.

11 So if there's any doubt about whether you
12 can rely on these transcripts then I ask you to mark them,
13 but I'm -- I want to indicate that if there's any question
14 about these two outstanding ones, that that would be my
15 submission with respect to them.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Dumais, do you have any comments?

18 **MR. DUMAIS:** If we had the audiotapes, we
19 could file them. That's the only -- that's the only
20 comment I have.

21 **THE COMMISSIONER:** Well, we'll keep the two
22 -- the two numbers for the last so can we introduce the
23 rest of the Attorney General's materials?

24 **MR. DUMAIS:** Yes and perhaps, Mr.
25 Commissioner, is I can just then identify the doc number

1 and the document and we can assign it an exhibit number.

2 Document Number 103644. It's a -- and the
3 first set of documents, sorry, are the transcripts in the
4 *R. v. Leduc* 1999 preliminary inquiry.

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

6 **MR. DUMAIS:** So 103644, transcript of
7 November 25th, '99.

8 **THE COMMISSIONER:** Exhibit 3465.

9 **--- EXHIBIT NO./PIÈCE NO. P-3465:**

10 (103644) - Transcript *R. v Leduc* Preliminary
11 Inquiry dated 25 Nov 99

12 **MR. DUMAIS:** Document 103642, transcript of
13 November 26th, 1999.

14 **THE COMMISSIONER:** Exhibit 3466.

15 **--- EXHIBIT NO./PIÈCE NO. P-3466:**

16 (103642) - Transcript *R. v Leduc* Preliminary
17 Inquiry dated 26 Nov 99

18 **MR. DUMAIS:** Document 103636, transcript
19 from November 29th, '99.

20 **THE COMMISSIONER:** Three-four-six-seven
21 (3467).

22 **--- EXHIBIT NO./PIÈCE NO. P-3467:**

23 (103636) - Transcript *R. v Leduc* Preliminary
24 Inquiry dated 29 Nov 99

25 **MR. DUMAIS:** One-zero-three-six-three-nine

1 (103639), transcript of November 30th, 1999.

2 **THE COMMISSIONER:** Three-four-six-nine
3 (3469)? Pardon me? Eight (3468).

4 **--- EXHIBIT NO./PIÈCE NO. P-3468:**

5 (103639) - Transcript *R. v Leduc* Preliminary
6 Inquiry dated 30 Nov 99

7 **MR. DUMAIS:** Document 105759, transcript of
8 December 1st, 1999.

9 **THE COMMISSIONER:** Three-four-six-nine
10 (3469).

11 **--- EXHIBIT NO./PIÈCE NO. P-3469:**

12 (105759) - Transcript *R. v Leduc* Preliminary
13 Inquiry dated 01 Dec 99 - MAG

14 **MR. DUMAIS:** Document 105685, transcript of
15 December 2nd, '99.

16 **THE COMMISSIONER:** Three-four-seven-zero
17 (3470).

18 **--- EXHIBIT NO./PIÈCE NO. P-3470:**

19 (105685) - Transcript *R. v Leduc* Preliminary
20 Inquiry dated 02 Dec 99

21 **MR. DUMAIS:** The next series are from the *R.*
22 *v. Leduc* 2001 trial.

23 One-zero-three-five-nine-five (103595),
24 transcript of January 23rd, 2001.

25 **THE COMMISSIONER:** Three-four-seven-one

1 (3471).

2 --- EXHIBIT NO./PIÈCE NO. P-3471:

3 (103595) - Transcript *R. v Leduc* Trial dated
4 23 Jan 01

5 **MR. DUMAIS:** One-zero-three-five-nine-six
6 (103596), transcript of January 24th, 2001.

7 **THE COMMISSIONER:** Three-four-seven-two
8 (3472).

9 --- EXHIBIT NO./PIÈCE NO. P-3472:

10 (103596) - Transcript *R. v Leduc* Trial dated
11 24 Jan 01

12 **MR. DUMAIS:** One-zero-three-one-one-four
13 (103114), transcript of January 25th, 2001.

14 **THE COMMISSIONER:** Three-four-seven-three
15 (3473).

16 --- EXHIBIT NO./PIÈCE NO. P-3473:

17 (103114) - Transcript *R. v Leduc* Trial dated
18 25 Jan 01

19 **MR. DUMAIS:** One-zero-three-five-nine-nine
20 (103599), transcript of January 30th, 2001.

21 **THE COMMISSIONER:** Three-four-seven-four
22 (3474).

