

**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 41**

**Held at :**

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

Tuesday, June 27, 2006

**Tenue à:**

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

Mardi, le 27 juin 2006

**Appearances/Comparutions**

Mr. Peter Engelmann	Lead Commission Counsel
Mr. Pierre R. Dumais M <sup>e</sup> Simon Ruel	Commission Counsel
Ms. Louise Mongeon	Registrar
Mr. Peter Manderville	Cornwall Police Service Board
Mr. Neil Kozloff Actg.Det.Supt. Colleen McQuade Ms. Suzanne Costom Ms. Gina Saccoccio Brannan, Q.C.	Ontario Provincial Police
Mr. David Rose Mr. Mike Lawless	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Judie Im	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee Ms. Lauren Schellenberger	Victims Group
Mr. David Bennett	The Men's Project
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Giuseppe Cipriano	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
Mr. Mark Wallace	Ontario Provincial Police Association
Ms. Nadya Tymochenko Ms. Nicola Simmons	Upper Canada District School Board

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1 --- Upon commencing at 10:20 a.m./

2 L'audience débute à 10h20

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 presiding. Please be seated. Veuillez vous  
8 asseoir.

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

11 **MR. ENGELMANN:** Good morning, Mr.  
12 Commissioner.

13 I want to start by apologizing to you and to  
14 the public and to counsel. Unfortunately, we've had some  
15 technical difficulties and our web cam service is not up.  
16 So those members of the public that have been following the  
17 hearing on a daily basis over the web cam will not be able  
18 to do so today and, for that, we are truly sorry. Again, I  
19 apologize for the delay in starting and we will take some  
20 steps to ensure this doesn't happen again.

21 **THE COMMISSIONER:** Terrific. Thank you.

22 **MR. ENGELMANN:** Sir, we have a number of  
23 matters to deal with today, but before doing so, I just  
24 want to introduce a couple of lawyers you haven't seen  
25 before. Nadya Tymochenko and Nicola Simmons are here from

1 the firm of Keel Cottrelle, and they're on for the Upper  
2 Canada District School Board. So you'll be hearing from  
3 them later, and they're just to my immediate right.

4 The fellow in the back who looks different,  
5 that's Mr. David Sherriff-Scott. If you don't recognize  
6 him, he's clean shaven this morning.

7 I think everyone else here is someone you  
8 know. So that's it for introductions. I just wanted to  
9 make sure you recognized that fellow in the back row.

10 We have, as I understand it, the decision on  
11 the Rule 31 motion ---

12 **THE COMMISSIONER:** Yes.

13 **MR. ENGELMANN:** --- that you're rendering  
14 this morning.

15 As well, I understand we have a decision  
16 from the Attorney General that we received just before 10  
17 o'clock this morning with respect to your funding  
18 suggestion.

19 Thirdly, we have the standing application  
20 from the Upper Canada District School Board.

21 Fourthly, we have a number of applications  
22 that are being made this morning by various parties with  
23 funding and they are seeking amendments to their funding  
24 orders, and those include, in this order, the Diocese, the  
25 CCR, Father MacDonald, the Victims Group and the Men's

1 Project, and perhaps they could just address it in that  
2 order. Those are the order upon which we received those  
3 applications.

4 Lastly, there are some disclosure issues  
5 that counsel have expressed an interest in further  
6 discussion, and that's the fifth matter that's on the list.

7 **RULING ON RULE 31:**

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

9 So number one on the list today is the  
10 ruling on the motion regarding Rule 31 of the Rules of  
11 Practice and Procedure.

12 So by way of introduction, the Cornwall  
13 Police Service Board and the Cornwall Community Police  
14 Service have brought a motion requesting an amendment to  
15 Rule 31 of the Rules of Practice and Procedure of the  
16 Cornwall Public Inquiry.

17 The applicant submitted that Rule 31, as  
18 drafted, contemplates the following:

19 "...requiring parties with standing to  
20 waive solicitor/client privilege in  
21 providing information and documentation  
22 to Commission counsel and disputes  
23 concerning solicitor/client privileged  
24 documentation to be resolved by the  
25 Commissioner."

1 Cornwall Police Service proposed that Rule  
2 31 be amended so that documents over which solicitor/client  
3 privilege is claimed need not be produced. Instead, claims  
4 of solicitor/client privilege would be assessed based on  
5 the list of documents. This list would be produced to  
6 Commission counsel who would review the list and decide  
7 whether it agreed with the claim. Should disputes arise  
8 between Commission counsel and the party concerning the  
9 privileged nature of documents, Cornwall Police Service  
10 proposed that a judge in the Superior Court of Justice  
11 would resolve such disputes.

12 In its view, the Commissioner lacks the  
13 power to determine solicitor/client privileged claims.  
14 Based on this proposal, neither Commission counsel nor the  
15 Commissioner would ever view the disputed documents.

16 The Episcopal Corporation of the Diocese of  
17 Alexandria, hereinafter referred to as the Diocese, filed  
18 submissions in support of the motion of the Cornwall Police  
19 Service. The Diocese proposes a similar but slightly  
20 different process to deal with privilege. The process  
21 proposed by the Diocese also envisaged that privilege would  
22 be assessed based on a list of documents. The list,  
23 however, would include a limited description of the basis  
24 for the claim of privilege.

25 Should, upon its review of the list,

1 Commission counsel be of the view that a particular claim  
2 of privilege is not warranted, the party would be entitled  
3 to file further material such as an affidavit.

4 Should Commission counsel still be unable to  
5 resolve the claim of privilege, a judge of the Superior  
6 Court of Justice would resolve the dispute.

7 As with the Cornwall Police Service, the  
8 Diocese was of the view that the Commissioner did not have  
9 the power to determine solicitor/client privileged claims.

10 Commission counsel filed written submissions  
11 opposing the motion. Commission counsel did not dispute  
12 that documents that are genuinely solicitor/client  
13 privilege ought not to be admissible in evidence at the  
14 inquiry. The position of Commission counsel was that Rule  
15 31 provides a screening mechanism by which the Commission  
16 can effectively and efficiently address all claims of  
17 privilege, including claims of solicitor/client privilege.

18 Commission counsel's alternative argument  
19 was that a process similar to that proposed by the Diocese  
20 be implemented. The distinction would be the inclusion of  
21 a pre-screening step prior to a disputed claim of privilege  
22 being sent for resolution.

23 On June 15<sup>th</sup>, 2006, I heard oral arguments  
24 from counsel acting for the Cornwall Police Service, the  
25 Diocese and from Commission counsel. At the outset, I will

1 set out some provisions that provide a framework for the  
2 analysis of this issue.

3 Pursuant to the Order in Council  
4 establishing this Commission, I must inquire into and  
5 report on the institutional response of the justice system  
6 in other public institutions, including the interaction of  
7 that response with other public and community sectors in  
8 relation to allegations of historical abuse of young people  
9 in the Cornwall area.

10 In doing so, I must examine the policies and  
11 practices then in place to respond to such allegations, as  
12 well as the creation and development of policies and  
13 practices designed to improve the response to allegations  
14 of abuse. I'm required to do so in order to make  
15 recommendations directed towards the further improvement of  
16 the response.

17 Additionally, I must inquire into and report  
18 on processes, services or programs that would encourage  
19 community healing and reconciliation in Cornwall.

20 This Commission, like others, has a fact-  
21 finding and investigative function. This is evident from a  
22 review of the Order in Council.

23 To help fulfill this fact-finding function,  
24 the *Public Inquiries Act* provides broad powers to summonsed  
25 persons and documents.

1                    Subsection (1) of section 7 of the *Public*  
2                    *Inquiries Act* provides commissions of inquiry with the  
3                    power to compel by summons and persons to give evidence on  
4                    oath or affirmation and to produce in evidence at an  
5                    inquiry such documents and things as the Commission may  
6                    specific relevant to the subject matter of the inquiry and  
7                    not inadmissible in evidence at the inquiry under section  
8                    11.

9                    Section 11 of the *Public Inquiries Act*  
10                    provides that nothing is admissible in evidence at an  
11                    inquiry that would be inadmissible in a court by reason of  
12                    any privilege under the Law of Evidence.

13                    Pursuant to section 3 of the *Public*  
14                    *Inquiries Act*, the conduct of an inquiry is under the  
15                    control and direction of the Commission conducting the  
16                    inquiry. It is pursuant to this section that the  
17                    Commission issued the Rules of Practice and Procedure of  
18                    the Cornwall Public Inquiry.

19                    Rule 31, the rule at issue in this motion,  
20                    provides as follows:

21                    "The Commission expects all relevant  
22                    documents to be produced to the  
23                    Commission by any party with standing  
24                    where the documents are in the  
25                    possession, control or power of the

1 party.

2 Where a party objects to the production  
3 of any document on the grounds of  
4 privilege, the document shall be  
5 produced in its original, unedited form  
6 to Commission counsel, who will review  
7 and determine the validity of the  
8 claim. The party and/or that party's  
9 counsel may be present during the  
10 review process. In the event that the  
11 party claiming privilege disagrees with  
12 Commission counsel's determination, the  
13 Commissioner, on the application, may  
14 either inspect the impugned document  
15 and make a ruling or may direct that  
16 the issue be resolved by a judge  
17 assigned by the Chief Justice of the  
18 Superior Court."

19 Accordingly, pursuant to the Rules as  
20 drafted, I have the power to order production to Commission  
21 counsel documents over which solicitor/client privilege is  
22 claimed.

23 The Rule outlines what is, in essence, a  
24 screening process for privileged documents. If the party  
25 who produced the document or documents disagrees with

1 Commission counsel's assessment as to privilege, I may  
2 inspect the impugned document and make a ruling or I may  
3 refer the matter to a judge assigned by the Chief Justice  
4 of the Superior Court of Justice.

5 Now, the Cornwall Public Police Services and  
6 the Diocese disagrees with this process.

7 Let me begin by saying that there is no  
8 dispute between the parties about the significance of  
9 solicitor/client privilege and the important role that it  
10 plays in the Canadian legal framework.

11 Cornwall Police Services argued that Rule 31  
12 seeks to compel the production of documents that are  
13 properly subject to solicitor/client privilege.

14 In support of its submission, counsel for  
15 the Cornwall Police Services introduced a number of cases  
16 that discussed the special nature of solicitor/client  
17 privilege and the principle that solicitor/client privilege  
18 must only be impaired if necessary and, even then,  
19 minimally.

20 According to the Cornwall Police Services,  
21 compliance with Rule 31 amounts to more than a minimal  
22 impairment of the privilege and an impairment that is  
23 unnecessary. The Diocese agreed with this submission.

24 In my view, it is important to start from  
25 the premise that to give effect to section 7 and 11 of the

1        *Public Inquiries Act*, the Commission must have the power to  
2        assess and determine privileged claims.

3                        That section 3 of the *Public Inquiries Act*,  
4        which has been interpreted broadly by the courts, provides  
5        that the conduct of and the procedure to be followed in an  
6        inquiry is under the control and the direction of the  
7        Commission and it serves to further support the fact that a  
8        Commission may put in place procedures to assess privileged  
9        claims.

10                      In fact, in order to achieve its mandate and  
11        fulfill its fact-finding function, the Commission must have  
12        the power to make decisions regarding the admissibility of  
13        evidence in its proceedings. Rule 31 is the process that  
14        will assist in this regard.

15                      I disagree with the Cornwall Police  
16        Services' argument that section 7 and 11 of the *Public*  
17        *Inquiries Act* militate against the production of  
18        solicitor/client privileged documents in a screening  
19        process such as that contemplated by Rule 31. These  
20        provisions more appropriately pertain to producing  
21        documents in evidence in the inquiry hearings. It is not  
22        intended that privileged documents would be produced in  
23        inquiry hearings.

24                      The issues surrounding the determination  
25        claims of solicitor/client privilege by a commission of

1 inquiry have been previously considered by the Divisional  
2 Court. In *Lyons v. Toronto Computer Leasing Inquiry*, the  
3 Bellamy Commission put in place a process similar to Rule  
4 31 process whereby Commission counsel would perform an  
5 initial screening process for privileged claims.

6 The distinction between that process and the  
7 Rule 31 process was the original Senior Justice for Toronto  
8 or his designate would assess claims that could not be  
9 resolved between Commission counsel and the party. The  
10 court held the procedure that involved Commission counsel  
11 screening documents in respect of privilege, as well as  
12 confirming that the Commissioner had the power to determine  
13 whether documents are privileged and, therefore,  
14 inadmissible in Commission hearings.

15 The Cornwall Police Services attempted to  
16 distinguish the Lyons case from the present situation based  
17 upon the facts.

18 While I agree that the facts may be  
19 different in some respects, I believe this case is  
20 instructive as the core principles remain the same.

21 It is also of note that the review process  
22 contemplated by Rule 31 is very similar to the process that  
23 has been used in other inquiries, such as Walkerton and  
24 Ipperwash. While not set out in the Rules of Practice and  
25 Procedure of the Walkerton Inquiry, this inquiry

1 implemented a process whereby Commission counsel would  
2 review government documents, including those that could be  
3 subject to Cabinet privilege. If a dispute arose between  
4 Commission counsel and the government, a hearing was held  
5 before a judge who determined the claim. While the details  
6 of this process are not exactly the same as that set out in  
7 Rule 31, it is at least an implicit recognition of the  
8 jurisdiction of the Commission to perform a preliminary  
9 screening role.

10 As well, Rule 31 is almost identical to the  
11 process provided for in Rule 32 of the Rules of Practice  
12 and Procedure of the Ipperwash Inquiry. The only  
13 difference between the two is that the Ipperwash Inquiry  
14 Rules provided that the Commissioner may rule on disputed  
15 privileged claims or direct them to be resolved by the  
16 regional senior judge in Toronto or his designee. This  
17 rule has not been challenged in the context of that  
18 inquiry. In the course of a ruling on a motion requesting  
19 the setting aside of a summons, however, Commissioner  
20 Linden adopted the reasoning of the Divisional Court in  
21 *Lyons* in respect of its approval of the review process in  
22 place in the Toronto Computer Leasing Inquiry.

23 Now, the Cornwall Police Service and the  
24 Diocese argue that providing documents to Commission  
25 counsel would amount to a waiver of privilege. In my view,

1 privilege is not waived by virtue of the pre-screening  
2 process contemplated by Rule 31. In *Lyons*, the Divisional  
3 Court found that when Commission counsel reviewed the  
4 documents in question in the pre-screening stage it was  
5 doing so on the Commissioner's behalf. The Commissioner  
6 was set to have deputized Commission counsel to perform  
7 this role.

8 Acting as the alter-ego of the Commissioner,  
9 it cannot be said that privilege is waived when Commission  
10 counsel views the documents in question. In my view, the  
11 requirement to produce privileged documents pursuant to  
12 Rule 31 does not result in a breach of solicitor/client nor  
13 is there any waiver when the documents are produced.

14 The review process by Commission counsel is  
15 simply a pre-screening process that enables the Commission  
16 to effectively and efficiently attempt to resolve disputes  
17 concerning privilege. This pre-screening process can also  
18 be said to minimally impair privilege as does my ability to  
19 refer a disputed claim to a judge of the Superior Court of  
20 Justice should I view it to be appropriate in the  
21 circumstances.

