

**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 203

Held at :

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

Monday, March 3 2008

Tenue à:

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

Lundi, le 3 mars 2008

ERRATA

**February 14th, 2008
Volume 197**

Page III, Table of Content

Cross-Examination by/Contre-interrogatoire par
Mr. Peter Callaghan 1

Should have read:

Cross-Examination by/Contre-interrogatoire par
Mr. **John** Callaghan 1

Page 5, line 5 and 6

MR. SKINNER: The senior police dministration
course? Yes, I did.

Should have read:

MR. SKINNER: The senior police **administration**
course? Yes, I did.

Page 44, line 6

MR. CALLAGHAN: Even one that's 20 years old,
where there is fresh evidence?

Should have read

MR. CALLAGHAN: Even one that's 20 years old,
where there is **no** fresh evidence?

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Janie Larocque Ms. Mary Simms	Commission Counsel
Mr. John E. Callaghan Mr. Mark Crane	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. David Rose	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Jodie-Lynn Waddilove	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Ms. Helen Daley	Citizens for Community Renewal
Mr. Michael Neville	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action

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1 --- Upon commencing at 9:39 a.m. /

2 L'audience débute à 9h39

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

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

8 Please be seated. Veuillez vous asseoir.

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

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

13 **THE COMMISSIONER:** Good morning.

14 **MR. ENGELMANN:** Good morning, Mr. Derochie.

15 **MR. DEROGHIE:** Good morning, Mr. Engelmann.

16 **THE COMMISSIONER:** New faces today, Mr.
17 Engelmann?

18 **MR. ENGELMANN:** I'm sorry?

19 **THE COMMISSIONER:** New faces?

20 **MR. ENGELMANN:** Yes. For the Ministry of
21 the Attorney General, we have with us Jodie-Lynn Waddilove
22 who is here joining us for the first day.

23 **THE COMMISSIONER:** Good morning. Welcome
24 aboard. Thank you.

25 **MR. ENGELMANN:** I think you know the other

1 faces. There are some that are missing and I wanted just
2 to mention that because a couple of people were unable to
3 make it this morning.

4 **THE COMMISSIONER:** Okay.

5 **MR. ENGELMANN:** One is my colleague, Janie
6 Larocque, who is dealing with freezing rain and hopefully
7 will be able to make it here later today.

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

9 **MR. ENGELMANN:** And Mr. Lee contacted me
10 this morning. One of his colleagues is on a plane at the
11 Pearson Airport unable to fly to Ottawa and he's had to
12 deal with a matter urgently in Ottawa this morning. So he
13 hopes to be here this afternoon.

14 **THE COMMISSIONER:** All right.

15 **MR. ENGELMANN:** So those were people who
16 contacted me with some weather or other difficulties and I
17 thought I'd mention them.

18 Sir, as well, I wanted to deal with -- just
19 before Staff Sergeant Derochie, we could just deal with a
20 couple of housekeeping matters.

21 There were some errata that were pointed out
22 to us by counsel for the Cornwall Police Service dealing
23 with Volume 197. This February 14th, 2008, dealing with --
24 there are some very minor ones that really could have been
25 dealt with otherwise, but since there were some that I

1 thought needed to be spoken to, I'm just going to speak to
2 all of them.

3 On page 5, and this is Mr. Callaghan's
4 cross-examination of Mr. Skinner, in the 6th line, the word
5 is missing in "(a)"; it should be "administration" --
6 that's "senior police administration course".

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

8 **MR. ENGELMANN:** Then, sir, in the same
9 transcript, and these were pointed out to us by Mr.
10 Callaghan's colleague, Ms. Lalji, the Table of Contents,
11 Roman Numeral III, Cross-Examination not by Mr. Peter
12 Callaghan but Mr. John Callaghan. It's just trying to
13 steal someone's name there.

14 Then a couple of other references, sir, that
15 were pointed out by counsel for the Cornwall Police
16 Service, page 44, line 7, Mr. Callaghan is asking Mr.
17 Skinner a question. It says:

18 "Even one that's 20 years old, where
19 there is fresh evidence."