23 --- EXHIBIT NO./PIÈCE NO. P-3474:

24 (103599) - Transcript *R. v Leduc* Trial dated
25 30 Jan 01

1 **MR. DUMAIS:** One-zero-three-six-zero-zero
2 (103600), transcript of January 31st, 2001.

3 **THE COMMISSIONER:** Three-four-seven-five
4 (3475).

5 **--- EXHIBIT NO./PIÈCE NO. P-3475:**

6 (103600) - Transcript *R. v Leduc* Trial dated
7 31 Jan 01

8 **MR. DUMAIS:** Document 116140, transcript of
9 February 1st, 2001.

10 **THE COMMISSIONER:** Three-four-seven-six
11 (3476).

12 **--- EXHIBIT NO./PIÈCE NO. P-3476:**

13 (116140) - Transcript *R. v Leduc* Trial dated
14 01 Feb 01

15 **MR. DUMAIS:** Document 103602, transcript of
16 February 5th, 2001.

17 **THE COMMISSIONER:** Three-four-seven-seven
18 (3477).

19 **--- EXHIBIT NO./PIÈCE NO. P-3477:**

20 (103602) - Transcript *R. v Leduc* Trial dated
21 05 Feb 01

22 **MR. DUMAIS:** Document 103603, transcript of
23 February 6th, 2001.

24 **THE COMMISSIONER:** Three-four-seven-eight
25 (3478).

1 --- EXHIBIT NO./PIÈCE NO. P-3478:

2 (103603) - Transcript *R. v Leduc* Trial dated
3 06 Feb 01

4 **MR. DUMAIS:** Document 103604, the transcript
5 of February 7th, 2001.

6 **THE COMMISSIONER:** Three-four-seven-nine
7 (3479).

8 --- EXHIBIT NO./PIÈCE NO. P-3479:

9 (103604) - Transcript *R. v Leduc* Trial dated
10 07 Feb 01

11 **MR. DUMAIS:** One-zero-three-six-zero-five
12 (103605), transcript of February 8th, 2001.

13 **THE COMMISSIONER:** Three-four-eight-zero
14 (3480).

15 --- EXHIBIT NO./PIÈCE NO. P-3480:

16 (103605) - Transcript *R. v Leduc* Trial dated
17 08 Feb 01

18 **MR. DUMAIS:** Document 103607, transcript of
19 February 12th, 2001

20 **THE COMMISSIONER:** Three-four-eight-one
21 (3481).

22 --- EXHIBIT NO./PIÈCE NO. P-3481:

23 (103607) - Transcript *R. v Leduc* Trial dated
24 12 Feb 01

25 **MR. DUMAIS:** One-zero-three-six-zero-eight

1 (103608), transcript of February 13th, 2001.

2 **THE COMMISSIONER:** Three-four-eight-two
3 (3482).

4 **--- EXHIBIT NO./PIÈCE NO. P-3482:**

5 (103608) - Transcript *R. v Leduc* Trial dated
6 13 Feb 01

7 **MR. DUMAIS:** And just so that counsel for
8 MAG knows, the next document that they had proposed to
9 enter is already an exhibit.

10 So then I am into the *R. v. Leduc* 2004 stay
11 application.

12 The first document is number 110009 and it
13 is the Notice of Application. We have a copy.

14 **THE COMMISSIONER:** Three-four-eight-three
15 (3483), Madam Clerk?

16 **THE REGISTRAR:** Eight-four (84) (sic).

17 **THE COMMISSIONER:** Eight-four (84) (sic).

18 **--- EXHIBIT NO./PIÈCE NO. P-3483:**

19 (110009) Notice of Application re: *R. v*
20 *Leduc* Stay dated 17 Aug 04

21 **MR. DUMAIS:** The next two documents, Mr.
22 Commissioner, are the ones that are being transcribed as we
23 speak, so the transcript of October 4th, 2004 and of October
24 5th, 2004. I'm not sure what ---

25 **THE COMMISSIONER:** Three-eight-four (384)

1 and 385(sic).

2 --- EXHIBIT NO./PIÈCE NO. P-3484:

3 Transcript *R. v. Leduc* Stay dated 04 Oct 04

4 --- EXHIBIT NO./PIÈCE NO. P-3485:

5 Transcript *R. v. Leduc* Stay dated 05 Oct 04

6 MR. DUMAIS: And Document Number 109986;

7 this is the Dunlop receipt Production Order dated September
8 29th, 2004.