22 I am mindful of the principle that  
23 solicitor/client privilege must only be impaired if  
24 necessary, and even then, minimally. The minimal  
25 impairment that may result by way of Rule 31 process is

1 necessary.

2 In my view, the fact-finding role of a  
3 commission of inquiry, which is quite distinct from that of  
4 a civil and criminal proceeding, gives the commission the  
5 responsibility to thoroughly investigate matters within the  
6 terms of its mandate.

7 Thorough investigation, in some cases, may  
8 mean that a commission of inquiry cannot take certain  
9 information at face-value. It must inquire. In this case,  
10 I view it to be necessary for the Commission to satisfy  
11 itself that the materials claimed to be solicitor/client  
12 privilege are indeed so.

13 I believe that the list process and  
14 variations of it proposed by the Cornwall Police Service  
15 and the Diocese in its alternative argument -- I'm sorry --  
16 I believe that the list process and variations of it  
17 proposed by the Cornwall Police Service, the Diocese and,  
18 in its alternative argument, Commission counsel, has a  
19 number of flaws.

20 First, it would quite possibly create an  
21 unnecessary protracted and costly process for dealing with  
22 privileged claims. Second, it is in an inquiry such as the  
23 present that may involve allegations such as institutional  
24 cover-up, secrecy or conspiracy, amongst others,  
25 transparency and openness is important. I must be clear

1           that this is not to suggest any lack of integrity on the  
2           part of counsel for any of the parties, Commission counsel  
3           or the parties themselves.

4                       Counsel for the parties and the Commission  
5           are officers of the court and as a result are obliged not  
6           to mislead the court or, in this case, the inquiry. It is  
7           simply to say that a process whereby the documents  
8           themselves rather than a list of documents can be viewed is  
9           inherently more transparent.

10                      As I have emphasized previously, one of my  
11           objectives is to attempt to ensure that this inquiry is  
12           efficient, fair, open and transparent; essential qualities  
13           to any inquiry.

14                      After the pre-screening stage by Commission  
15           counsel, section 31 next provides that if a party claiming  
16           privilege disagrees with Commission counsel's  
17           determination, upon application I may either inspect the  
18           impugned documents or make a ruling or direct the issue to  
19           be resolved by a judge assigned by the Chief Justice of the  
20           Superior Court.

21                      Both counsel for the Cornwall Police Service  
22           and the Diocese submitted that I do not have the power to  
23           determine privileged claims and instead the judge of the  
24           Superior Court of Justice must do so.

25                      In his oral argument counsel for the

1 Cornwall Police Service submitted that because I was  
2 appointed through a provincial Order in Council through the  
3 auspices of the *Public Inquiries Act* the Commission is  
4 acting as a delegate of the executive branch of the  
5 provincial government and not the judicial branch. Based  
6 on this argument it was submitted that, as Commissioner, I  
7 could not determine issues of privilege. I disagree with  
8 this argument.

9 Counsel attempted to further support this  
10 argument based upon the processes used in other inquiries  
11 such as the Driskell Inquiry. Given that the Driskell  
12 Inquiry was established pursuant to the *Manitoba Evidence*  
13 *Act*, this example is not of much assistance. In that  
14 inquiry, given the different legislative scheme, the  
15 commission had no recourse but to apply to the Manitoba  
16 Court of Queen's Bench to determine privileged claims.

17 The process used for the resolution of  
18 disputes in the Toronto Computer Leasing Inquiry is also  
19 not determinative as that inquiry was established pursuant  
20 to the *Municipal Act* which required the Commissioner to be  
21 a judge of the Superior Court of Justice. *The Public*  
22 *Inquiries Act* does not require a commissioner to be a judge  
23 in the Superior Court of Justice.

24 A commission of inquiry does not have  
25 inherent jurisdiction. In this case, the powers of the

1 Commission are found in the *Public Inquiries Act*. In my  
2 view, this Act provides the authority for me to determine  
3 privileged claims. This authority is inherent in section  
4 3, 7 and 11 of the *Public Inquiries Act* which I previously  
5 discussed.

6 I should note that Rule 31 provides that I  
7 may inspect the impugned documents and make a ruling or I  
8 may direct the issue to be resolved by a judge assigned by  
9 the Chief Justice of the Superior Court of Justice.

10 I will make this assessment as to whether to  
11 refer a disputed claim on a case-by-case basis. I will  
12 consider the views of the party and the Commission counsel  
13 on the issue of whether it would be more appropriate for me  
14 to refer the dispute or to decide it by myself.

15 An additional argument made by the Cornwall  
16 Police Service in support of this motion that Rule 31 ought  
17 to be amended, concerned the view that potential harm to  
18 the perception of the Commissioner's and Commission  
19 counsel's objectivity could likely result if parties are  
20 required to produce solicitor/client privileged documents,  
21 particularly in the context of the issuance of notices of  
22 potential findings of misconduct pursuant to section 5.2 of  
23 the *Public Inquiries Act*.

24 In particular, the concern of the Cornwall  
25 Police Service was that an inference could be drawn that

1 the notices were issued partly as a result of reviewing the  
2 solicitor/client privileged communications.

3 First, I would point out that the Divisional  
4 Court in *Lyons* noted that it would be wrong to characterize  
5 Commission counsel as an agent of the state who is in an  
6 adversarial position analogous to the Crown prosecutor. I  
7 agree with that statement. The very nature of Commission  
8 counsel's role in a public inquiry requires Commission  
9 counsel to be independent, partial and objective.

10 While I acknowledge the concerns of the  
11 Cornwall Police Service they are, in my view, in this  
12 matter, unjustified. Our legal system accepts that our  
13 courts and tribunals can disabuse themselves of evidence  
14 that they have reviewed for the purposes of determining  
15 admissibility.

16 In a trial process judges are commonly  
17 required to rule on the admissibility of evidence that they  
18 must hear or review prior to excluding it. As judicial  
19 officers it is their obligation to disregard any evidence  
20 that is deemed to be inadmissible. Furthermore, it is  
21 incumbent upon them to render their rulings based solely  
22 upon the evidence that is in the record.

23 In my view, the same principles hold true  
24 for Commission counsel acting as my delegate in performing  
25 a pre-screening function. It is incumbent upon them, as it

1 is upon me, to disregard evidence that is inadmissible. If  
2 at the pre-screening stage documents are determined to be  
3 privileged, Commission counsel will not divulge the  
4 existence or contents of these documents, particularly not  
5 to me. Accordingly, I will have no knowledge of privileged  
6 documents viewed by them when I issue, and if I issue,  
7 section 5.2 notices.

8 It is also important to emphasize that  
9 notices of misconduct are issued confidentially. As the  
10 Supreme Court of Canada explained in respect of the Krever  
11 Commission the purpose of issuing notices of misconduct is  
12 simply to allow the parties to respond to any possible  
13 findings of misconduct. They are not findings of  
14 misconduct.

15 As for actual findings of misconduct,  
16 subsection 5.2 of the *Public Inquiries Act* makes it clear  
17 that I may make no findings of misconduct against any  
18 person in my report unless it is based on evidence before  
19 the inquiry. The fact that privileged and, therefore,  
20 inadmissible documents may have been seen by Commission  
21 counsel -- by the Commission, pursuant to Rule 31 can have  
22 no bearing on any finding of misconduct that I may make in  
23 my report.

24 Given the foregoing, I do not accept the  
25 argument that the objectivity of the Commission or its

1 counsel can be harmed as a result of Rule 31 process.

2 In their written submissions, the Cornwall  
3 Police Service stated that Rule 31 violates principles of  
4 fundamental justice and procedural fairness and constitutes  
5 an unreasonable search and seizure within the meaning of  
6 the Charter. This argument was not strenuously asserted  
7 and I am of the view that the Charter is not engaged in  
8 this case.

9 In conclusion, therefore, it is my view that  
10 the rule as drafted should stand. The public inquiry and  
11 disputes arising within it should be dealt with in an open,  
12 transparent, efficient and timely manner.

13 While I appreciate the concerns expressed by  
14 counsel for the Cornwall Police Service and the Diocese and  
15 the interests of their clients, I am of the view that Rule  
16 31 process addresses privileged claims in this manner with  
17 only minimal encroachment on privilege. It must be borne  
18 in mind that this is a screening process only and documents  
19 determined to be privileged will not and cannot be entered  
20 into evidence according with the *Public Inquiries Act*.

21 The alternate processes proposed of  
22 referring all disputes to a judge of the Superior Court of  
23 Justice would surely lengthen the time required to resolve  
24 disputes concerning privilege and would slow down the  
25 process of this inquiry.

1                   Accordingly, documents over which the  
2 Cornwall Police Service claims privilege should be produced  
3 to Commission counsel in accordance with Rule 31 by no  
4 later than July 29<sup>th</sup> (sic), 2006. Commission counsel will  
5 review the documents in accordance with Rule 31 procedure.

6                   Documents that Commission counsel agrees are  
7 privileged will be returned to counsel for the Community  
8 Police Service. If a disagreement arises with respect to  
9 the assessment of privilege, upon application I will make a  
10 determination as to whether I will resolve the dispute or  
11 refer it to a judge of the Superior Court.

12                   If there are any documents over which the  
13 Diocese claims privilege, they should, too, also be  
14 produced to Commission counsel in accordance with Rule 31  
15 by no later than July 19<sup>th</sup>, 2006.

16                   Given the foregoing, the motion is therefore  
17 dismissed.

18                   Thank you.

19                   Mr. Engelmann.

20                   **MR. ENGELMANN:** Mr. Commissioner, I just  
21 noted at the end, the Diocese was given until July 19<sup>th</sup> and  
22 the Cornwall Police Service July 29<sup>th</sup>.

23                   **THE COMMISSIONER:** Oh! It might be a typo.  
24 No, I read it should be July 19<sup>th</sup> for both.

25                   **MR. ENGELMANN:** For both. Okay.

1                   **THE COMMISSIONER:** Yes.

2                   **MR. ENGELMANN:** Thank you.

3                   **THE COMMISSIONER:** Sorry.

4                   **MR. ENGELMANN:** I understand you would have  
5 received a letter.

6                   **THE COMMISSIONER:** Right.

7                   **MR. ENGELMANN:** I don't believe there's any  
8 need to make that document an exhibit because, in effect,  
9 it's a form of a decision.

10                   **THE COMMISSIONER:** Exactly.

11                   **MR. ENGELMANN:** It has been distributed to  
12 counsel but I leave it with you.

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

14                   No, I think what I'll do is I'll read the  
15 letter from -- parts of the letter from Mark Leach who is  
16 the Assistant Deputy Attorney General. We have it on the  
17 document, in any case. I don't know if the web cast is up  
18 yet.

19                   **THE REGISTRAR:** It is.

20                   **THE COMMISSIONER:** It is? All right.

21                   And so, just to recap, there was a motion  
22 brought by Father MacDonald for funding of his appeal or  
23 his application for judicial review. In my ruling, I have  
24 indicated that I did not think that I had the same type of  
25 jurisdiction to recommend funding as I did under the

1 standing applications and that under exceptional  
2 circumstances, mostly on the basis of eliminating any  
3 further delay, I made a suggestion to the Attorney General  
4 that he may consider funding on this very exceptional  
5 circumstance.

6 Again, I had indicated that July 13<sup>th</sup> was the  
7 date that was available to the Divisional Court and I fully  
8 expected people and funding to be dependent on that date.  
9 Accordingly, the letter reads that -- addressed to myself  
10 -- that:

11 "I am responding to your oral Ruling on  
12 June 6, 2006, and written reasons of  
13 June 13, 2006, regarding this very  
14 unusual situation and your suggestion  
15 that public funding be provided to  
16 certain parties in order to bring a  
17 judicial review of your decision  
18 permitting alleged victims of abuse to  
19 testify at the Cornwall Public Inquiry.  
20 Historically, the Ontario Government  
21 has not provided funding for  
22 application for judicial review of this  
23 nature. This is in keeping with the *de*  
24 *facto* practice across Canada. It also  
25 accords with the first written

1 precedent that Ontario officials have  
2 been able to identify, namely the  
3 funding guidelines for the Milgard  
4 Inquiry in Saskatchewan.

5 Ontario has a similar and  
6 longstanding practice in relation to  
7 Coroner's Inquest and other proceedings  
8 with a public flavour such as hearings  
9 before the Ontario Civilian Commission  
10 on Public Services. Nonetheless, in  
11 this instance, the Ministry is prepared  
12 to accede to your suggestion that  
13 public funding be provided for an  
14 application for judicial review before  
15 the Divisional Court. Your specific  
16 findings as Commissioner that the  
17 matter is essential to the mandate of  
18 this Inquiry and your conclusion that  
19 the importance of the issues raised  
20 makes public funding appropriate in  
21 this instance constitute an  
22 extraordinary circumstance warranting  
23 an extraordinary response. In this  
24 regard, we note your expressed caveat  
25 that this is an exceptional ruling

1 which should not be viewed as a  
2 precedent for further applications of  
3 that nature.

4 The terms of the Ministry's *ex*  
5 *gratia* offer of funding are outlined in  
6 the attached appendix. We also noted  
7 and have taken under advisement your  
8 broader suggestion regarding a process  
9 for considering funding for extra  
10 inquiry proceedings."

11 Now, there's an attached appendix and I won't go through  
12 that, but what it does do is note that funding is:

13 "...contingent upon the application for  
14 judicial review being argued in  
15 Divisional Court on July 13, 2006, or  
16 such other date as agreed to by the  
17 Commission or as directed by the  
18 Divisional Court."

19 And I am of the view that, unless I can be persuaded  
20 otherwise, that the matter should proceed on July 13th. And I  
21 say that because the reason -- one of the essential reasons  
22 was that the date should be dealt with during the summer  
23 months, so that it would not in any way impede with the  
24 calling of evidence starting in September.

25 In any event, the letter is there and I am

1           sure there will be some discussion at the break and if  
2           there are any concerns, they can address me with respect to  
3           this matter.

4                     All right. So that's number two.

5                     **MR. ENGELMANN:** Sir, just for the record, I  
6           believe the letter may be mistaken with respect to those  
7           dates. If memory serves me, your oral Ruling was on June  
8           15th with written reasons following on the 19th. I just  
9           wanted to point that out for the record.

10                    **THE COMMISSIONER:** Great.

11                    **MR. ENGELMANN:** I think Mr. Leach may be  
12           mistaken on that point.

13                    **THE COMMISSIONER:** Thank you.

14                    **MR. ENGELMANN:** The next matter we have is  
15           we have a Standing Application from the Upper Canada  
16           District School Board.

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

18                    **MR. ENGELMANN:** Counsel is here, Miss  
19           Tymochenko. Just before she starts, we had materials filed  
20           with the Commission and, sir, I don't know if you have a  
21           copy before you.

22                    **THE COMMISSIONER:** Not yet.

23                    **MR. ENGELMANN:** I am looking for a document  
24           which should be entitled "Application of the Upper Canada  
25           District School Board Seeking Standing in the Cornwall

1 Public Inquiry".

2 **THE COMMISSIONER:** Yes.

3 **MR. ENGELMANN:** It's, in effect, some  
4 written submissions. They are now on the screen, and I'm  
5 wondering if they could be made Exhibits 45 of our record.