20 And it should have said:

21 "Even one that's 20 years old, where
22 there is no fresh evidence."

23 And, sir, lastly on page 103, lines 2 and 3,
24 Mr. Skinner is quoted as saying:

25 "That is true isn't it?"

1 And looking like Mr. Skinner is posing a
2 question and what it should say is:

3 "That is true, m'hm."

4 How it's been given to me is "M'hm". I
5 assume that means affirmative, but that is it wasn't, "That
6 is true isn't it?" in the form of a question. It was,
7 "That is true, m'hm" is what the tape would indicate.

8 So it was, in fact, Mr. Skinner and not Mr.
9 Callaghan posing the question.

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

11 **MR. ENGELMANN:** So those were just some
12 minor errata. There are a couple of other things that I
13 think we can clear up on our own, but I just wanted to
14 mention the one in particular where the word "no" should be
15 inserted, as I felt it was important.

16 **GARRY DEROCHIE: Resumed/Sous le même serment**

17 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
18 **ENGELMANN (Continued/Suite):**

19 **MR. ENGELMANN:** So that leaves us with
20 continuing Staff Sergeant Derochie with some questions, and
21 I believe where I left off we were dealing with a meeting
22 that you had -- or some meetings you had on November 4th,
23 1993, and this was, sir, just to put us back into context,
24 this was when you were starting the -- if I can call it the
25 second part of the mandate or the expanded mandate to look

1 at how your service had investigated the Silmsers complaint?

2 MR. DEROCHIE: Yes, that's right.

3 MR. ENGELMANN: All right. And you said you
4 had a couple of weeks at the beginning of November where
5 you were actually given some dedicated free time to look at
6 it?

7 MR. DEROCHIE: That's right.

8 MR. ENGELMANN: And this is in that
9 timeframe?

10 MR. DEROCHIE: It is. That's right.

11 MR. ENGELMANN: All right. And I believe at
12 -- and I'm looking at your dedicated notebook, Exhibit
13 1293.

14 MR. DEROCHIE: Yes.

15 MR. ENGELMANN: And I believe your
16 discussions with Constable Sebalj are documented at or
17 around pages 50 and 51. It starts a bit earlier and we've
18 gone through some of this.

19 MR. DEROCHIE: Yes, that's correct.

20 MR. ENGELMANN: But just so we are clear,
21 it's my understanding that you met with them together?

22 MR. DEROCHIE: Constable Sebalj and Staff
23 Sergeant Brunet, yes.

24 MR. ENGELMANN: That's right. Correct?

25 MR. DEROCHIE: That's correct.

1 **MR. ENGELMANN:** And much of what you are
2 writing about in your notes, if I'm interpreting them
3 correctly, is what Constable Sebalj is telling you?

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** Would it be fair to say that
6 she was providing you with most of the information at the
7 meeting or was it ---

8 **MR. DEROCHIE:** It was an exchange of
9 information between all three of us, I think.

10 **MR. ENGELMANN:** All right. All right, so
11 everybody was participating?

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

13 **MR. ENGELMANN:** There was no one else there?

14 **MR. DEROCHIE:** No.

15 **MR. ENGELMANN:** Okay. And at the bottom of
16 page 50, you write:

17 "Sebalj also told me that the sexual
18 assaults involving Ken Seguin might not
19 stand up to scrutiny."

20 And you say:

21 "Silmser developed a relationship with
22 Seguin. Silmser would visit overnight
23 with Seguin and trade off sexual
24 favours for a shower, warm bed and
25 meals."

1 Do you see that?

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

3 **MR. ENGELMANN:** Do you know where that
4 information comes from?

5 **MR. DEROCHIE:** I believe it comes from as a
6 result of their initial interview of Mr. Silmser.

7 **MR. ENGELMANN:** All right. The reason I ask
8 is, maybe I've just missed it, but I didn't see that in the
9 original notes. You are talking about the January 28th
10 interview that he has with ---

11 **MR. DEROCHIE:** With Sebalj, Malloy and
12 Lefebvre.