9 The next here is a document ---

10 THE COMMISSIONER: Oh, just a second.

11 MR. DUMAIS: Sorry.

12 THE COMMISSIONER: Three-four-eight-six

13 (3486).

14 --- EXHIBIT NO./PIÈCE NO. P-3486:

15 (109986) - *R. v. Leduc* Index of Documents

16 disclosed by Perry Dunlop dated 29 Sep 04

17 MR. DUMAIS: The next series of documents

18 relate to *R. v. Marcel Lalonde* transcripts.

19 First one being 111106, transcript of the
20 prelim, January 13th, '98.

21 THE COMMISSIONER: Three-four-eight-seven

22 (3487).

23 --- EXHIBIT NO./PIÈCE NO. P-3487:

24 (111106) - Transcript *R. v. Marcel Lalonde*

25 Preliminary Inquiry dated 13 Jan 98

1 **MR. DUMAIS:** The transcript of the trial is
2 already in exhibit. The first transcript of the sentencing
3 is already an exhibit.

4 **--- EXHIBIT NO./PIÈCE NO. P-3488:**

5 (117285) - Transcript *R. v. Marcel Lalonde*
6 Trial dated 17 Nov 00

7 **MR. DUMAIS:** Next Document 118484. That's
8 the transcript of the sentencing dated at April 12th, 2001.

9 **THE COMMISSIONER:** Three-four-eight-eight
10 (3488)?

11 **THE REGISTRAR:** Nine (9).

12 **THE COMMISSIONER:** Eight-nine (89). I'm
13 sorry? Eight-nine (89).

14 **--- EXHIBIT NO./PIÈCE NO. P-3489:**

15 (118484) - Transcript *R. v. Marcel Lalonde*
16 Trial dated 12 Apr 01

17 **MR. DUMAIS:** The next are the transcripts in
18 the Latour matter.

19 One-zero-six-eight-six-nine (106869), the
20 transcript of the prelim, May 19th, 1999.

21 **THE COMMISSIONER:** Three-four-nine-zero
22 (3490).

23 **--- EXHIBIT NO./PIÈCE NO. P-3490:**

24 (106869) - Transcript *R. v. Harvey Latour*
25 Preliminary Inquiry dated 19 May 99

1 **MR. DUMAIS:** Document 106868, the transcript
2 of a trial dated June 26th, 2000.

3 **THE COMMISSIONER:** Three-four-nine-one
4 (3491).

5 **--- EXHIBIT NO./PIÈCE NO. P-3491:**

6 (106868) - Transcript *R. v. Harvey Latour*
7 Trial dated 26 Jun 00

8 **MR. DUMAIS:** Next documents relate to the *R.*
9 *v. Carriere*. Document 106861, transcript of the prelim,
10 May 31st, '99.

11 **THE COMMISSIONER:** Three-four-nine-two
12 (3492).

13 **--- EXHIBIT NO./PIÈCE NO. P-3492:**

14 (106861) - Transcription *R. v. Leonel*
15 *Carrière* Enquete Préliminaire datée 31 May
16 99

17 **MR. DUMAIS:** Next documents relate to *R. v.*
18 *Father Charles MacDonald*, 1999 prelim. Document 111253.
19 That's the transcript dated March 1st, 1999.

20 **THE COMMISSIONER:** Exhibit 3493.

21 **--- EXHIBIT NO./PIÈCE NO. P-3493:**

22 (111253) - Transcript *R. v. Charles*
23 *MacDonald* Preliminary Inquiry dated 01 Mar
24 99

25 **MR. DUMAIS:** Document 111255, transcript of

1 March 10th, '99.

2 **THE COMMISSIONER:** Exhibit 3494.

3 **--- EXHIBIT NO./PIÈCE NO. P-3494:**

4 (111255) - Transcript R. v. Charles
5 MacDonald Preliminary Inquiry dated 10 Mar
6 99

7 **MR. DUMAIS:** Document Number 111256 is the
8 transcript of the March 11th, '99.

9 **THE COMMISSIONER:** Exhibit 3495.

10 **--- EXHIBIT NO./PIÈCE NO. P-3495:**

11 (111256) - Transcript R. v. Charles
12 MacDonald Preliminary Inquiry dated 11 Mar
13 99

14 **MR. DUMAIS:** Document 111258, the transcript
15 of the March 25th, 1999 proceedings.

16 **THE COMMISSIONER:** Exhibit 3496.