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

7 Thank you.

8 --- **EXHIBIT NO./PIÈCE No 4.5:**

9 Application by the Upper Canada  
10 District School Board Seeking Standing  
11 in the Cornwall Public Inquiry

12 **MR. ENGELMANN:** All right. And I will turn  
13 the floor over.

14 **THE COMMISSIONER:** Thank you.

15 Good morning again.

16 **SUBMISSION BY/REPRÉSENTATION PAR MS. TYMOCHENKO:**

17 **MS. TYMOCHENKO:** Good morning, Mr.  
18 Commissioner. My name is Nadya Tymochenko.

19 **THE COMMISSIONER:** Yes.

20 **MS. TYMOCHENKO:** On behalf of the Upper  
21 Canada District School Board. We are here to seek full-  
22 standing for Part 1 and Part 2 of the Inquiry, but limited  
23 to those issues that would directly impact and affect our  
24 interests.

25 We seek standing with respect to the Order

1 in Council regarding institutional response of public  
2 institutions in relation to the allegations of historical  
3 abuse of young people in the Cornwall area, including  
4 policies and practices then in place to respond to such  
5 allegations in the creation and development of policies and  
6 practices that were designed to improve the response to the  
7 allegations of abuse, as they would apply to publicly  
8 funded educational institutions.

9 We also seek standing to make  
10 recommendations with respect to further improvement of the  
11 response of public institutions and, specifically, publicly  
12 funded educational institutions.

13 We are wholly funded by the Ministry of  
14 Education and as an institution governed by the *Education*  
15 *Act, Regulations, Ministry Policy Guidelines and Standards,*  
16 it is our purpose to provide resident pupils of compulsory  
17 school age with education.

18 The jurisdiction of the Upper Canada  
19 District School Board includes the Stormont, Dundas,  
20 Glengarry Counties. We are an amalgamated board of several  
21 boards under the *Fewer School Boards Act* of 1998 and  
22 includes the Cornwall area.

23 The School Board as a common law and both --  
24 and a statutory duty of care to students. We stand in  
25 local parentage when they are under our care. We also have

1 duties to report children in need of protection. And we  
2 would argue that we are directly and substantially affected  
3 by Part 1 of the Inquiry. We have policies and procedures  
4 and we have been asked to provide the Commission with  
5 information regarding policies and procedures regarding  
6 allegations of abuse. We also have staff and students who  
7 have been directly impacted. And we think we can provide a  
8 unique perspective from an educational institution.

9 With respect to Part 2 of the Inquiry, we  
10 would argue that the creation and development of  
11 educational programs and/or policies necessarily include  
12 school boards as we have a duty to educate some 34,000  
13 students in the Cornwall area and our larger of  
14 jurisdiction. We certainly have a significant role in  
15 educating the community as well as its children.

16 We don't feel that our application would  
17 prejudice the Inquiry at this point, given its limited  
18 nature to the way in which it would impact on educational  
19 institutions. We don't feel that there is any prejudice to  
20 the parties. We haven't sought funding, and we are  
21 limiting our participation.

22 **THE COMMISSIONER:** All right.

23 Can I ask you a couple of questions?

24 **MS. TYMOCHENKO:** Of course.

25 **THE COMMISSIONER:** All right.

1                   We've heard the word 'delay' a lot  
2 throughout all of this, and I want to make sure that, if in  
3 considering providing the standing, we would need to make  
4 sure that you get up to speed fairly quickly, and one of  
5 those things would be in giving us a corporate  
6 presentation.

7                   **MS. TYMOCHENKO:** M'hm.

8                   **THE COMMISSIONER:** And I have indicated that  
9 what we'd want to do is have that done in August sometime.

10                  **MS. TYMOCHENKO:** M'hm.

11                  **THE COMMISSIONER:** So how do you feel about  
12 that?

13                  **MS. TYMOCHENKO:** We will do what we need to  
14 do in order to make that possible for you.

15                  **THE COMMISSIONER:** I like that answer.

16                                   **(LAUGHTER)**

17                  **THE COMMISSIONER:** Yes, please, make note of  
18 that, ladies and gentlemen who have been before.

19                                   Very well.

20                                   And with respect to disclosure of documents,  
21 I take it that you have been reviewing your files and ---

22                  **MS. TYMOCHENKO:** We are still in the process  
23 of reviewing files.

24                  **THE COMMISSIONER:** So are many others.

25                                   But what kind of -- how quickly do you think

1           you can get that disclosure?

2                       **MS. TYMOCHENKO:** With respect to the  
3           historical documents, it may be the beginning of September,  
4           but I'm hopeful that we can do that before then.

5                       **THE COMMISSIONER:** All right. And so what I  
6           would be looking for is a communication as to how you are  
7           progressing and that kind of thing.

8                       **MS. TYMOCHENKO:** Yes. Certainly.

9                       **THE COMMISSIONER:** All right. Thank you.  
10           Anything else you want?

11                      **MS. TYMOCHENKO:** No.

12                      Any other questions?

13                      **THE COMMISSIONER:** Not from me.

14                      Thank you.

15                      **MS. TYMOCHENKO:** Okay. Thank you.

16                      **THE COMMISSIONER:** Any comments or questions  
17           from -- I suppose I should open the floor because people  
18           now have standing, have a right to comment, I guess. So  
19           does anyone have any comments with respect to this  
20           application?

21                      All right. Thank you.

22                      So we will get back to you after the break,  
23           whether I am in a position to decide or give you a date as  
24           to when that will be done.

25                      **MR. ENGELMANN:** Mr. Commissioner, we now

1 have a number of parties that are seeking amendments to  
2 their original funding orders.

3 The first is the Diocese and you should have  
4 an Application to Amend Funding that is in letter form. It  
5 is coming up on the screen in a moment, and if we could  
6 have that document marked as Exhibit 10.7 for the record.  
7 Mr. Sherriff-Scott is here to speak to it.

8 --- **EXHIBIT NO./PIÈCE No 10.7:**

9 Letter dated June 23 to Mr. Peter Engelmann re  
10 Additional Funding presented by Mr. David  
11 Sherriff-Scott

12 **THE COMMISSIONER:** I don't know that I have  
13 it. Oh! Here it is.

14 **SUBMISSION BY/REPRÉSENTATION PAR MR. SHERRIFF-SCOTT:**

15 **MR. SHERRIFF-SCOTT:** Good morning,  
16 Commissioner.

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

18 **MR. SHERRIFF-SCOTT:** Just by way of a brief  
19 digression to update you on the subject of the Diocese and  
20 disclosure ---

21 **THE COMMISSIONER:** Right.

22 **MR. SHERRIFF-SCOTT:** --- our disclosure is  
23 complete, subject to your ruling on privilege; our  
24 materials will be here at the Commission today. They are  
25 being couriered from Ottawa and were sent out last night,

1       which exhaust our disclosure. We can certify that with  
2       your counsel. We have also provided the kind of list on  
3       the privileged documents that we had previously suggested  
4       prior to your ruling and will take up the question of the  
5       management of the paper on the privileged material with  
6       your counsel also. But our disclosure subject to those  
7       cautions is complete.

8                       **THE COMMISSIONER:** Thank you.

9                       **MR. SHERRIFF-SCOTT:** The brief letter that I  
10       sent to your counsel dated the 23rd was preceded by another  
11       one, which I needn't call up. I would just say that the  
12       things that we need are essentially summarized one, two,  
13       three and four; paralegal, I think that the document  
14       management problems and complexities are fairly self-  
15       evident to you. You no doubt are aware of the volume of  
16       paper and so from the point of view of efficiency and, I  
17       would submit reduction of cost, a paralegal would be an  
18       appropriate management resource for us, rather than having  
19       Mr. Ducasse or myself at more senior rates deal with those  
20       issues.

21                      The second point, when I talk about a  
22       paralegal for information management, what I would suggest  
23       is this: At our office, we have a team of paralegals, but  
24       only one who is the information management specialist on  
25       the IT side. She is the person that interfaces with

1 Commission IT personnel and her role on the document  
2 management side is exclusively limited to information  
3 management issues as opposed to, you know, more generic  
4 paralegal functions.

5 Unfortunatly, we don't marry the functions  
6 all in one person, and so I would make that suggestion  
7 simply so we can have appropriate communications with the  
8 Commission. And if you are disposed to recommend it, you  
9 can recommended it as narrowly as you see fit in order to  
10 ensure that that person doesn't duplicate the other  
11 person's functions, strictly for information technology  
12 purposes, scanning, compatibility with Commission  
13 technology and documents and so forth. And we've had that  
14 person involved in an attempt to streamline our production  
15 with the Commission's needs.

16 Those are my points on the paralegal  
17 resource. A junior associate, I would suggest, we need  
18 from the point of view of research and other low-level  
19 lawyering functions that are more appropriate to the  
20 efficiencies at those rates, and I only suggest the latter  
21 instance because there will be times when I may not be  
22 available and the task at hand is more appropriate to a  
23 senior lawyer. The case in point was we believe that the  
24 publication ban motion had to be argued before you and my  
25 colleague, Mr. Scott, appeared when I was on a peremptory

1 for the set date before the Federal Court on the judicial  
2 review.

3 Unless you have any questions, those are my  
4 submissions.

5 **THE COMMISSIONER:** Well, I don't understand  
6 the extra senior lawyer. I mean if one lawyer is coming at  
7 a time, it doesn't matter who it is.

8 **MR. SHERRIFF-SCOTT:** Not according to Mr.  
9 Bannack.

10 **THE COMMISSIONER:** Really?

11 **MR. SHERRIFF-SCOTT:** Yes. Mr. Bannack's  
12 view, according to what I've read and had discussed with  
13 him, is that if your name isn't on it, then you're not  
14 funded. He's very particular, shall we say.

15 **THE COMMISSIONER:** I am happy to hear that.

16 **MR. SHERRIFF-SCOTT:** So if the Commission  
17 could clarify that, that may obviate the need for, you  
18 know, an extra batting line-up and/or perhaps Mr. Engelmann  
19 could speak to Mr. Bannack on that subject, but that's his  
20 position as has been identified to us.

21 Excuse me.

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

23 There was one last point that my friend  
24 reminds me of which is the dual attendance issue, which is  
25 at the end of my letter, and the submissions are self-

1           evident. There will be times when I need Mr. Ducasse with  
2           me or a more junior person with me and the traditional  
3           model of *Walkerton* and *Ipperwash*, I believe, is a 75 per  
4           cent recovery of the junior fee when the senior is in  
5           attendance, and I would ask that you consider that as well.

6                       **THE COMMISSIONER:** I guess, we would have to  
7           specify, you know, I want to put some limit.

8                       **MR. SHERRIFF-SCOTT:** yes.

9                       **THE COMMISSIONER:** As much as I enjoy Mr.  
10          Ducasse and yourself here I don't know that we need you all  
11          the time.

12                      **MR. SHERRIFF-SCOTT:** No, absolutely.

13                      **THE COMMISSIONER:** So how would we determine  
14          when those instances would be?

15                      **MR. SHERRIFF-SCOTT:** Well, I think perhaps  
16          maybe what we could indicate is that -- as one suggestion,  
17          when Diocese evidence is being presented, that would be one  
18          possible example of where we would need a dual-counsel  
19          function.

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

21                      **MR. SHERRIFF-SCOTT:** Or where, for example,  
22          police evidence directly involves the Diocese.

23                      **THE COMMISSIONER:** Sorry.

24                      **MR. SHERRIFF-SCOTT:** Where police evidence -

25          --

1                   **THE COMMISSIONER:** --- police evidence ---

2                   **MR. SHERRIFF-SCOTT:** --- directly involves  
3 the Diocese.

4                   I'd be content with that kind of limitation.  
5 That really will be the heavier times for us, where I may  
6 need a junior here with me or Police or CAS, if I could add  
7 -- thinking quickly.

8                   **THE COMMISSIONER:** I think what we can do is  
9 maybe give some thought to that.

10                  **MR. SHERRIFF-SCOTT:** Certainly.

11                  **THE COMMISSIONER:** And then write something  
12 down. We'll see.

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

14                  **THE COMMISSIONER:** Okay.  
15 What funding do you have now?

16                  **MR. SHERRIFF-SCOTT:** Just one senior and one  
17 intermediate, no paralegals.

18                  **THE COMMISSIONER:** Right. Okay. Good.

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

20                  **MR. ENGELMANN:** Mr. Commissioner, the next  
21 application on funding is from the Citizens for Community  
22 Renewal. You have some written submissions. They are now  
23 up on the screen. I would ask that they be marked Exhibit  
24 6.4, for the record.

25                  **THE COMMISSIONER:** Okay.

1           - - - EXHIBIT/PIÈCE NO. 6.4:

2                                   Application by the Citizens for  
3                                   Community Renewal for Amendment to  
4                                   Ruling on Funding Presented by Mr.  
5                                   Manson

6                                   **MR. ENGELMANN:** Mr. Manson is here.

7           **SUBMISSION BY/REPRÉSENTATION PAR MR. MANSON:**

8                                   **MR. MANSON:** To clarify two points, Mr.  
9                                   Commissioner; the top of page two of this submission, we've  
10                                  quoted from your funding ruling from last November 17<sup>th</sup>,  
11                                  "two senior counsel and a law clerk".

12                                  Subsequent to that and correct me if I'm  
13                                  wrong; we voluntarily varied that so that we now have  
14                                  funding for a senior, an intermediate and a junior. So  
15                                  that's where we start the process.

16                                  I won't go through the ---

17                                  **THE COMMISSIONER:** But you have a clerk, do  
18                                  you not, as well?

19                                  **MR. MANSON:** No.

20                                  **THE COMMISSIONER:** Okay, you substituted a  
21                                  clerk for a junior?

22                                  **MR. MANSON:** Yes.

23                                  **THE COMMISSIONER:** Okay.

24                                  **MR. MANSON:** And, back on December 6<sup>th</sup>, that  
25                                  was agreed to and we expect to have a junior joining our

1 team presently.

2 This application does deal with the law  
3 clerk and also in some respects, with respect to the role  
4 of the junior.

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

6 **MR. MANSON:** As we pointed out, when we  
7 started this undertaking we really did not have a complete  
8 sense of its breadth; that is now becoming quickly apparent  
9 to us as we're facing the daunting prospect of disclosure.  
10 The last time numbers were mentioned to me; it was in the  
11 neighbourhood of 300,000 pages. I don't even like thinking  
12 about that number.

13 It's for that reason that our first request  
14 is to add a law clerk and we've described the senior law  
15 clerk that we would be hiring. She works with Wardle Daley  
16 and is very, very experienced. And we think we're talking  
17 about a maximum of 750 hours and it would either be for her  
18 at a senior rate or a junior person in her place, dealing  
19 with the documentary at the first stages.

20 Frankly, it will be impossible for us to  
21 deal with the disclosure without that help. It is of an  
22 expert nature, dealing with document management software.

23 Secondly, with respect to the role of the  
24 junior, we, initially, in our submission for standing, had  
25 said that only one counsel would be here per day. We've

1 kept to that. We do have some concern that there will be  
2 occasional days when it will be extremely helpful to have a  
3 junior with us. We talk about that at paragraph 10 of the  
4 application. In all likelihood this will only arise on  
5 days when a lengthy and detailed cross-examination is  
6 anticipated.