13 **MR. ENGELMANN:** --- Sebalj, Malloy and --
14 all right. That's where you believe that came out?

15 **MR. DEROCHIE:** That's right, yes.

16 **MR. ENGELMANN:** All right. Do you know,
17 sir, if he was alleged to have been on probation at that
18 time with Mr. Seguin or if that was after?

19 **MR. DEROCHIE:** I'm unaware of what his
20 probation status was at that time.

21 **MR. ENGELMANN:** Now, did you have some
22 thoughts at that time about Constable Sebalj's comments
23 regarding Ken Seguin and David Silmser in reference to a
24 "relationship"?

25 **MR. DEROCHIE:** Other than knowing that

1 consent is always an issue at -- during sexual assault
2 trials that, you know, there was some merit to what she
3 saying or there could be some merit to what she was saying.

4 **MR. ENGELMANN:** All right. Well, in your
5 notes, you say a little bit more than that on that.

6 **MR. DEROCHIE:** Yes.

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

8 **MR. DEROCHIE:** Yes, it is fair.

9 **MR. ENGELMANN:** You talk about his position
10 of authority and you suggest, if I can read:

11 "This fact does not remove or excuse
12 culpability on Seguin's part. He no
13 doubt used his position of authority
14 over Silmsler to get from him what he
15 wanted."

16 **MR. DEROCHIE:** That's correct. I make that
17 observation and I wasn't sure -- 100 percent sure of my
18 thoughts on that, but it's certainly something that I
19 wanted to look at further.

20 **MR. ENGELMANN:** All right. You make that
21 observation?

22 **MR. DEROCHIE:** I do, yes.

23 **MR. ENGELMANN:** Yeah, but do you hear that
24 from either Staff Sergeant Brunet or Constable Sebalj or is
25 that simply you making an observation?

1 **MR. DEROCHIE:** I think that's just myself
2 making an observation. I don't recall us discussing the
3 merits of that observation.

4 **MR. ENGELMANN:** All right. So when she
5 indicates to you it might not stand up to scrutiny;
6 developed a "relationship", neither she nor Staff Sergeant
7 Brunet are saying but there's a position of trust or a
8 person of authority, that type of thing? You're not
9 hearing that from them?

10 **MR. DEROCHIE:** I don't recall that. I don't
11 recall what the genesis of my thought on that was.

12 **MR. ENGELMANN:** Now, at some point in this
13 meeting, did they explain to you why a full investigation
14 was not undertaken regarding Ken Seguin?

15 **MR. DEROCHIE:** Yes, they did.

16 **MR. ENGELMANN:** In the context of this
17 particular meeting?

18 **MR. DEROCHIE:** I don't know if it was in the
19 context of this particular meeting or whether it was just a
20 matter of them reinforcing the reason there wasn't, and
21 that would have been that Mr. Silmsen did not want to
22 proceed with a complaint against Mr. Silmsen -- or Mr.
23 Seguin.

24 **MR. ENGELMANN:** All right. And is that how
25 it was told to you, sir? Or is this something you read, or

1 ---

2 **MR. DEROCHIE:** Well, I think it's probably a
3 combination of different information that I'm, you know, I
4 have and I'm evaluating and that's how I reached that
5 conclusion.

6 **MR. ENGELMANN:** All right. Because we --
7 you would have seen this in the notes there was some
8 follow-up meeting with Mr. Silmsen on March 10th at his
9 home?

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** Yeah. And do you recall
12 hearing about that or reading about that?

13 **MR. DEROCHIE:** I remember vaguely reading
14 about that in the notes.

15 **MR. ENGELMANN:** And do you recall hearing or
16 reading something to the effect that he was only able to
17 deal with one person at a time?

18 **MR. DEROCHIE:** Yes, that was my
19 understanding of the initial contacts with Mr. Silmsen; he
20 just wanted to deal with the Father Charlie issue at that
21 time, at that particular time.

22 **MR. ENGELMANN:** All right. He wasn't saying
23 he never wanted to deal with Ken Seguin?