17 **--- EXHIBIT NO./PIÈCE NO. P-3496:**

18 (111258) - Transcript R. v. Charles
19 MacDonald Preliminary Inquiry dated 25 Mar
20 99

21 **MR. DUMAIS:** And finally, R. v. Father
22 Charles MacDonald, the 2000 prelim, the last document,
23 111230, and that's the transcript of May 1st, 2000.

24 **THE COMMISSIONER:** Exhibit 3497.

25 **--- EXHIBIT NO./PIÈCE NO. P-3497:**

1 (111230) - Transcript R. v. Charles

2 MacDonald Trial dated 01 May 00

3 **MR. DUMAIS:** The next issue, Mr.

4 Commissioner, are a number of documents that had -- that
5 were in our database. Actually, five were in our database,
6 two were not. Mr. Lee is asking that these documents be
7 introduced in evidence, and I'll have him explain that
8 situation.

9 **MR. LEE:** Sir, these related to the evidence
10 of one of my clients, Catherine Sutherland ---

11 **THE COMMISSIONER:** Yes.

12 **MR. LEE:** --- who related to the
13 institutional response of the Children's Aid Society.

14 During her evidence she was asked -- she was
15 brought to a number of letters that she had written to
16 various CAS agencies, various government ministries, and in
17 some of those letters she referred to having sustained
18 injuries when she was quite young and having been treated
19 at a hospital in Winchester.

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

21 **MR. LEE:** Mr. Dumais asked her about those
22 and he went on to ask her at Volume 111 of the transcript,
23 page 28:

24 "And you've received a copy of those
25 records?"

1 And she answered:

2 "Yes, I did."

3 It was brought to my attention over the
4 weekend that those, for whatever reason, were never
5 entered, and I have -- I found that they had been produced
6 initially before my retainer by Ms. Sutherland. Five pages
7 of the document had made its way to the parties, but the
8 Disclosure 2, for whatever reason, had not. They have now
9 all been disclosed. They have all been given document
10 numbers.

11 I would propose that we enter the entire
12 group as one exhibit even though it's several document
13 numbers, and Mr. Chisholm has advised that I can say on the
14 record that the CAS is not opposed to my request.

15 **THE COMMISSIONER:** Thank you.

16 **MR. LEE:** And so, sir, I have one copy for
17 the Clerk. I'll read off the document numbers: 120938,
18 120939, 120940, 120941, 200362, 200363, 120942. And the
19 document, as Ms. Sutherland received it and disclosed to
20 the Commission is in that order.

21 **THE COMMISSIONER:** Thank you.

22 Exhibit Number 3498.

23 **--- EXHIBIT NO./PIÈCE NO. P-3498:**

24 (120938/120939/120940/120941/200362/200363/1
25 20942) - Documents re: Cathy Sutherland

1 admission Winchester Hospital Mar 97

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

3 **THE COMMISSIONER:** Thank you.

4 **MS. McINTOSH:** Mr. Commissioner, I neglected
5 to say, with respect to Exhibit 3483, the Notice of
6 Application, that there is a publication ban because C-16's
7 mother is named in that document.

8 **THE COMMISSIONER:** It's on it.

9 **MS. McINTOSH:** Thank you.

10 **THE COMMISSIONER:** All right. Are we done?

11 **MR. DUMAIS:** We're getting there.

12 The next issue, Mr. Commissioner, is there
13 are two documents that Mr. Neville proposes be entered.
14 The first document deals with C-4.

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

16 **MR. DUMAIS:** One document deals with C-4 and
17 one document deals with C-3. I understand that for C-4,
18 the document was in our database -- sorry, for -- the
19 document that deals with C-3 was in our database and had
20 not been filed when we filed the ODE. The other document
21 which relates to C-4 was not in our database, and C-4 did
22 testify and the document was actually made subsequent to
23 his giving evidence, but I'll let Mr. Neville explain that.

24 **THE COMMISSIONER:** All right.

25 So I don't have any great problems with the

1 ones that are in the database. So maybe we can go --
2 unless there's any objections to those?

3 **MR. NEVILLE:** Do you want me to deal with
4 those first, sir, for C-3?

5 **THE COMMISSIONER:** I don't need an
6 explanation. I just want to get them filed.

7 **MR. NEVILLE:** All right. Fair enough.
8 Just so you may know for the record, sir,
9 the document is as part of the ODE for C-3 because he did
10 not testify.

11 **THE COMMISSIONER:** Yes.