7 This morning, another issue occurred to me  
8 and that is, starting in September, Mr. Wardle and I intend  
9 to -- well, starting before September, we're going to pick  
10 our weeks for September, October, November and we plan to  
11 be here a full week at a time. In exigent circumstances,  
12 that may not be possible. We may have to split a week. In  
13 those situations, we might need help from a junior, just to  
14 provide the continuity between a Tuesday and Wednesday.

15 I listened to your question to Mr. Sherriff-  
16 Scott and I'm not sure that we can be more detailed about  
17 this part of the request. Of course, it would be at 75 per  
18 cent. We would exercise our discretion as economically as  
19 we've tried to do so far in all respects. It's really only  
20 the days when we expect a lengthy and detailed cross-  
21 examination by us, that we would consider having another  
22 counsel in the hearing room.

23 We haven't had that need so far and we've  
24 managed. We are a small team and we think we've tried to  
25 participate seriously and economically in the hearing.

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

2                   **MR. MANSON:** Subject to any questions,  
3 there's not much I can add, Mr. Commissioner.

4                   **THE COMMISSIONER:** I'm wondering, what about  
5 if we arbitrarily threw out a number of days to start off  
6 with. What I'm concerned -- and it's not for you ---

7                   **MR. MANSON:** No, I appreciate that.

8                   **THE COMMISSIONER:** --- or just to say -- so  
9 in your case, if we said, you know, we'll give you 30 days  
10 of junior counsel. All right? And, you know, when you get  
11 closer to that, then -- it's just a thought. It's just a  
12 way of some kind of control. I'm starting to think I'm a  
13 bureaucrat here or something.

14                   **MR. MANSON:** Well, no, this is an  
15 administrative matter and it has to be -- I appreciate  
16 that, Mr. Commissioner. If we're talking about junior  
17 counsel attendance in the hearing room ---

18                   **THE COMMISSIONER:** The double thing.

19                   **MR. MANSON:** --- thirty (30) days ---

20                   **THE COMMISSIONER:** I'm not really asking you  
21 to comment on the 30 days. I'm just thinking of the  
22 concept. Then at the break, counsel can speak and come up  
23 with innovative ideas that will satisfy everybody.

24                   So in your case, it might be the numbers --  
25 a number might be set so that we can keep track. Then if

1           you come close, then you can ask for more. And if not,  
2           well then we've put in the guideline.

3                   **MR. MANSON:** That sounds like a sensible way  
4           to do it. Because we're really only looking for those  
5           difficult situations. We think it will be uncommon, so if  
6           Mr. Engelmann and I can have a quick chat, I don't see any  
7           reason why we couldn't do that.

8                   **THE COMMISSIONER:** I think that's wise.

9                   **MR. MANSON:** That would be.

10                  **THE COMMISSIONER:** Then for these clerks  
11           though, there is -- their fee would be according to the  
12           government guidelines.

13                  **MR. MANSON:** Yes, absolutely.

14                  **THE COMMISSIONER:** Okay. So as long as we  
15           know that. Fine.

16                           Thank you.

17                  **MR. MANSON:** Thank you, Mr. Commissioner.

18                           This is someone else's highlighter. I was  
19           about to take it. We've been through that before.

20                  **THE COMMISSIONER:** We don't issue  
21           highlighters, so ---

22                  **MR. ENGELMANN:** Not that kind anyway.

23                           I'll speak to Mr. Manson and Mr. Sherriff-  
24           Scott about the dual-counsel issue at break. And I just  
25           want to echo, I think there is one rate for a clerk under

1 the guidelines, but Mr. Bannack will know that better than  
2 I.

3 Next up, we have an application for amending  
4 a funding order on behalf of Father MacDonald by Mr.  
5 Cipriano. I understand Mr. Cipriano wishes to address  
6 another matter as well, sir.

7 **THE COMMISSIONER:** Sure. Thank you.

8 Yes, sir.

9 **SUBMISSION BY/REPRÉSENTATION PAR MR. CIPRIANO:**

10 **MR. CIPRIANO:** Good morning, Mr.  
11 Commissioner.

12 **THE COMMISSIONER:** Good morning.

13 **MR. CIPRIANO:** I'd like to start off first  
14 by taking this opportunity to address you on what occurred  
15 on June 6<sup>th</sup> because I think that fields nicely with the  
16 application I have before you today.

17 As you know, June 6<sup>th</sup> was not an official  
18 sitting day of the Inquiry and when the issue of funding  
19 arose with respect to judicial review, I spoke about  
20 possible dates with your counsel and the date of June 6<sup>th</sup>  
21 was arrived at, since that was the date that another motion  
22 was proceeding and so the Inquiry made itself available.  
23 And the other motion had been adjourned to that date.

24 I informed Mr. Engelmann that I would be at  
25 a judicial pre-trial in provincial court on a homicide

1           between 9:00 and 10:00 a.m. and despite other commitments,  
2           I had agreed that I would make myself available after that,  
3           in order to argue the application for funding for judicial  
4           review.

5                           On the morning of June 6<sup>th</sup>, when I arrived at  
6           the Cornwall courthouse, I was informed by the Crown  
7           Attorney that they had requested that the pre-trial not  
8           commence until 9:30 due to the fact that two of their  
9           officers, two detectives were not available until 9:30.

10                           I advised all parties of my commitments at  
11           the Inquiry and that I had to proceed in a timely manner.  
12           The judicial pre-trial lasted some 40-45 minutes, and so I  
13           could not leave that and attend the Inquiry until about  
14           10:30 or 10:40 for those reasons.

15                           Now, I just want to pause to come back to  
16           some of the features of why I'm asking for more funding at  
17           the Inquiry, for another senior counsel. The practice of  
18           criminal law, like all other practices of law, have unique  
19           features to it.

20                           Criminal defence law is practiced usually by  
21           sole practitioners or small firms. Each counsel has  
22           several clients who are often required to appear in court  
23           on the same day, often at the same times, often in various  
24           jurisdictions. It's not necessarily practical or feasible  
25           for a counsel to attend every court appearance for all

1 clients personally. In order to provide appropriate  
2 services, often counsel uses the assistance of duty counsel  
3 or designations of counsel, to name a few.

4 In Ottawa, for instance, our firm as with  
5 many other criminal law firms, usually provide their  
6 services to areas as far as Brockville, Pembroke, Cornwall  
7 and L'Orignal. With these commitments, it is often  
8 difficult to predict when matters will begin or end, if  
9 they're going to begin or end on time. And much also  
10 depends on whether other parties, such as Crowns and other  
11 parties involved, stretch out matters or proceedings that  
12 go over time limits.

13 So going back to June 6<sup>th</sup>, when I arrived and  
14 I learned that the funding application was to go first, I  
15 have to admit, I was taken a bit off guard because it was  
16 the first time I learned that I would be going first.

17 I can indicate that other parties were also  
18 of the view that the other motion would be proceeding ahead  
19 of mine.

20 Accordingly, with this understanding, I did  
21 not feel that I would be delaying the Inquiry as I was not  
22 participating in the other motion. But given that  
23 understanding, that is the -- those were the facts that I  
24 was operating with and I can indicate I clearly had no  
25 intention to be late for the Inquiry and to delay the

1 Inquiry in any way.

2 Now, the reason I start with that is,  
3 obviously, we can see from the parties today and the way  
4 the Inquiry has been going, issues arise, motions arise,  
5 disclosure issues arise, and the Inquiry is scheduled to  
6 last at least until November and we're hearing dates that  
7 possibly it could go into December. For a firm with only  
8 two counsel that is obviously a great commitment to have  
9 one counsel attend the Inquiry.

10 I would submit that for a commitment like  
11 this, on a small firm, it could severely cripple the  
12 practice of that counsel or the firm, with such a big  
13 commitment without the assistance of another counsel. With  
14 the assistance of another counsel, it's my submission that  
15 the Inquiry could also benefit because it would be time-  
16 efficient in order to provide disclosure, to review  
17 disclosure. Disclosure is going to be voluminous as we  
18 heard and it would be more time- and cost-effective if  
19 duties of reviewing disclosure and arguing certain issues  
20 can be divided by two counsel.

21 If an issue does arise in which one counsel  
22 is required and not available, having another senior  
23 counsel would allow for more flexible use of time and to  
24 better assist the Inquiry in not delaying procedures and  
25 ensuring that any arguments that have to be made are done

1 and filed in a timely fashion.

2 **THE COMMISSIONER:** So what is your funding  
3 right now?

4 **MR. CIPRIANO:** It's simply for one counsel.

5 **THE COMMISSIONER:** Okay.

6 **MR. CIPRIANO:** I'd just like to add; I  
7 believe other parties who are similar in interest to our  
8 client have funding for two counsel; one senior and one  
9 junior. It would greatly assist, I think, both myself and,  
10 as I said, the obligations imposed on parties to assist the  
11 Inquiry in providing documents and so on, if that funding  
12 could be increased to one junior and one senior counsel.

13 Subject to any questions, those are the ---

14 **THE COMMISSIONER:** Well, I have a couple of  
15 things I want to tell you.

16 **MR. CIPRIANO:** Yes.

17 **THE COMMISSIONER:** Since our last discussion  
18 on June 6<sup>th</sup>, I have been concerned about our little exchange  
19 and I think that, since the beginning, I have indicated to  
20 the public that we should be dealing with facts and with  
21 respect for parties and for the subject matter of what we  
22 talked about and perhaps it's time that I practise what I  
23 preach. I think that I was a little harsh on you the other  
24 day. So while we may not always agree on what your  
25 submissions are or the manner in which you make your

1           submissions, I think that civility should prevail at all  
2           times and, accordingly, I apologize for the way I may have  
3           been a little harsh on you.

4                   **MR. CIPRIANO:** Thank you, Mr. Commissioner.  
5           I apologize for my late arrival on that day.

6                   **THE COMMISSIONER:** Thank you.

7                   **MR. ENGELMANN:** I'm just assuming, and for  
8           clarification, may I just ask Mr. Cipriano to nod, one  
9           senior, one junior, but one counsel attendance fee limited  
10          to the interest?

11                   **THE COMMISSIONER:** That's fine.

12                   **MR. ENGELMANN:** Yes, that's what I thought.

13                   **MR. CIPRIANO:** Yes.

14                   **MR. SHERRIFF-SCOTT:** I thought I could just  
15          for two seconds add something to what my young friend just  
16          said. As you know, Father MacDonald, there were  
17          approximately 15 complaints in the criminal matrix of  
18          charges. There are a number of civil lawsuits, including  
19          the one which was of importance in terms of touching off  
20          controversy in Cornwall, and I would say, sort of unlike a  
21          sole -- individual where there's a sole complaint, Father  
22          MacDonald's status would therefore warrant the request my  
23          friend has made and there will be times when senior counsel  
24          will be necessary, and I would just put my oar in to  
25          support my friend's submission on that subject for those

1 reasons.

2 Thank you.

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

4 **MR. ENGELMANN:** The next application for an  
5 amendment, sir, is from the Victims Group. Mr. Lee is  
6 present.

7 **THE COMMISSIONER:** Yes.

8 **SUBMISSION BY/REPRÉSENTATION PAR MR. LEE:**

9 **MR. LEE:** Good morning, Mr. Commissioner.

10 **THE COMMISSIONER:** Good morning.

11 **MR. LEE:** I have a couple of points I would  
12 like to discuss with you. The first one, as Mr. Sherriff-  
13 Scott pointed out earlier, Mr. Bannack is very thorough in  
14 his work and very particular about the recommendations that  
15 you've made and sticking to those, as you should be.

16 When we originally made our application for  
17 funding, we didn't have the funding guidelines at the time.  
18 They weren't issued until February of this year. We didn't  
19 know, therefore, at that time the year of call breakdown  
20 that the guidelines would use. For example, a senior  
21 lawyer is considered a lawyer with 10 or more years of  
22 experience.

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

24 **MR. LEE:** An intermediate lawyer has eight  
25 or nine years of experience and a junior lawyer has less

1       than eight years of experience. We didn't understand that  
2       at the time, so when we applied for funding, probably,  
3       admittedly without much thought to it, we just assumed, I  
4       think, most likely that an intermediate would be somewhere  
5       in the five-year range. At the time we applied, I think  
6       the name that we used was Caroline Brandow who was an  
7       associate at our firm at the time. She is no longer with  
8       the firm, but our expectation within the firm was that  
9       either Caroline Brandow or Robert Talach, who has appeared  
10      before you at this inquiry, would be considered an  
11      intermediate lawyer.

12               Once we received the funding guidelines, we  
13      came to understand that that wasn't the case and that given  
14      their years of call -- Mr. Talach, I believe, is a sixth  
15      year lawyer -- that he, under the guidelines, is considered  
16      a junior lawyer. The time that he spent to date has always  
17      been billed at the junior rate, as per the guidelines, of  
18      course.

19               We wrote to Mr. Bannack once we -- once our  
20      first account was submitted to him, and he wrote back with  
21      various concerns he had, and we wrote to him saying we  
22      didn't appreciate at the time that an intermediate lawyer  
23      would be only eight or nine years experience. We don't  
24      have a single lawyer in our entire firm that has eight or  
25      nine years of experience. We have lawyers above 10 and we

1 have lawyers below eight.

2 So I would ask that your original  
3 recommendation just be reworded to provide for one senior  
4 and two junior lawyers. As it currently stands, it's one  
5 senior, one intermediate and one junior. We simply don't  
6 have an intermediate to fill that role. Throughout this  
7 process, it's been two juniors as well as the senior, and  
8 so I would just ask that that be reflected just for Mr.  
9 Bannack's ---

10 **THE COMMISSIONER:** But you've been paid at a  
11 junior rate though?

12 **MR. LEE:** Yes, of course.

13 **THE COMMISSIONER:** Okay.

14 **MR. LEE:** Yes.

15 **THE COMMISSIONER:** So you're not out-of-  
16 pocket anything right now? He hasn't ---

17 **MR. LEE:** No. Well ---

18 **THE COMMISSIONER:** He hasn't cut and said  
19 "No, not at all."

20 **MR. LEE:** Not yet. We've only submitted two  
21 accounts to him to date. One of them has been approved.  
22 The second one hasn't, and I think where the issue will  
23 come is with the second one that he's currently reviewing.  
24 I think it might just make his job a little bit easier if  
25 the recommendations recommended that.

1                   **THE COMMISSIONER:** Sure.

2                   **MR. LEE:** The other issue I wanted to  
3 discuss was additional funding. I think everyone is in the  
4 same boat on the fact that we didn't appreciate how  
5 voluminous the disclosure would be that's going to come  
6 out. As Mr. Manson said, the most recent estimate we've  
7 heard is some 300,000 pages. I have to admit that I'm a  
8 little panicked with the prospect of reviewing 300,000  
9 pages.

10                   **THE COMMISSIONER:** It's interesting summer  
11 reading.

12                   **MR. LEE:** It absolutely will be interesting  
13 summer reading. I'm just wondering how many hours of the  
14 summer I will devote to the interesting reading.

15                   Where I think our group is in a bit of an  
16 interesting position is that my clients are affected by all  
17 of the institutions present at the inquiry. Some have a  
18 direct interest in the Diocese. Some have an interest in  
19 the Attorney General or what have you, but there's no  
20 institution here that doesn't in some way affect at least  
21 one of my clients.