24 **MR. DEROCHIE:** No, but he was giving the
25 indications that he had a remedy in mind other than through

1 the police service. He indicated he had made a telephone
2 call to Mr. Seguin and assured him that he wasn't
3 proceeding against him. But that was my information of the
4 earlier part of their discussions with Mr. Silmser.

5 **MR. ENGELMANN:** All right. And that's
6 something you would have read, sir?

7 **MR. DEROCHIE:** I believe so, in Heidi's
8 notes.

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

10 **THE COMMISSIONER:** Didn't that sound a
11 little odd to you that in the midst of a possible police
12 investigation, the complainant is saying "Well, if I settle
13 civilly with this fellow, then I won't proceed criminally"?
14 Did that not ring a bell?

15 **MR. DEROCHIE:** A bit -- well, it may have
16 caused me to pause and consider that. I didn't hear alarm
17 bells if that's what you're ---

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

19 **MR. DEROCHIE:** --- suggesting, Mr.
20 Commissioner. I -- you know, I wasn't familiar with the
21 current theories with regards to how you deal with
22 historical sexual assault. I knew that there was some
23 thought that the victim should be the one to decide what
24 remedy they should get with regards to or what avenues they
25 could pursue. That if they didn't want the police to

1 investigate, that we wouldn't force the investigation on
2 them.

3 By that time, by the time I'm reading this
4 information in late 1993, a lot of these things have
5 already been discussed and now, I know that there has been
6 consultation with the Crown attorney with regards to
7 forcing the victims to testify.

8 Did it strike me odd as a police officer?
9 It may well have, you know.

10 **MR. ENGELMANN:** Well just to follow-up on
11 that, not the forcing but the fact that there may have been
12 money paid, so that you don't proceed, whether it's today,
13 Staff Sergeant Derochie, or it's 1993, does it really
14 matter?

15 **MR. DEROCHIE:** No. And I don't know that I
16 did -- don't know that I knew that the money had been paid
17 to stop the settlement -- or stop the investigation. I
18 knew that there had been a civil settlement and that Mr.
19 Silmsler no longer wished to cooperate with the police.

20 **MR. ENGELMANN:** All right. And that's
21 something you knew only in the fall?

22 **MR. DEROCHIE:** Only in the fall -- well I
23 knew nothing of this prior to that.

24 **MR. ENGELMANN:** Yeah, that's right. You
25 didn't know anything before October 7th?

1 **MR. DEROCHIE:** No. And really, at that
2 point, I didn't give it much thought; I was dealing with
3 something totally different.

4 **MR. ENGELMANN:** You weren't investigating
5 the actual complaint?

6 **MR. DEROCHIE:** I wasn't investigating
7 anything other than how the statement got to CAS through
8 Mr. Dunlop.

9 **MR. ENGELMANN:** Okay. But you're aware,
10 sir, that in mid-February, in fact on February 16th, Mr.
11 Silmsler turned in that statement, a handwritten statement
12 of eight pages?

13 **MR. DEROCHIE:** I'm aware of that now and I
14 was aware of that sometime in the fall of 1993, yes.

15 **MR. ENGELMANN:** Right. And in that
16 handwritten statement, although it's not very detailed, the
17 last page deals with allegations against Ken Seguin.

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

19 **MR. ENGELMANN:** And do you know which of the
20 Cornwall Police Service officers made the decision not to
21 proceed with an investigation of Ken Seguin?

22 **MR. DEROCHIE:** No, I don't know who ---

23 **MR. ENGELMANN:** So you don't know whose
24 decision that was?

25 **MR. DEROCHIE:** No.

1 **MR. ENGELMANN:** Did you ask Constable Sebalj
2 and/or Staff Sergeant Brunet if it was one of them or if
3 they went somewhere else for the decision?

4 **MR. DEROCHIE:** I don't recall asking that
5 question. I just never considered it.

6 **MR. ENGELMANN:** All right. Do you know
7 whether they sought the assistance of the local Crown for
8 that?