12 **MR. NEVILLE:** Two of the exhibits that went
13 in as part of that ODE were 433 and 434, which related to
14 C-3's application to the Criminal Injuries Compensation
15 Board.

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

17 **MR. NEVILLE:** Subsequently to that, we
18 received the ruling that the application was dismissed, and
19 that is the document.

20 **THE COMMISSIONER:** And when was the Notice
21 of Decision?

22 **MR. NEVILLE:** I'm sorry, sir?

23 **THE COMMISSIONER:** It was in our database,
24 right?

25 **MR. NEVILLE:** Yes. Well, it got into the

1 database because we gave it to the Commission after we
2 received it.

3 **THE COMMISSIONER:** What ---

4 **MR. NEVILLE:** It was after the start -- well
5 after the start of the Inquiry. I think it was in -- I
6 think it was October '07, I think. When we received it, we
7 sent it on because it was obviously -- it completed the
8 topic, so to speak.

9 **THE COMMISSIONER:** Well, wait a minute now.
10 So he didn't testify?

11 **MR. NEVILLE:** No.

12 **THE COMMISSIONER:** Okay. Okay.

13 **MR. NEVILLE:** And the second -- do you want
14 me to deal with the second one, sir?

15 **THE COMMISSIONER:** Well, let's just make
16 sure ---

17 **MR. NEVILLE:** It now has a number, so I
18 don't know whether that means it's in your database or not.

19 **THE COMMISSIONER:** I know.

20 **MR. NEVILLE:** If you need a document number
21 from ---

22 **THE COMMISSIONER:** No, I just need exhibit
23 numbers.

24 **MR. NEVILLE:** Okay.

25 **THE COMMISSIONER:** Madam Clerk, are you --

1 -

2 **MR. NEVILLE:** Seven four zero five nine six
3 (740596).

4 **THE COMMISSIONER:** You see, now we're
5 getting lost.

6 Three four nine nine (3499) is -- well, wait
7 a minute now. Madam Clerk, which Bates page -- which
8 Document Number is it? Okay. So Document 740596 will have
9 Exhibit Number 3499.

10 **--- EXHIBIT NO./PIÈCE NO. 3499:**

11 (740596) - CICB Dismissal re: C-3 dated 20
12 Feb 08

13 **THE COMMISSIONER:** Okay, gang, so where are
14 we now? All right.

15 So 3500 is a document -- Mr. Lee.

16 **MR. LEE:** I take no position on the first
17 document that's been marked relating to C-3.

18 I object to the introduction of the second
19 document relating to C-4, which I think is what you likely
20 have in your hands right now. It's a CICB application
21 dated 2008, I believe.

22 **THE COMMISSIONER:** Right.

23 **MR. LEE:** This relates to -- I guess I'll
24 jump the queue, I suppose. This relates to a witness who
25 has testified here, C-4. It's a CICB application he made

1 after his testimony, that given that it related to Father
2 MacDonald, was sent to Mr. Neville's firm.

3 **THE COMMISSIONER:** Right.

4 **MR. LEE:** I'm objecting on the basis of
5 relevance in that I see none whatsoever to this proceeding.

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

7 **MR. NEVILLE:** Well, perhaps to set the
8 chronology for you, Commissioner, C-4 testified on May 28th
9 and 29th, 2007.

10 **THE COMMISSIONER:** Right.

11 **MR. NEVILLE:** The volumes are 109 and 110.

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

13 **MR. NEVILLE:** In-chief with Mr. Dumais,
14 right near the end of his chief in Volume 109, on the 28th
15 of May 2007, C-4 was asked if he had ever subsequently
16 filed an application with the CICB and his answer was "No."

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

18 **MR. NEVILLE:** That topic was not touched in
19 any of the cross-examinations, sir, that took place the
20 following day, found in Volume 110.

21 **THE COMMISSIONER:** Right.

22 **MR. NEVILLE:** It now appears ---

23 **THE COMMISSIONER:** He testified when?

24 **MR. NEVILLE:** On May 28th and 29th, 2007.

25 **THE COMMISSIONER:** Right.

1 **MR. NEVILLE:** And the essence of his
2 evidence was that he had not applied to the CICB.

3 **THE COMMISSIONER:** Right.

4 **MR. NEVILLE:** It now would appear that he
5 did apply on the 30th of July 2007.

6 **THE COMMISSIONER:** Yes.

7 **MR. NEVILLE:** Right.