22                   As such, I don't think that we're going to  
23 be able to pick and choose the disclosure. We need to  
24 review thoroughly. As much as some other parties may be  
25 able to, it seems to me that there's some parties here that

1           won't particularly have much interest in some of the  
2           disclosure because it doesn't affect their interest at all.  
3           That's not the case with where we're at.

4                       The original application for funding that we  
5           made, as you know, called for a senior lawyer, Paul  
6           Ledroit, to work on this file in an advisory capacity, and  
7           that's been the case thus far. He's worked -- he's in  
8           London, obviously, as you know, and he's brought in on the  
9           big issues that need to be decided. He hasn't taken part  
10          in the day-to-day hearings of this inquiry. You haven't  
11          seen him here to date. He's involved at the high end, and  
12          out of efficiency and economics, it's not expected that he  
13          would do the review of these documents.

14                      **THE COMMISSIONER:** So the inquiry is the low  
15          end?

16                      **MR. LEE:** No, not at all. No, that's  
17          obviously not what I meant, Mr. Commissioner. He's  
18          involved on the big decisions. He's involved on the way we  
19          proceed. He's involved in dealing with the clients. Thus  
20          far, in the day-to-day proceedings of the inquiry, it's  
21          been myself and Rob Talach largely that have been involved,  
22          and when it comes to the review of the documentary  
23          disclosure, I would expect that it would again be myself  
24          and Robert Talach that are involved.

25                      As you know, we also have funding for a

1 clerk. Ms. Schellenberger has been with me for the last  
2 couple of months here and will continue in that role.

3 What I'm seeking, and obviously subject to  
4 what you have to say about it, is additional funding for,  
5 ideally, two junior lawyers to assist solely with the  
6 review of the documentary disclosure, and I would suggest  
7 it would be appropriate to limit the additional funding  
8 specifically to that task. And to be perfectly clear,  
9 these are two junior lawyers who would quite literally just  
10 be asked to review documents and to summarize those  
11 documents. There would be no other task. They won't be  
12 involved in client meetings. They won't be involved in  
13 attending the hearings. They won't be involved in any of  
14 those. Their participation would end when the bulk of the  
15 documentary disclosure has been reviewed.

16 I admit I may be jumping the gun a little  
17 bit on the other request that I have made in my letter  
18 which is for an additional law clerk. I'm not exactly sure  
19 yet the form this disclosure is going to come in. I'm not  
20 exactly sure how easily we're going to be able to adapt to  
21 what we're dealing with. So what I put in is a request for  
22 an additional law clerk just to deal with the information  
23 management side of it. As some of the other parties have  
24 suggested, it's going to be a fairly monumental task.

25 **THE COMMISSIONER:** Doesn't your law clerk

1 now -- could that law clerk not do that?

2 **MR. LEE:** I would hope so and, as I said,  
3 that's why I think I may be jumping the gun a little bit  
4 here, but I'm just not sure, and since this seems to be the  
5 day set aside to discuss funding, I thought I should at  
6 least get it on the record that I have some concerns that  
7 this may be a job that a second clerk may be required.

8 And again, the additional funding I'm asking  
9 for simply deals with documentary disclosure. I think our  
10 funding is fine for the conduct of the hearings and things  
11 of that nature. I'm just very concerned about the  
12 documentary disclosure.

13 **THE COMMISSIONER:** How would we limit it  
14 then? How would you word that?

15 **MR. LEE:** Of the clerk?

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

17 **MR. LEE:** Of the two additional lawyers?

18 **THE COMMISSIONER:** Yes.

19 **MR. LEE:** I would limit as, first off, as I  
20 said, junior lawyers.

21 **THE COMMISSIONER:** Yes.

22 **MR. LEE:** Okay. Two junior lawyers who are  
23 funded -- I mean, think we could probably -- I wouldn't be  
24 entirely opposed to something like you suggested with Mr.  
25 Manson where we set perhaps a number of hours, that if we

1 get to the point where we approach the number of hours that  
2 have been set, we could come back and speak to you again on  
3 that.

4 **THE COMMISSIONER:** So you'll discuss with  
5 Mr. Engelmann the numbers?

6 **MR. LEE:** Sure.

7 **THE COMMISSIONER:** That's not assuming that  
8 I'm giving everybody -- this isn't Christmas in summertime.

9 **MR. LEE:** I understand that.

10 The other point I did want to raise is when  
11 Mr. Sherriff-Scott brought it back that Mr. Bannack has  
12 raised some concerns about the fact that a junior lawyer  
13 isn't just the junior lawyer you have working on that day,  
14 and that he prefers -- we've had similar discussions with  
15 him where, for example, I was away for a day and another  
16 junior lawyer in the London office met with your Commission  
17 counsel to do a formal interview of one of our clients that  
18 resides around London. I have had some preliminary  
19 discussions with Mr. Bannack, and it seems to me that he  
20 won't consider that person to be funded despite the fact  
21 that I didn't bill that day at all.

22 So it seems to me that Mr. Bannack is  
23 interpreting your recommendation as when you recommend one  
24 junior lawyer, you're recommending a specific person as  
25 opposed to a category of lawyer, and I would suggest that

1 if that was not your intention or if you're willing to make  
2 that -- it seems to me that it would be reasonable if, for  
3 example, I had to take some kind of leave and one of my  
4 associates stepped in for three weeks, that that person  
5 should be funded as the junior lawyer and not specifically  
6 just me.

7 **THE COMMISSIONER:** Okay.

8 **MR. LEE:** But I'll leave that to you, sir.

9 **THE COMMISSIONER:** Thank you.

10 **MR. LEE:** Any other questions?

11 **THE COMMISSIONER:** No.

12 **MR. LEE:** Thank you, Mr. Commissioner.

13 **MR. ENGELMANN:** Lastly, Mr. Commissioner,  
14 submissions from the Men's Project. Mr. Bennett is here.

15 Just before we go there though, I think I  
16 forgot to have something marked.

17 **THE COMMISSIONER:** Yes.

18 **MR. ENGELMANN:** For example, the submissions  
19 of Father MacDonald should have been marked, if they could  
20 be, as Exhibit 12.4 of the record.

21 --- **EXHIBIT NO./PIÈCE NO. 12.4 :**

22 Submissions of Father MacDonald

23 **MR. ENGELMANN:** The submissions of the  
24 Victims Group as 7.2 ---

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

1                   **MR. ENGELMANN:** Exhibit 7.2 of the record.

2           **--- EXHIBIT NO./PIÈCE NO. 7.2:**

3                                 Letter dated June 26, 2006 to Mr.  
4                                 Engelmann from Mr. Lee, re: Amendment  
5                                 to its Funding

6                   **MR. ENGELMANN:** And Mr. Bennett's letter on  
7                   behalf of the Men's Project, if that could be Exhibit 9.2  
8                   of the record?

9           **--- EXHIBIT NO./PIÈCE NO. 9.2:**

10                                Mr. Bennett's letter on behalf of the  
11                                Men's Project

12                   **MR. ENGELMANN:** Mr. Bennett is present.

13                   **THE COMMISSIONER:** Good morning, Mr.  
14                   Bennett.

15           **SUBMISSION BY/REPRÉSENTATION PAR MR. BENNETT:**

16                                **MR. BENNETT:** Good morning, Mr.  
17                   Commissioner.

18                                I guess I'm asking for less, then for some  
19                   more. Again, our funding, I have set out in the letter to  
20                   Mr. Engelmann of yesterday, indicated we had funding for a  
21                   senior counsel and junior counsel. There are times instead  
22                   of junior counsel I would just like someone to assist with  
23                   some legal research. I was informed by the assessor that I  
24                   would not be able to do this. I had to use someone who was  
25                   called to the Bar, and I'm actually looking for using

1           somebody who would be less expensive, whether it's a legal  
2           researcher. I have been so impressed by Mr. Manson's  
3           presentation I actually had made some arrangements with a  
4           law professor who is not called to the Bar, but under my  
5           funding, I wouldn't be able to do that.

6                         So what I'm asking for is if I'm not using  
7           junior counsel, that I have the ability to either use a law  
8           student or a legal researcher.

9                         And what I was informed by Mr. Bannack is  
10          that I would require an amendment to the wording, and  
11          that's why I put in the wording that I would be seeking.  
12          So I'm not looking to use more than one person and I'm not  
13          looking for doubling that. It's just on occasion when I do  
14          need assistance.

15                        And I anticipate, in particular with respect  
16          to Part II of this inquiry, there may be times when I will  
17          need some legal research done.

18                        **THE COMMISSIONER:** Okay. The only problem  
19          that I see is bureaucratic in that I don't know what the  
20          guidelines say about legal researchers. I don't know what  
21          they say about law professors as to rates.

22                        So I don't want to give you something and  
23          you're going to go back and you're still going to get the  
24          same kind of answer.

25                        So you might want to, at the break, look at

1 the guidelines and see if there is a -- like I don't know  
2 what law students get paid and I don't know if they're in  
3 there, if the guidelines -- does anybody have any ---

4 **MR. LEE:** If I can assist, perhaps I'll just  
5 hand Mr. Bennett the guidelines here.

6 **MR. BENNETT:** There is one for law students.  
7 There's one for articling students and there's one for law  
8 clerks and paralegals. My guess is that a law professor  
9 doesn't count as counsel because they're not called to the  
10 Bar. Then we have to figure something out. I would have  
11 to make an arrangement with him and maybe I'll have to find  
12 one that's eligible to be called -- to be considered to be  
13 junior counsel.

14 **THE COMMISSIONER:** Or it could be -- what's  
15 the last thing?

16 **MR. BENNETT:** There is something for law  
17 students and there's law clerks and paralegals. Law  
18 students is indicated at \$30 to \$45 an hour and law  
19 clerks/paralegals, \$30 to \$55 an hour. And there's  
20 articling students, \$45 to \$55.

21 Where it mostly arose is originally I was  
22 just looking for a law student to assist me with some of  
23 the research and was told, "No, you have to hire a lawyer."  
24 It seemed ---

25 **THE COMMISSIONER:** That's okay. Okay. So

1 now what about your second part here?

2 **MR. BENNETT:** The second request, I've  
3 indicated what the special standing that you awarded. I've  
4 set out the wording of what you did and what I'm really  
5 asking for is a formalization of the role that I've played  
6 to date within the contextual evidence, that I have had a  
7 seat at counsel table. I like sitting beside Mr. Chisholm  
8 and ---

9 **(LAUGHTER/RIRES)**

10 **MR. BENNETT:** --- would like to have the  
11 ability to officially have a seat at counsel table. And  
12 there may be instances where it may be necessary to ask  
13 some questions and I'll use the example again of the  
14 contextual evidence where Dr. Wolfe and Dr. Jaffe and  
15 Detective Leaver were called for some very contextual  
16 evidence, not necessarily with respect to services, but it  
17 was an opportunity that wasn't necessarily anticipated to  
18 ask some questions about that. It's not to suggest that I  
19 don't have confidence in Commission counsel. We have full  
20 confidence in the abilities of Commission counsel and I  
21 would imagine it would be a very rare occasion that I would  
22 want to ask questions. I'm not suggesting that I'm going  
23 to be here more. We're not looking to increase our role.  
24 It's more a formalization that we do have the ability if  
25 something arises.

1                   Again, the types of questions that we would  
2                   be asking would be limited to what our standing was granted  
3                   and would be around the issue of the services that have  
4                   been available traditionally in Ontario for men who have  
5                   been ---

6                   **THE COMMISSIONER:** I don't know how much of  
7                   that there will be in Phase 1, though.

8                   **MR. BENNETT:** There may be a rare occasion  
9                   where it may be relevant to ask someone, "Did you try to  
10                  access services?" I mean it may be that counsel will be  
11                  asking but it could be one of the institutional witnesses  
12                  where it wouldn't really fit in with the line of question  
13                  that they may want to ask.

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

15                  **MR. BENNETT:** Again, I'm not looking to be  
16                  doing full-blown cross-examinations. I've observed my  
17                  friends who have been doing an excellent job of that. It  
18                  would be very -- so what I'm asking for is a more  
19                  formalization of the role that I've played to date.

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

21                  **MR. BENNETT:** And those are my submissions.  
22                  Thank you.

23                  **MR. ENGELMANN:** Mr. Commissioner, that  
24                  concludes the applications for this morning.

25                  I know we normally have a break at about

1           this time and I know you've instructed some counsel to  
2           speak to Commission counsel. There's also the issue of  
3           disclosure, sir.

4                       **THE COMMISSIONER:** Disclosure.

5                       **MR. ENGELMANN:** I don't know if you want to  
6           address that before the break or not.

7                       **THE COMMISSIONER:** I'll just make a few  
8           comments but I see Mr. Manson is ---

9                       **MR. MANSON:** Yes, I'm sorry.

10                      **THE COMMISSIONER:** Go for it.

11                      **MR. MANSON:** It wasn't apparent to either  
12           Mr. Wardle or myself this problem that Mr. Sherriff-Scott  
13           and Mr. Lee pointed out about Mr. Bannack's view of the  
14           funding recommendations. We're not at the stage where  
15           we've had an account that was questioned, but if you  
16           recall, Helen Daley, who was Mr. Wardle's partner, was here  
17           for a few days.

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

19                      **MR. MANSON:** And I suspect that what we will  
20           get back is who is Ms. Daley and those will be cut out.

21                      **THE COMMISSIONER:** And her qualifications,  
22           her years of experience so that ---

23                      **MR. MANSON:** Well no, my understanding of  
24           what Mr. Sherriff-Scott said is that we will be told that  
25           she wasn't part of our team. Now, mind you, I suppose at

1           this point because we haven't had a junior we could put her  
2           in that category although she's not ---

3                         **THE COMMISSIONER:** No, but ---

4                         **MR. MANSON:** This is something that needs  
5           some clarification, whether people can be substituted  
6           because I -- she was here when Mr. Wardle was in court and  
7           I was in Victoria and I expect in August there may be a  
8           couple of days. So we would appreciate some clarification  
9           from you, Mr. Commissioner.

10                        **THE COMMISSIONER:** Well, I think the  
11           solution is that you people write down a pool of people;  
12           you know, like your slate of people.

13                        **MR. MANSON:** M'hm.

14                        **THE COMMISSIONER:** And you know, I direct  
15           Mr. Bannack to say it's okay and these are the people we  
16           can expect.

17                        **MR. MANSON:** That would be excellent.

18                        **THE COMMISSIONER:** But he will be asking you  
19           for the lawyers' years of experience so that he can slot  
20           the bill appropriately.

21                        **MR. MANSON:** Yes.

22                        **THE COMMISSIONER:** All right?

23                        **MR. MANSON:** Thank you, Mr. Commissioner.

24                        **THE COMMISSIONER:** Thank you.

25                        So the last matter is that of disclosure.

1 As I indicated earlier and as it's come up now, we've been  
2 working very hard and diligently to organize the documents  
3 that we've received and we're reviewing and there's the  
4 matter of redacting with the assistance of counsel and  
5 representative of the parties. What we're looking at is to  
6 give as much disclosure as we can to complete during the  
7 summer months.