9 **MR. DEROCHIE:** I knew that eventually they
10 did. Subsequent to the settlement being made and Mr.
11 Silmser reporting to us that he wanted to stop the
12 MacDonald investigation that they asked for direction,
13 Staff Sergeant Luc Brunet I believe, asked for direction
14 from the victim with regards to Mr. Seguin.

15 **MR. ENGELMANN:** All right. But that was
16 post your initial involvement in the case, that's post
17 October 7th? That was in ---

18 **MR. DEROCHIE:** That was -- -

19 **MR. ENGELMANN:** --- November?

20 **MR. DEROCHIE:** Yes. That's correct -- well
21 -- I'm sorry, it was in what?

22 **MR. ENGELMANN:** In November.

23 **MR. DEROCHIE:** I don't believe so. I
24 believe it was before I got involved. I can't recall.
25 Let's just say I can't recall.

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

2 **MR. DEROCHIE:** I don't know the sequence,
3 the timing of that.

4 **MR. ENGELMANN:** All right. It was in the
5 fall; is that fair?

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** Now, this comment about --
8 initiated by Silmsers, you've got that at the bottom of page
9 51 of your notes, again 1293 is the exhibit.

10 "There is evidence I haven't fully
11 developed at this point that there was
12 contact initiated by Silmsers between
13 the two while the investigation was in
14 progress."

15 And when you say "between the two," you're
16 referring to Silmsers and Seguin?

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

18 **MR. ENGELMANN:** All right. And this is
19 something that you would have either read in one of Heidi
20 Sebalj's notes or you would have heard from her?

21 **MR. DEROCHIE:** Yes, either/or, both.

22 **MR. ENGELMANN:** All right. It's not
23 something you'd heard from either Mr. Seguin or Mr.
24 Silmsers?

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

1 **MR. ENGELMANN:** But you say:

2 "This may explain where the mystery
3 money came from."

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** Do you see that?

6 **MR. DEROCHIE:** Yes, I see that.

7 **MR. ENGELMANN:** And it says:

8 "Silmser (Silmser's cash settlement)
9 included a portion from the church, a
10 portion from Father MacDonald and a
11 third portion (10,000 or 12,000) from
12 an unknown source."

13 **MR. DEROCHIE:** That was my understanding at
14 the time and I can't recall now who told me that or how I
15 became involved but somehow I knew or I believed at that
16 time that there had been three sums of money that combined
17 to equal the \$32,000.

18 **MR. ENGELMANN:** That's a pretty significant
19 fact; isn't it?

20 **MR. DEROCHIE:** Well, I thought of it.

21 **MR. ENGELMANN:** Yeah.

22 **MR. DEROCHIE:** I recorded it in my notebook,
23 yeah.

24 **MR. ENGELMANN:** So I guess what I'm saying
25 is it would be important to consider the source?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** All right. And you're not
3 sure now whether you got that information from either Heidi
4 Sebalj or Luc Brunet?

5 **MR. DEROCHIE:** Or the Chief of Police, no.

6 **MR. ENGELMANN:** Because you're writing it in
7 the context of this meeting of ---

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** --- November 4th?

10 **MR. DEROCHIE:** Yes. But I'm writing it in
11 the context I knew about it previously to the meeting. At
12 least, that's my recollection and my notes seem to confirm
13 that to me that I had this knowledge.

14 **MR. ENGELMANN:** All right. So you might
15 have received that knowledge from Chief Shaver?

16 **MR. DEROCHIE:** I may have.

17 **MR. ENGELMANN:** After he met with the
18 Bishop?

19 **MR. DEROCHIE:** Yes.

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

21 **MR. DEROCHIE:** Or, I know he spoke to the
22 Crown. I know he spoke to CAS. It seems to me he had that
23 ---

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

25 **MR. DEROCHIE:** --- I don't know if he had

1 that, but someone told me that the money had been made up
2 from three sums.

3 **MR. ENGELMANN:** All right. So was this
4 something you would have discussed with both Constable
5 Sebalj and Staff Sergeant Brunet?