8 **THE COMMISSIONER:** So how is that relevant?

9 **MR. NEVILLE:** Well, I think it is relevant,
10 sir. If you rule that it's not ---

11 **THE COMMISSIONER:** Help me out; tell me how.
12 I mean ---

13 **MR. NEVILLE:** Well, it's relevant, sir,
14 because I presume he was asked the question -- he was also
15 asked if he commenced a civil action.

16 **THE COMMISSIONER:** Right.

17 **MR. NEVILLE:** And the answer to that was no.

18 **THE COMMISSIONER:** Right.

19 **MR. NEVILLE:** I presume the questions were
20 asked to show that in no sense was there any question of
21 interest in financial gain or any money, and within two
22 months he applies. Well, I would suggest it's of some
23 relevance, sir ---

24 **THE COMMISSIONER:** Thank you.

25 **MR. NEVILLE:** --- that Father MacDonald was

1 not ---

2 **THE COMMISSIONER:** It's not. Thank you.

3 **MR. NEVILLE:** --- notified until the next
4 year. We couldn't ask the man the question.

5 **THE COMMISSIONER:** No, I understand that.

6 **MR. NEVILLE:** Had he been served, had my
7 client been served perhaps shortly after he signed the
8 application, I may have sought his return to question him.

9 **THE COMMISSIONER:** No. Thank you. Anything
10 else?

11 **MR. DUMAIS:** One last issue. It's a CCR
12 issue, Mr. Commissioner. I understand he wishes to have
13 entered Document Number 742504. I'll let him explain that.

14 **MR. STRAWCZYNSKI:** Mr. Commissioner, this is
15 a letter that was distributed by the present bishop of the
16 Diocese. It's entitled, "Pastoral letter one year into the
17 Cornwall Inquiry, February 2007."

18 **THE COMMISSIONER:** Yes.

19 **MR. STRAWCZYNSKI:** It was not part of the
20 disclosure within the Diocese and we -- it was brought to
21 our attention subsequent to the bishop testifying.

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

23 **MR. STRAWCZYNSKI:** We believe that, on its
24 face, it deals with the continued institutional response by
25 the Diocese and is helpful in showing the community

1 responses.

2 **THE COMMISSIONER:** Have you spoken to the
3 Diocese about this?

4 **MR. STRAWCZYNSKI:** We have sent a letter
5 asking that this be added. They were "cc'd" on that
6 correspondence to Commission counsel.

7 **THE COMMISSIONER:** When?

8 **MR. STRAWCZYNSKI:** That would have been just
9 two days ago, sir. We didn't know that this opportunity
10 would be arising until recently, but it was added to
11 documents for counsel to review when we sent it in to the
12 Commission.

13 **THE COMMISSIONER:** Okay. Any objections?
14 Except for Mr. Callaghan's blanket objection?

15 So it's a public document. Are you sure we
16 haven't had this as an exhibit?

17 **MR. STRAWCZYNSKI:** We ascertained through
18 the Commission staff that it hasn't been entered.

19 **THE COMMISSIONER:** All right.

20 Exhibit 3500.

21 **---EXHIBIT NO./PIÈCE NO P-3500:**

22 (742504) - Pastoral Letter Diocese of
23 Alexandria Cornwall '1 Year into the
24 Cornwall Inquiry Feb 07

25 **MR. STRAWCZYNSKI:** Thank you.

1 **THE COMMISSIONER:** Thank you.

2 Maître Dumais?

3 **MR. DUMAIS:** These are all the issues, sir.

4 **THE COMMISSIONER:** Thank you.

5 So we'll adjourn until the first Monday of
6 the last week of June at -- of ---

7 **THE REGISTRAR:** February.

8 **THE COMMISSIONER:** --- of February, and
9 we're starting at 9:00, I believe.

10 I think the submissions were -- they've got
11 me on a schedule and we're starting at 9:00. In any event,
12 it'll be on the website. Please consult it or speak to Mr.
13 Dumais.

14 Thank you.

15 **MR. DUMAIS:** Thank you.

16 **THE REGISTRAR:** Order; all rise. A
17 l'ordre; veuillez vous lever.

18 This hearing is adjourned until Monday,
19 February 23rd at 9:00 a.m.

20 --- Upon adjourning at 6:04 p.m. /

21 L'audience adjournée à 18h04

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C E R T I F I C A T I O N

I, Dale Waterman a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Dale Waterman, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hauts sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Dale Waterman, CVR-CM