8 I've been looking and listening through Mr.  
9 Engelmann the innovative and progressive ways that we can  
10 get disclosure out to everyone all the while protecting and  
11 respecting the claims -- well, not the claims but the  
12 rights of individuals and the privacy rights that may arise  
13 out of the disclosure. It's an onerous task to go through  
14 hundreds of thousands of documents and to get that  
15 disclosure done properly, knowing all the while that the  
16 disclosure that we're giving is to counsel and what I  
17 should note is that it is not evidence, it's not things  
18 that are going to go out to the public because counsel  
19 have, of course, an undertaking that they have to sign and  
20 one that applies to their clients as well. So we're not at  
21 the point of saying that the material that we're disclosing  
22 to the parties will necessarily be part of the evidence and  
23 I am sure that there's more redaction that will occur  
24 before those documents go into evidence.

25 So at the break I would like and encourage

1 the parties to continue their constructive and innovative  
2 ways to streamline all of this and when we come back  
3 perhaps we can have a further discussion on that.

4 So let's take the morning break. Thank you  
5 very much.

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

8 The hearing will reconvene at 11:55.

9 --- Upon recessing at 11:41 a.m.

10 L'audience est suspendue à 11h41

11 --- Upon resuming at 12:07 p.m./

12 L'audience est reprise à 12h07

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

15 This hearing of the Cornwall Public Inquiry  
16 is now in session. Please be seated; veuillez vous  
17 asseoir.

18 **THE COMMISSIONER:** Yes, Mr. Engelmann.

19 **MR. ENGELMANN:** Mr. Commissioner, we've had  
20 some discussions in the brief time we have and I can assure  
21 you those discussions will be continuing on innovative  
22 ideas on the disclosure process.

23 I have spoken to counsel briefly -- I mean  
24 very briefly -- and I understand that counsel for the OPP,  
25 counsel for the Cornwall Police Service, counsel for the

1 OPPA and counsel for the Attorney General have some very  
2 brief comments perhaps that they wish to make and there may  
3 well be others after they've heard those comments.

4 **THE COMMISSIONER:** Thank you.

5 **MR. ENGELMANN:** So perhaps we can call them  
6 in that order?

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

8 **MR. ENGELMANN:** Ms. Brannan is present to  
9 start.

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

11 **SUBMISSION BY/REPRÉSENTATION PAR MS. SACCOCCIO BRANNAN:**

12 **MS. SACCOCCIO BRANNAN:** Good morning, sir.  
13 How are you this morning?

14 **THE COMMISSIONER:** Good. Yourself?

15 **MS. SACCOCCIO BRANNAN:** I'm good.

16 **THE COMMISSIONER:** I see Mr. Kozloff is  
17 joining you.

18 **MR. KOZLOFF:** I'm here to assist.

19 **THE COMMISSIONER:** Now, is this at a junior  
20 rate or is it senior?

21 **(LAUGHTER/RIRES)**

22 **MS. SACCOCCIO BRANNAN:** Trust me, sir ---

23 **MR. KOZLOFF:** That's between me and my  
24 client.

25 **THE COMMISSIONER:** Oh, that's right. That's

1 a solicitor/client privilege. Okay.

2 **MS. SACCOCCIO BRANNAN:** Mr. Kozloff and I  
3 take turns at being senior and junior counsel.

4 Mr. Commissioner, I'm here today to make  
5 submissions in a discussion format that deal with the  
6 issues of substantive disclosure.

7 The issues involving substantive disclosure  
8 of the voluminous documents that have been disclosed in  
9 unredacted form to the Commission -- maybe "played" is not  
10 the correct word but have been the subject of much  
11 discussion amongst counsel for the parties with standing  
12 and counsel for the Commission, all of which is to  
13 hopefully lead, at the end of the day, to the fastest way  
14 to disclose documents to the parties with standing so that  
15 the work of this Commission can move forward.

16 Now, that being said and taking into  
17 consideration what you have said in the past about re-  
18 victimizing victims, our concerns for people's privacy  
19 issues, the Ontario Provincial Police have a number of  
20 concerns that relate to the production of their documents  
21 in an unredacted state.

22 I can tell you, sir, that initially both the  
23 Ontario Provincial Police and the Ministry of the Attorney  
24 General, as evidenced by Ms. McIntosh's letter of June 26<sup>th</sup>  
25 which I believe everybody has, we had both understood that

1 the Commission counsel would be making a determination as  
2 to which of our documents it proposed to use at the hearing  
3 and that before any of those particular documents were  
4 disclosed to the parties the Ontario Provincial Police  
5 would have an opportunity to discuss with Commission  
6 counsel as to what redactions would be appropriate. That  
7 was our initial understanding.

8 Now, unfortunately that understanding was  
9 not correct and as a result of timelines and the amount of  
10 material the suggestion being made to the Ontario  
11 Provincial Police and other public institutions is that the  
12 Commission proposes to disclose unredacted documents to  
13 counsel for the parties who may, in turn, share those with  
14 their clients.

15 So that's the state we were at on June the  
16 19<sup>th</sup> and it was on that day that we learned that the  
17 Commission intended or proposed to disclose 90 per cent of  
18 the OPP's disclosure to it.

19 I'm just putting for you in context where we  
20 were at on June the 19<sup>th</sup>.

21 This raised a number of concerns for the  
22 Ontario Provincial Police and I'd like to list those  
23 concerns for you, sir.

24 The first one is that the information that  
25 is contained in the Ontario Provincial Police disclosure

1 includes the names or may include the names of confidential  
2 police informants. Now, ---

3 **THE COMMISSIONER:** Excuse me, excuse me.

4 **MS. SACCOCCIO BRANNAN:** Just a minute. I  
5 haven't finished. I haven't finished.

6 With respect to that, Project Truth  
7 documents, there are no confidential police informants and  
8 that is something with which the Ministry of the Attorney  
9 General agree. We agree on that.

10 Our problem is different from the Ministry  
11 of the Attorney General and that, sir, is that in our  
12 documents there are police notes that deal with police  
13 investigations that are not relevant to the mandate of this  
14 Commission and police investigations that deal with, today  
15 even, unsolved homicide investigations.

16 It is those police notes that concern us a  
17 great deal because, one, they are irrelevant in themselves  
18 and should not be produced to anybody in unredacted form,  
19 and two, it is those notes with respect to homicide  
20 investigations, biker squad investigations, potential pen  
21 squad investigations that may very well have the names of  
22 confidential police informants. It is extremely important  
23 that those be redacted and, in accordance with the Supreme  
24 Court of Canada's decision in *R. v. Leipert*, we know that  
25 that is a rule of law.

1                   In respect to the case that I have provided  
2                   to my colleagues and to Commission counsel for the purposes  
3                   of guiding all of us in our redacting process, the  
4                   Saskatchewan Court of Appeal, when it dealt with the  
5                   Commission of Inquiry into Leo LaChance, the shooting of  
6                   Leo LaChance, that very issue was brought before the Court  
7                   of Appeal and the RCMP argued that the police informer  
8                   privilege must apply to the Commission of Inquiry. The  
9                   Court of Appeal agreed with the RCMP. It was -- leave was  
10                  sought to the Supreme Court of Canada and leave was denied.

11                  So even in the commission context, the  
12                  police informer privilege has been dealt with in one of the  
13                  courts in this country. So it's not Project Truth  
14                  documents that are the concern with respect to police  
15                  informants or other investigations that are irrelevant to  
16                  this Commission. It is the irrelevant investigations that  
17                  we need to redact.

18                  If the documents are handed over unredacted,  
19                  then that information is out there. Even if it's just to  
20                  counsel, it's breaching that rule of law, in our view.  
21                  That's our first concern and that's my explanation for that  
22                  first concern, and it's an issue that I believe we must all  
23                  be alive to. And I apologize for interrupting, but I'm a  
24                  linear thinker and I -- to continue on and I'm prepared to  
25                  answer your question on that issue.

1                   **THE COMMISSIONER:** I have no questions.

2                   **MS. SACCOCCIO BRANNAN:** Pardon?

3                   **THE COMMISSIONER:** No questions.

4                   **MS. SACCOCCIO BRANNAN:** The second issue,  
5                   sir, is an extremely important issue to the Ontario  
6                   Provincial Police, who after this Commission of Inquiry  
7                   will continue to police this community and who very  
8                   desperately must maintain the trust it has with this  
9                   community and that is this. There are names, addresses,  
10                  telephone numbers of individuals in Cornwall and the  
11                  surrounding area that came to the Ontario Provincial Police  
12                  during Project Truth and gave them information regarding  
13                  being abused as young children, but they gave that  
14                  information on the condition that that information would  
15                  remain forever confidential. They would not be a witness.  
16                  They did not want any charges laid in respect of their  
17                  complaint. They just wanted the police to know that they  
18                  were a victim of abuse.

19                  The Ontario Provincial Police takes the  
20                  position that they must protect that information because  
21                  they took that information in confidence and they gave  
22                  their word to these people.

23                  If the Commission releases our documents in  
24                  unredacted form, sir, that information will be in the hands  
25                  of the parties with standing, their counsel and their

1 clients. That is not what these individuals wanted to  
2 happen. We must respect that.

3 **THE COMMISSIONER:** I have no intentions of  
4 compromising that whatsoever. I don't ---

5 **MS. SACCOCCIO BRANNAN:** I understand that.

6 **THE COMMISSIONER:** So why are we ---

7 **MS. SACCOCCIO BRANNAN:** Well, sir, the  
8 reason why is because we were told by Commission counsel on  
9 June the 19<sup>th</sup> that 90 per cent of the OPP's documents, which  
10 includes these things which I know you want to protect  
11 because you have said so, will be released to the parties  
12 with standing in unredacted form.

13 **THE COMMISSIONER:** Mr. Engelmann, could you  
14 assist here?

15 **MR. ENGELMANN:** We have had issues dealing  
16 with obviously the need to get this hearing going, and  
17 we've said for months now -- said many weeks now that we  
18 were going to have a bulk disclosure during the summer.  
19 And the suggestion that we would be selecting documents out  
20 of the approximately 300 pages that are in -- 300,000 pages  
21 that are in everybody's disclosure, about 40 to 45 per cent  
22 of it coming from the OPP, and that we would be selecting  
23 those documents which we would actually be using at the  
24 hearing and only disclosing those documents to the parties.  
25 I mean, that's just impossible, and we could never do that

1 and we could never have a bulk disclosure if we were going  
2 to do that.

3 What we have tried to do is work on  
4 innovative solutions and we are in the process of doing  
5 that with the OPP right now and other parties, but we had  
6 no intention and have no intention of sending things out  
7 into any kind of public sphere without very, very strict  
8 safeguards.

9 One of the things that we have tried to do,  
10 and we've had some difficulty because parties have  
11 suggested to us that no matter what the reason for a  
12 redaction or non-redaction, if we don't do every step of a  
13 redaction process before we deliver to parties, we cannot  
14 deliver to parties.

15 So, for example, we have had concerns about  
16 confidential police informants; that's been raised. Now,  
17 we are not aware of any nor have we been made aware of any,  
18 but there is the possibility, and it is a serious  
19 possibility and one we take very seriously that there may  
20 be a name or more than one name of a confidential police  
21 informant in what has been called unrelated or irrelevant  
22 investigations that may have been put together with the  
23 Project Truth documents. So that, obviously, we wanted to  
24 give a priority to. Likewise, statements that may have  
25 been made confidentially or anonymously -- not anonymously

1 but confidentially -- by victims or alleged victims to the  
2 police, we want to safeguard that. We were looking for  
3 ways to prioritize those two issues and another issue that  
4 is of grave importance, and those are issues dealing with  
5 the *Youth Criminal Justice Act*. We, as Commission counsel,  
6 view those issues as much more important, at least at this  
7 stage, than issues involving personal information, whether  
8 they would be SIN numbers, phone numbers, et cetera.

9 We are not saying that they are not all  
10 important, but what we were trying to get across was that  
11 some of these things should be given more of a priority  
12 than others. And in any event, in any event, we have told  
13 all the parties, and I mean all the parties, that every,  
14 every conceivable effort will be made to properly redact  
15 documents prior to their admission into evidence because  
16 that's when they become public, when they are admitted into  
17 evidence. Before then, before then, we are talking about  
18 disclosure to parties, we are talking about disclosure  
19 where counsel meet signed undertakings. So this makes the  
20 implied undertaking rule explicit and that's called for in  
21 our Rules.

22 As well, if, and I say "if", documents are  
23 shown to their clients, their client will have to sign an  
24 undertaking. And there are serious ramifications if those  
25 undertakings are breached. There are contempt proceedings

1 under the *Public Inquiries Act*. You can remove party  
2 status from parties who might breach those undertakings.  
3 So we were trying to put matters into place where we could  
4 deal with the most sensitive of redactions and then only  
5 deal with others as time went on.

6 But the suggestion that 90 per cent of  
7 documents would go forward unredacted is news to me  
8 because, quite frankly, and the OPP has done some  
9 redactions and we appreciate that, of at least five of  
10 their boxes. They've also done redactions on another 13  
11 boxes and we are in the process of working out an  
12 arrangement with them to do other redactions as quickly as  
13 we can, but we are very concerned. Commission counsel  
14 takes this very seriously and that's why if there is going  
15 to be any release of documents that may contain any of this  
16 information because we just don't have time, and I'm  
17 thinking particularly of the least sensitive of the reasons  
18 for redaction, we will catch them later, and in the  
19 meantime, we had every intention of having very, very  
20 strict undertakings. We are working with many parties,  
21 with many documents with different levels of comfort, shall  
22 I say, on redaction on undertaking to parties as opposed to  
23 redaction later. So we have a different approach, at least  
24 suggested by the Ministry for the Attorney General -- Ms.  
25 Im here. We had sort of a higher threshold from the OPP.

1 We have another threshold from the Cornwall Police Service.  
2 We have other thresholds from other parties, but we are  
3 working with all of them, sir, to in every way possible  
4 catch as many redactions as we can before there's a bulk  
5 disclosure.

6 **THE COMMISSIONER:** So will there be  
7 redaction of confidential informants before it's sent out  
8 to the parties?

9 **MR. ENGELMANN:** The hope is that that would  
10 never happen and that's why there are -- you know, first of  
11 all, you have to identify those notes that are unrelated  
12 because we know that they're not in the main substantive  
13 documents. They would only be in some irrelevant --  
14 irrelevant to this matter; investigations that may be -- we  
15 know there are some unrelated investigations that are  
16 contained in OPP documents and in Cornwall Police Service  
17 documents, and we are working with those parties to isolate  
18 where that exists in their documents.

19 **THE COMMISSIONER:** And then you are going to  
20 go and redact those?

21 **MR. ENGELMANN:** That is the plan and we are  
22 working on a system to do that.

23 **THE COMMISSIONER:** I guess the bottom line  
24 is are you saying that there will not be disclosure of  
25 statements made by people who said that they were doing it

1 in confidence?

2 **MR. ENGELMANN:** Okay. With respect to  
3 victims or alleged victims who were giving information in  
4 confidence, we are working -- we are trying to work that  
5 out now as well and if we don't work that all out and we  
6 miss one or two, we'll certainly -- one of the aspects of  
7 the undertaking is not only that they won't use the  
8 documents for any other purpose but for participation in  
9 this inquiry and that they can't disclose the contents to  
10 anyone, and if they disclose the contents to one member of  
11 their client, then that person as well would have to take  
12 an undertaking, but the undertaking that we have proposed  
13 also requires them to return a document if by mistake  
14 something like that were to get through, and nobody is  
15 perfect.