6 **MR. DEROCHIE:** Not at that time, I don't
7 believe. I believe I just made a note of it to return to
8 it at some later date. If I was going to be involved in
9 something other than the way the investigation was
10 investigated or the way the -- how the statement got to be
11 -- to CAS. I thought that was an important fact to record
12 so that it wouldn't, you know, that I'd get back to it
13 somehow.

14 **MR. ENGELMANN:** Okay. But you're writing
15 this down in November 4th in your notes just after -- during
16 a meeting ---

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** --- that you had with both
19 of these officers?

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** You believe you didn't get
22 the information from either of them?

23 **MR. DEROCHIE:** I believe I had the
24 information beforehand.

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

1 **MR. DEROCHIE:** Did we discuss it on November
2 4th, possibly we did.

3 **MR. ENGELMANN:** I guess that's my point.
4 Wouldn't it have been important to discuss that information
5 with Sebalj and Brunet?

6 **MR. DEROCHIE:** I don't -- it didn't occur --
7 yes, it would have been important to discuss it, to clarify
8 in my mind if my reading of this was correct.

9 **MR. ENGELMANN:** Yeah.

10 **MR. DEROCHIE:** Yes, you're quite right.

11 **MR. ENGELMANN:** You're thinking that maybe
12 that mystery money came from Ken Seguin?

13 **MR. DEROCHIE:** That was my thought, yes, at
14 that time.

15 **MR. ENGELMANN:** Right. And I'm just
16 wondering why -- I just would have thought it would have
17 been natural to share that with either Sebalj or Brunet
18 because they were involved with this investigation?

19 **MR. DEROCHIE:** Your reasoning is quite
20 accurate. My -- I don't know that I did or I didn't, to
21 tell you the truth.

22 **MR. ENGELMANN:** Especially if you're
23 thinking about possibly reopening the investigation because
24 at this time you were contemplating it.

25 **MR. DEROCHIE:** Well, I was contemplating the

1 merits of the original investigation, you know.

2 MR. ENGELMANN: Yes.

3 MR. DEROCHIE: The settlement really -- I
4 didn't really consider that part of what I wanted to do. I
5 wanted to -- I wanted the criminal investigation to be
6 reopened. I didn't, at this point, associate the
7 settlement with criminal activity; rightly or wrongly, I
8 didn't do that at that time.

9 MR. ENGELMANN: Right. Okay, at this point
10 in time, November 4th, would you and these other two
11 officers, Sebalj and Brunet, have been aware that Malcolm
12 MacDonald was acting for both Father Charlie and for Ken
13 Seguin?

14 MR. DEROCHIE: I believe I -- I understood
15 that, yes.

16 MR. ENGELMANN: And so you -- you were of
17 the belief that either Ken Seguin or possibly Malcolm
18 MacDonald on his behalf, contributed that money; that
19 mystery money.

20 MR. DEROCHIE: That was my thoughts on it.

21 MR. ENGELMANN: And was that ever followed
22 up on, sir, by anybody; do you know?

23 MR. DEROCHIE: I don't know.

24 MR. ENGELMANN: Did you follow up on that?

25 MR. DEROCHIE: I did not.

1 **MR. ENGELMANN:** The reason I -- I was asking
2 about this is at page 51 when you started, you said:

3 "There is evidence; I haven't fully
4 developed it, at this point."

5 That -- that's what sort of starts this thing off about
6 Seguin and Silmsner and cash and I just -- I had the sense,
7 perhaps, that you were going to develop it further later.

8 **MR. DEROCHIE:** Well, beyond what I've
9 recorded in my ---

10 **MR. ENGELMANN:** Yes, fair enough ---

11 **MR. DEROCHIE:** --- notes, I -- I can't -- I
12 can't comment; I'm sorry.

13 **MR. ENGELMANN:** All right. So you're not
14 aware of -- of any follow-up internal to your service on
15 this issue.

16 **MR. DEROCHIE:** Within the service?

17 **MR. ENGELMANN:** Yes.

18 **MR. DEROCHIE:** Within our service, no. I do
19 know that the OPP -- it became the subject of an OPP
20 investigation ---

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

22 **MR. DEROCHIE:** --- sometime afterwards.