16 **THE COMMISSIONER:** No, no, human error aside  
17 ---

18 **MR. ENGELMANN:** Yes.

19 **THE COMMISSIONER:** Human error aside, I  
20 think what they are saying is are you proposing to take  
21 maybe "bulk" isn't -- just take something without looking  
22 at it and giving it to the parties?

23 **MR. ENGELMANN:** No. What we are hoping to  
24 do right now is to at least -- and just by way of the OPP  
25 -- at least have a percentage of their documents thoroughly

1 reviewed and review those documents. That is the current  
2 proposal that we have been discussing and release those  
3 documents and then release further documents as they are  
4 thoroughly looked at over the course of the summer. That's  
5 the current proposal.

6 **THE COMMISSIONER:** So they are all going to  
7 be thoroughly looked at?

8 **MR. ENGELMANN:** That's the current proposal.  
9 It's just a question of how quickly that can happen because  
10 we have these concerns on one side and we have the concerns  
11 of many parties on the other and the public that we start  
12 this hearing and we get it going.

13 **THE COMMISSIONER:** Okay.

14 **MR. ENGELMANN:** So that's the current  
15 proposal.

16 **THE COMMISSIONER:** Okay. You had me scared  
17 there for a bit.

18 **MS. SACCOCCIO BRANNAN:** That's helpful, Mr.  
19 Engelmann. Thank you.

20 Maybe to assist you, Mr. Commissioner, to  
21 understand our concern with respect to the other  
22 investigations where there may be confidential police  
23 informants, the officers who were Project Truth officers  
24 carrying out the investigation did not keep separate  
25 notebooks. I think you will hear that same information

1 from Mr. Manderville. Their notebooks are chronological in  
2 date. So they may be working on Project Truth and then  
3 they're taken away to their homicide investigation and then  
4 you will see the notes from the homicide investigation; or  
5 they've gone off to deal with a biker situation, and then  
6 you will see their notes; or the PEN squad, and you will  
7 see their notes.

8 So these are the things that concern us. I  
9 say with the greatest of respect to all of my colleagues in  
10 the room that the undertaking does not provide the  
11 safeguard, in our view, because that information shouldn't  
12 even be in the hands of counsel for parties with standing.

13 And I am going to get to how we are going to  
14 work together with the Commission. I wanted just to bring  
15 these issues to your attention so that you would be alive  
16 to the fact that we have these concerns because we know  
17 that they are your concerns, sir, and we wanted to be sure,  
18 to be certain that not even the parties with standing or  
19 their counsel would have this information.

20 And I'm going to explain in a few moments  
21 how the OPP is going to address that and assist Commission  
22 counsel and as our instructing officer, Acting Detective  
23 Superintendent McQuade has said, "We will throw the  
24 resources at it that we have to do to assist this  
25 Commission to meet its timelines the best that we can".

1                   **THE COMMISSIONER:** So bottom line is nothing  
2 is going out without being redacted.

3                   **MS. SACCOCCIO BRANNAN:** That's the bottom  
4 line we want to live with, sir.

5                   **THE COMMISSIONER:** That's what you've got.

6                   **MS. SACCOCCIO BRANNAN:** Thank you, sir.

7                   The proposal that we are in the process of  
8 working on, we've discussed with Mr. Dumais, with Mr. Ruel,  
9 with Ms. McArthur who, let me just say for the moment, one  
10 of the hardest working and smartest people I know in the  
11 technology area, and we will hopefully be meeting with them  
12 tomorrow at the OPP offices and we are going to discuss --  
13 we've got a proposal on the table. We've decided not to  
14 present that proposal publicly because there may be some  
15 wrinkles in it that Ms. McArthur would like to address with  
16 us, and that's fine, and we are going to start the process  
17 tomorrow and we are going to work at it until it's done.  
18 The process includes one thing in it that I think is  
19 important for me to let you know, and that would be a  
20 rolling redaction process. So as the documents are  
21 redacted, out they go to Ms. McArthur and she deals with  
22 them with super gravity. So it's not going to just be wait  
23 until we're finished.

24                   **THE COMMISSIONER:** No.

25                   **MS. SACCOCCIO BRANNAN:** No. It's going to

1 be on a rolling basis.

2 **THE COMMISSIONER:** And just to stop you  
3 there, when I used the expression "bulk disclosure", it  
4 meant not in bulk as in "unredacted".

5 **MS. SACCOCCIO BRANNAN:** That's what I meant,  
6 sir.

7 **THE COMMISSIONER:** And then what I meant  
8 was, when I spoke earlier, is that we will give you the  
9 bulk of what we have and by a certain date, and the rest,  
10 of course there is going to be rolling disclosure because  
11 by the nature of an inquiry, things are going to keep  
12 coming in and we are going to have to redact. It's going  
13 to be a constant thing.

14 **MS. SACCOCCIO BRANNAN:** Absolutely, sir.

15 **THE COMMISSIONER:** All right.

16 **MS. SACCOCCIO BRANNAN:** But our concern was  
17 that that first disclosure that was going out there, that  
18 was going to be unredacted and we were going to rely on  
19 undertakings ---

20 **THE COMMISSIONER:** Well ---

21 **MS. SACCOCCIO BRANNAN:** Sir, undertakings  
22 are not good enough for confidential police informants.

23 **THE COMMISSIONER:** We're passed that.

24 **MS. SACCOCCIO BRANNAN:** Okay. Thank you,  
25 sir.

1                   There are other issues which I just would  
2                   like to list then now that I understand where you're coming  
3                   from, sir, and that is any information in police officers'  
4                   notes that deal with investigative techniques, any  
5                   information with respect to individuals who were  
6                   investigated but never charged.

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

8                   **MS. SACCOCCIO BRANNAN:** That's a difficult  
9                   situation, and I don't know if Mr. Sherriff-Scott or Mr.  
10                  Cipriano or -- I don't know who's here for Mr. Leduc.

11                  **THE COMMISSIONER:** If it deals directly with  
12                  the subject matter of this inquiry, for example, I think --  
13                  I didn't know that we would have to cross that issue --  
14                  deal with that issue at that point. I thought it would be  
15                  -- people are going to come forward and say "I told Project  
16                  Truth that" -- so "I made a complaint about so and so" and  
17                  then we're going to have to see what that response was.

18                  **MS. SACCOCCIO BRANNAN:** Right.

19                  **THE COMMISSIONER:** And so I would have  
20                  thought that that issue as to whether the name would be  
21                  disclosed would be heard here.

22                  **MS. SACCOCCIO BRANNAN:** Absolutely, sir.  
23                  And that's why in the process of the redaction -- and  
24                  understand that when we do the redaction, it's done in a  
25                  yellow highlighter, not a black marker.

1                   **THE COMMISSIONER:** Okay.

2                   **MS. SACCOCCIO BRANNAN:** And when we do the  
3 redaction and it goes onto the electronic version, Ms.  
4 McArthur and your counsel can still see what's redacted.

5                   **THE COMMISSIONER:** Okay.

6                   **MS. SACCOCCIO BRANNAN:** When it's handed  
7 over to the parties with standing, they cannot see what's  
8 redacted. That's how far we've come in technology.

9                   **THE COMMISSIONER:** No, I understand that,  
10 but then I think at some point ---

11                   **MS. SACCOCCIO BRANNAN:** That redaction may  
12 be removed.

13                   **THE COMMISSIONER:** --- there might be an  
14 issue.

15                   **MS. SACCOCCIO BRANNAN:** Exactly.

16                   **THE COMMISSIONER:** At one point some parties  
17 might say, "I want to know what the name is because it's  
18 relevant."

19                   **MS. SACCOCCIO BRANNAN:** Right. And that's  
20 when you, sir, will be asked to make a ruling on that  
21 particular issue, but at the outset, it's our position that  
22 those should be redacted.

23                   When we get to things like an individual's  
24 home address, home telephone number and SIN number, this is  
25 personal information. Clearly, my client is concerned

1 about that as well. Yes, it is down on the list of  
2 priorities.

3 When we come to the issue of ---

4 **THE COMMISSIONER:** Well, do you have any  
5 real issue about those things, about SIN -- just a second  
6 now. Just let me finish.

7 **MS. SACCOCCIO BRANNAN:** SIN numbers, I do.

8 **THE COMMISSIONER:** It's my turn.

9 At that point, when we're talking about SIN  
10 numbers and the like, can that not be covered -- and  
11 addresses and phone numbers, do you not think that that can  
12 be covered by the undertaking?

13 **MS. SACCOCCIO BRANNAN:** Yes, sir, absolutely  
14 100 per cent. With respect to addresses, telephone numbers  
15 and SIN numbers, yes, that can be covered by an  
16 undertaking. It's private information, as you point out,  
17 but it doesn't -- it's not at the same level as the other  
18 issues.

19 **THE COMMISSIONER:** Knowing full well that if  
20 it comes into evidence, there will be further redaction,  
21 and those things would be considered, and unless there's a  
22 really good reason to trump a privacy issue if it becomes  
23 very relevant, that odds are all of that will be taken out  
24 before it's entered into evidence.

25 **MS. SACCOCCIO BRANNAN:** No difficulty with

1           that, sir. I think that's a very wise way to move on that  
2           particular issue.

3                         The last one -- actually, there's two. One  
4           is the individual's criminal record or youth criminal  
5           record.

6                         **THE COMMISSIONER:** Right.

7                         **MS. SACCOCCIO BRANNAN:** And as you well  
8           know, sir, the *Young Offenders Act* and with the transition  
9           provisions in the *Youth Criminal Justice Act*, there are  
10          ways in which that can be dealt with.

11                        For example, in speaking with Mr. Rose this  
12          morning for probation, you know, we talked about the fact  
13          that he has consents from some six people. My question to  
14          Mr. Rose was, "Would you please, on behalf of the Ontario  
15          Provincial Police and the Commission of Inquiry, review  
16          those consents and make a determination as to whether or  
17          not those consents extend to the OPP?" Because if they do,  
18          then it would be unnecessary to redact that information  
19          before that information is given to the parties with  
20          standing.

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

22                        **MS. SACCOCCIO BRANNAN:** With respect to the  
23          other criminal records and youth criminal records, Ms.  
24          McIntosh has kindly offered precedents and the sort. We  
25          have offered the Commission counsel our resources, Mr.

1 Kozloff and Ms. Lahaie and Ms. Costom, who are also  
2 criminal lawyers, to assist in obtaining those orders.

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

4 **MS. SACCOCCIO BRANNAN:** With respect to  
5 publication bans, this would be dealing with the  
6 transcripts from preliminary inquiries that would be made  
7 public.

8 **THE COMMISSIONER:** Right.

9 **MS. SACCOCCIO BRANNAN:** Ms. Morris has sent  
10 us a letter and she's talking about sections of the  
11 Criminal Code that may be of some assistance to Commission  
12 counsel and to yourself, sir, regarding the disclosure of  
13 those documents, and that's being presently looked at.

14 Our biggest concern there, of course, is the  
15 publication ban on the name of a victim and any identifying  
16 information, but that's being looked at right now.

17 **THE COMMISSIONER:** But if there's a  
18 publication ban and you're looking at the transcript, the  
19 name should not be in there.

20 **MS. SACCOCCIO BRANNAN:** I agree with you,  
21 sir. The last sexual assault case that I did where I was  
22 involved on the O'Connor application for the victim -- I  
23 was there for the victim -- that is indeed what occurred.  
24 When that transcript came out, everything was blacked out,  
25 in fact, and it's our hope that that is indeed the case

1 with these transcripts that are in the disclosure that Ms.  
2 McIntosh is speaking about.

3 **THE COMMISSIONER:** Well, I don't want to  
4 argue law here, but if we are summonsing material that is  
5 in your possession, I don't know that that would be a  
6 concern because you're not publishing it.

7 **MS. SACCOCCIO BRANNAN:** I don't have a  
8 difficulty with you having -- with the Commission counsel  
9 having it, sir. No, it's not publishing because it's in  
10 response to a summons.

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

12 **MS. SACCOCCIO BRANNAN:** Our concern is that  
13 the publishing occurs when the disclosure occurs, and I  
14 don't know -- because I don't know the answer to that  
15 question; I don't know the law on that particular area --  
16 whether or not that's something that can be done if those  
17 names or identifiers are not blacked out.

18 **THE COMMISSIONER:** Okay.

19 **MS. SACCOCCIO BRANNAN:** Now, I just want to  
20 end by saying that notwithstanding this back and forth and  
21 the concerns that we have raised, which we know, sir, are  
22 your concerns as well, our instructions from our client are  
23 to continue to work with Commission counsel, with the  
24 Commission's investigators, and to deliver to our offices  
25 here in Cornwall as many resources as possible to get the

1 job done.

2 Can we promise that it will be done tomorrow  
3 or next week? I don't think so, sir. We won't know until  
4 we actually begin the process, but we would like to have  
5 Ms. McArthur review with us and give it her blessing,  
6 because at the end of the day, we know Ms. McArthur is  
7 taking care of the data.

8 **THE COMMISSIONER:** All right.

9 **MS. SACCOCCIO BRANNAN:** Thank you very, very  
10 much for this opportunity to ---

11 **THE COMMISSIONER:** Thank you. I appreciate  
12 it.

13 **MS. SACCOCCIO BRANNAN:** --- present our  
14 concerns and for your direction.

15 **THE COMMISSIONER:** I hope we've been able to  
16 allay some of your concerns in the sense that redaction  
17 will be done.

18 **MS. SACCOCCIO BRANNAN:** Yes, you have, sir,  
19 today, a great deal and I expect that that's what I'll hear  
20 from my client after we break.

21 Thank you very much.

22 **THE COMMISSIONER:** Thank you.

23 Mr. Kozloff, you were excellent as always.

24 **MR. KOZLOFF:** Thank you very much, sir.

25 **THE COMMISSIONER:** Who is next?

1                   **MR. ENGELMANN:** Mr. Manderville is next.

2                   Just a brief comment, if I may. I  
3 understand that personal information, therefore, with  
4 respect to -- that's an issue that redaction on an  
5 undertaking, that will work, and we'll deal with -- we'll  
6 certainly have personal information out before admitting  
7 documents into evidence.

8                   Those investigated but not charged,  
9 particularly if we're talking about charges that are the  
10 subject matter of this inquiry, we may well have a  
11 difference of opinion with the OPP on that. Whether  
12 information like that gets admitted into evidence and there  
13 are issues at that stage, but I think that type of  
14 information would be of assistance to parties that are  
15 working on this, but if it's kept on the confidential  
16 nature and kept on the undertaking that we're going to have  
17 for all parties, but we'll speak to counsel about that.  
18 That one is one we'll have to look into.

19                   **THE COMMISSIONER:** Right. But I would think  
20 that in the interest of getting the material out ---

21                   **MR. ENGELMANN:** Yes.

22                   **THE COMMISSIONER:** --- for example, if  
23 people agree to disagree, it's better to get it out  
24 redacted so that the name of the victim, alleged victim or  
25 alleged perpetrator who was never charged be blacked out,

1 give it to the parties, and when they read everything, if  
2 they say -- as long as they know it's been redacted and  
3 that's the name of the alleged perpetrator, then they can  
4 come back and say, "Let's look at this and have some  
5 discussions about it." But I think it would be more  
6 important to get the material out so that people can read  
7 it and assess in a contextual way what to do.

8 **MR. ENGELMANN:** In any event, we'll carry on  
9 some discussions on that issue.

10 **THE COMMISSIONER:** We surely will. Thank  
11 you.

12 **MR. ENGELMANN:** Mr. Manderville is next.

13 **THE COMMISSIONER:** Mr. Manderville, yes,  
14 sir.

15 **--- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANDERVILLE:**

16 **MR. MANDERVILLE:** Good afternoon, Mr.  
17 Commissioner.

18 First off, let me say that our client and I  
19 were quite pleased to hear from you that it's the intention  
20 that nothing would go out in an un-redacted form.

21 **THE COMMISSIONER:** That doesn't mean it will  
22 be perfect.

23 **MR. MANDERVILLE:** No, I appreciate that.

24 **THE COMMISSIONER:** All right.

25 **MR. MANDERVILLE:** And regrettably there may

1 always be room for human error, and that cannot be helped  
2 at times.

3 Having said that, my client shares many of  
4 the concerns raised by Ms. Saccoccio Brannan on behalf of  
5 the OPP. We've been discussing with Commission counsel  
6 ways to address them, and I know you agree with me that it  
7 is far more important to get it right than it is to do it  
8 fast.

9 Our only additional issue really is my  
10 client does not have the same sorts of resources, financial  
11 or personnel-wise to throw at this the way the OPP might be  
12 able to. Commission counsel is aware of this and we're  
13 working through that in an attempt to resolve it as  
14 effectively as possible.

15 **THE COMMISSIONER:** Mr. Manderville, we want  
16 to do it right and we want to do it fast.

17 **MR. MANDERVILLE:** I understand that, and I  
18 think you're about to mention a four-letter word somewhere.

19 **THE COMMISSIONER:** Which one?

20 **MR. MANDERVILLE:** Delay.

21 And that's all I have to say, Mr.  
22 Commissioner.

23 **THE COMMISSIONER:** Thank you.

24 We're getting to the point where we don't  
25 have to talk anymore. We all understand each other. It's

1 good.

2 Anyone else?

3 **MR. ENGELMANN:** Mr. Wallace for the OPP.

4 **THE COMMISSIONER:** Yes, Mr. Wallace.

5 **--- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. WALLACE:**

6 **MR. WALLACE:** Good afternoon, Commissioner.

7 I will be a lot briefer than I would have  
8 been prior to your remarks with Ms. Brannan.

9 Last week myself and Mr. Carol shared our  
10 concern with Commission counsel concerning the disclosure  
11 or the potential disclosure in an un-redacted form of the  
12 OPP materials.

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

14 **MR. WALLACE:** Those concerns fell into  
15 really three categories: police informants, which you have  
16 dealt with; confidential informants, which are dealt with  
17 as well; and the last category was an officer safety issue  
18 that was connected with the disclosure of investigative  
19 techniques, and I believe, and correct me if I'm wrong,  
20 you've dealt with that as well. That will be redacted out  
21 prior to disclosure to the parties.

22 That being the case, our concerns with  
23 respect to these issues have been met and we thank you very  
24 much.

25 **MR. ENGELMANN:** Ms. Im had some brief

1 comments as well.

2 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MS. IM:

3 MS. IM: Good morning.

4 My comments as well will be brief. Your  
5 direction to Ms. Brannan has rendered most of my comments  
6 moot, but I did want to add and reiterate Ms. McIntosh's  
7 invitation to share precedents with respect to the *Youth*  
8 *Criminal Justice Act* proceedings. This is something that  
9 our office does do quite frequently in another context, and  
10 we have a large number of precedents. It's our  
11 understanding that it can be done quite quickly on a kind  
12 of walk-in basis. So we reiterate our invitation to share  
13 that with all parties.

14 THE COMMISSIONER: Thank you.

15 MS. IM: Thank you.

16 THE COMMISSIONER: Mr. Manson.

17 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANSON:

18 MR. MANSON: I was hoping that I wouldn't  
19 have anything to say and that I would have heard something  
20 more concrete from the other counsel.

21 I appreciate the source of this controversy  
22 and have nothing to say about how difficult this process  
23 is. We're just not privy to that and it's not our  
24 business.

25 What is our concern, however, is being

1 prepared for the substantive testimony. I'm a little  
2 concerned that tomorrow, counsel and the OPP intend to meet  
3 to devise a process for finishing the redaction and the  
4 disclosure.

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

6 **MR. MANSON:** So far, the last date we heard  
7 was that we would be getting disclosure perhaps by July  
8 24<sup>th</sup>.

9 I'm not sure where that stands given the  
10 recent disclosure of these controversies, which we just  
11 learned about through the correspondence last week.

12 On the other end of the scale we have the  
13 September 5<sup>th</sup> date, Mr. Commissioner.

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

15 **MR. MANSON:** I met with some of my clients  
16 this morning to talk about this issue, and while everyone  
17 wants to get moving with the substantive testimony, it's  
18 our position that we want to get moving when we're  
19 prepared. And if September 5<sup>th</sup> is carved in stone, then we  
20 need some assurance that disclosure will be sufficiently  
21 soon that we will be ready for September 5<sup>th</sup>.

22 We've already heard now -- we're back here  
23 July 24<sup>th</sup>.

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

25 **MR. MANSON:** We're back here August 8<sup>th</sup>.

1 This morning we heard we may be back another time in August  
2 to hear the corporate presentation of the School Board.

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

4 **MR. MANSON:** The preparation time is  
5 disappearing. The point I wanted to make, Mr.  
6 Commissioner, is from the perspective of our clients, who  
7 are a representative of part of the Cornwall community,  
8 they would not be unhappy if we didn't start the  
9 substantive testimony on September 5<sup>th</sup> but had to wait a  
10 week or 10 days or whatever it was.

11 Their concern is the same concern that Mr.  
12 Wardle and I have, is it's a daunting prospect and I didn't  
13 hear any commitments this morning -- and I can understand  
14 why it may not be possible to make commitments, but we're  
15 the ones who are in the crunch at the other end, Mr.  
16 Commissioner.

17 **THE COMMISSIONER:** I agree. I understand.  
18 I have been -- I'll just leave it at that for now. I'll  
19 hear the rest and then I'll address your concerns.

20 **MR. MANSON:** Thank you.

21 **MR. SHERRIFF-SCOTT:** I would just like to  
22 ask that in the event there's any discussion, Commissioner,  
23 on the subject of redaction that arises between Commission  
24 counsel and Ms. Brannan or the Cornwall Police insofar as  
25 that relates to those charged, but -- or excuse me,

1 investigated but not charged -- who may be part of my  
2 client base, that I be alerted to that issue.

3 **THE COMMISSIONER:** That's fair. Thank you.

4 **MR. ENGELMANN:** Before we started this  
5 morning, Mr. Commissioner, we had parties with different  
6 degrees of sensitivity with respect to the amount of  
7 redaction that was going to be required for release on a  
8 very strict undertaking.

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

10 **MR. ENGELMANN:** And if all of the documents  
11 from all of the parties have to meet the same requirements  
12 at this stage as opposed to the evidentiary stage, when and  
13 only when the document could become public, there will be  
14 some delays.

15 For example, the Ministry of the Attorney  
16 General, in correspondence with us, was more flexible with  
17 respect to the amount of redaction that would be necessary  
18 earlier than later. Let me be perfectly clear, that  
19 redaction always happens before these documents become  
20 public.

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

22 **MR. ENGELMANN:** So I'm not suggesting that  
23 they're in any way doing a disservice to anybody. It was  
24 just a different standard. It appears now, and I just --  
25 and I guess I'm posing the question to you. If the

1 standard is the same for all and if we're doing full  
2 redaction on all documents with the exception possibly of  
3 the personal information at this stage, that will have a  
4 timeline impact.

5 I don't think you have correspondence from  
6 some of these parties on this issue.

7 **THE COMMISSIONER:** No.

8 **MR. ENGELMANN:** I was hopeful that Ms. Im  
9 might set out the proposal that was made, and I think she  
10 might have pulled back thinking that we just want to have  
11 the same standard from all parties. Some parties had a  
12 higher degree of sensitivity than others.

13 **THE COMMISSIONER:** No, that's not -- I  
14 thought ---

15 **MR. ENGELMANN:** Maybe I'm being cryptic and  
16 ---

17 **THE COMMISSIONER:** --- I thought. Yes. I  
18 thought -- my understanding was that with respect to the  
19 OPP, they were doing something.

20 **MR. ENGELMANN:** Yes.

21 **THE COMMISSIONER:** With respect to  
22 Children's Aid, for example, you're doing something else.

23 **MR. ENGELMANN:** We have worked out a very  
24 good system of redaction with the Children's Aid Society  
25 and that's being worked on with their staff and counsel and

1 our staff and counsel.

2 **THE COMMISSIONER:** And I thought that with  
3 the Attorney General you were working something else out  
4 there.

5 **MR. ENGELMANN:** We certainly were attempting  
6 to and I'm not sure if that's still on the table.

7 So perhaps we could have a clarification on  
8 that from Ms. Im.

9 **THE COMMISSIONER:** Okay.

10 **MS. IM:** Commission counsel provided all  
11 parties with a proposal. I believe he's briefly gone  
12 through it in his letter dated June the 22<sup>nd</sup>. And I can  
13 advise the Commissioner as to what the status is of that  
14 proposal that the Ministry is considering.

15 **THE COMMISSIONER:** Do you need a microphone?

16 **MS. IM:** Sorry. Can you hear me?

17 **THE COMMISSIONER:** When you get old, you'll  
18 find out.

19 **MS. IM:** First of all, we are seeking client  
20 instructions with respect to Mr. Engelmann's proposal of  
21 June 22<sup>nd</sup> and we've advised Mr. Engelmann that we expect to  
22 have instruction at the very least, hopefully before, but  
23 at the very least by the end of next Friday. That's July  
24 7<sup>th</sup>.

25 However, we have forwarded a letter which

1 various parties have made allusions to, dated June 26<sup>th</sup>, by  
2 Leslie McIntosh, General Counsel at Crown Law Office Civil  
3 and she has advised Mr. Engelmann, I can advise you, that  
4 we are prepared to recommend the June 22<sup>nd</sup> proposal as  
5 outlined by Mr. Engelmann with some caveat.

6 Now, this is because, it does appear to  
7 address the concerns that the Ministry has. Now, you can  
8 appreciate that the issues that are raised by various  
9 parties have to do with the documentary disclosure that is  
10 specific to that party and, in particular, the *Youth*  
11 *Criminal Justice Act* matter, we have had discussions with  
12 Mr. Engelmann as to timelines for that. And we're hoping  
13 in the next couple of days to be able to advise Mr.  
14 Engelmann when we will have a court date set for obtaining  
15 of orders with respect to *Youth Criminal Justice Act*  
16 matters.

17 I don't know if that sufficiently addresses  
18 our status with respect to his proposal, but that's our  
19 position with respect to his proposal.

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

21 **MS. IM:** Thank you.

22 **THE COMMISSIONER:** Okay. Anybody else?

23 **MR. ENGELMANN:** I think that was exhaustive  
24 and hopefully not too exhausting. That was helpful and I  
25 know, sir, that I believe before we wrap up today, you have

1       some comments with respect to the applications you have  
2       heard this morning.

3                   **THE COMMISSIONER:** M'hm. Well, before I do  
4       that, let me say this; I am being insistent that we deal  
5       with matters quickly and efficiently. I have said at the  
6       beginning that we will go as quickly as possible but start  
7       when we're ready. I hear Mr. Manson's comments that from  
8       the receiving end, they're in the dark; that they were  
9       going to receive a bunch of documents from a whole bunch of  
10      parties and the parties have the advantage of knowing, to a  
11      larger degree, what's in there than they do.

12                   I have impressed on the parties who have the  
13      documents that we have to move and move quickly. And so I  
14      will exert as much pressure on them as possible, in the  
15      same way that I am going to exert once Mr. Manson and  
16      whoever is on the receiving end of the rest of the  
17      documents, that they look at them as quickly as possible.

18                   So I suppose the life of a commissioner is  
19      to be liked by no one and I suppose that's part of the job,  
20      but that's what I intend on doing. I will not push anyone  
21      on. If the disclosure comes in on September 1<sup>st</sup>, Mr.  
22      Manson, you're going to have a really good argument to push  
23      it back. If you get it on July 30<sup>th</sup>, we'll see.

24                   All in all, what I want to do is to ensure  
25      that people continue to work cooperatively, all the while

1       respecting, you know, the positions that they must take to  
2       represent their interests, but knowing all the while that  
3       there is a bigger interest, because this isn't a criminal  
4       proceeding, this isn't a civil proceeding, this is an  
5       inquiry. It's an inquiry into institutional responses and  
6       that's what we're looking at. And so while we're juggling  
7       all of the balls, we intend to proceed as quickly as  
8       possible.

9                        So all of that to say I believe, Mr. Manson,  
10       that at this point you will get a substantial amount of  
11       disclosure by the end of July. And I believe that as we go  
12       along that you will be getting a lot more disclosure on a  
13       roaming output as we go through the month of August.

14                       Somewhere in August, we will have to have a  
15       little meeting and discuss, through counsel or with me  
16       here, how we're doing on that. Hopefully with the rulings  
17       that I'm going to give very shortly with respect to the  
18       clerks and that kind of thing, that it will remedy a lot of  
19       those issues.

20                       The bottom line is I'm sensitive and I hear  
21       everyone with respect to all of their concerns. If  
22       anything else, this inquiry will be done correctly.

23                       So with that in mind, let's go on to the  
24       next step. The next step is to tell you that rather than  
25       keep you here over a prolonged lunch, I will issue the

1           rulings in the next couple of days, by the end of the week  
2           for sure, with respect to the funding issues.

3                         With respect to the School Board, I can tell  
4           you that for reasons that will be given shortly, you will  
5           be granted standing. I do that at this point because to  
6           delay that decision would be to delay the corporate  
7           presentation that we are looking forward to hear and the  
8           disclosure process that you will embark upon very shortly.

9                         So that being said, I think that pretty well  
10          concludes today's hearings.

11                        So, Mr. Manson, get your reading glasses  
12          ready and for the others, let's get your pencils sharpened  
13          and let's redact.

14                        Mr. Engelmann.

15                        **MR. ENGELMANN:** I just then wanted to remind  
16          people that we're on that week that was not booked. Some  
17          of you may not have been here; it's July 24<sup>th</sup>, to hear the  
18          corporate policy evidence from the Ministry of the Attorney  
19          General.

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

21                        **MR. ENGELMANN:** And there will be documents  
22          obviously disclosed in advance for that as well. I just  
23          wanted to remind people of that date.

24                        **THE COMMISSIONER:** Thank you.

25                        **MR. ENGELMANN:** Thank you.

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

3                           This hearing is now adjourned. L'audience  
4           est ajournée.

5           --- Upon adjourning at 12:58 p.m./

6                   L'audience est ajournée à 12h58

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C E R T I F I C A T I O N

I, Sean Prouse a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Sean Prouse, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



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Sean Prouse, CVR-CM