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

24 **MR. DEROCHIE:** But, as far as I know, within
25 the Cornwall Police Service, the issue was never -- just

1 never went anywhere.

2 **MR. ENGELMANN:** All right. And the OPP
3 looking at it, sir, would that have been in '94 after the
4 Ottawa Police Service or was that subsequent or do you
5 know?

6 **MR. DEROCHIE:** I really don't know. It
7 would have been around that time period or after that, that
8 '94 or '95 period of time; I -- I don't specifically recall
9 when.

10 **MR. ENGELMANN:** But it -- it would have been
11 after a determination by the Cornwall Police Service not to
12 charge Mr. Seguin and, of course, Mr. Seguin then died at
13 the end of November.

14 **MR. DEROCHIE:** Yes, that's correct.

15 **MR. ENGELMANN:** Now, by November 4th -- and I
16 think this goes without saying, you have not seen a
17 settlement or any documents describing a cash payment.

18 **MR. DEROCHIE:** No.

19 **MR. ENGELMANN:** You believe you've heard
20 about this from the chief or at least someone else.

21 **MR. DEROCHIE:** Oh, do you mean the make-up
22 of the cash settlement?

23 **MR. ENGELMANN:** Yes.

24 **MR. DEROCHIE:** I heard it from someone else.
25 I would have -- I would -- I don't remember ever getting

1 direct knowledge of that. I'd never uncovered any evidence
2 that would have ---

3 **MR. ENGELMANN:** I -- I'm just ---

4 **MR. DEROCHIE:** --- explained that.

5 **MR. ENGELMANN:** I'm surprised, your notes
6 are so thorough that there's no reference to who told you
7 that and when.

8 **MR. DEROCHIE:** Yes, there -- there's a lot
9 of information just floating around the station and I knew
10 that, you know, I would have some of that knowledge and had
11 I -- had I got it from a specific source, I -- I don't
12 recall what that source was. That was the -- definitely,
13 you're quite right; that was in my mind that there had been
14 three increments to this settlement and I was speculating
15 at this point who -- who may have contributed to the
16 settlement.

17 **MR. ENGELMANN:** All right. And you don't
18 know -- I was going to ask you what, if anything, Sebalj
19 and Brunet did to follow up on this, but you're not even
20 sure you spoke to them about this; the mystery money, the
21 cash settlement.

22 **MR. DEROCHIE:** No, I'm -- I'm -- I'm willing
23 to concede, as you say, that it was in the context of that
24 conversation with Brunet and Sebalj and we may -- we may
25 well have discussed it, but it may have just been in, you

1 know, in passing as we -- we tried to think out loud how --
2 where this money had come from ---

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

4 **MR. DEROCHIE:** --- how this had all
5 developed.

6 **MR. ENGELMANN:** And by this time you all
7 knew that, as I said, Malcolm MacDonald was acting for both
8 Ken Seguin and Father Charles MacDonald.

9 **MR. DEROCHIE:** I believe so, yes.

10 **MR. ENGELMANN:** And would you all have known
11 that they were all good friends or purported to be good
12 friends, the three of them?

13 **MR. DEROCHIE:** That -- that was my thought
14 on it, yes, that they were. And that was -- again, that
15 would be not through personal knowledge, but from what I
16 had heard around.

17 **MR. ENGELMANN:** And you've also heard some
18 rumours about Malcolm MacDonald, himself; correct?

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

20 **MR. ENGELMANN:** And what were they, sir?

21 **MR. DEROCHIE:** That -- that he was
22 homosexual and preferred -- his preference, his sexual
23 preference was towards young -- young people.

24 **MR. ENGELMANN:** It was more than homosexual;
25 it was that he had a sexual preference or preference for

1 boys.

2 MR. DEROCHIE: Yes, well, yes, yes.

3 THE COMMISSIONER: Well, the -- the note
4 says little boys.

5 MR. DEROCHIE: Little boys. And I would use
6 the same term in describing a -- a heterosexual male who --
7 who dated 15, 16, 17 year old girls; that he would prefer
8 little girls ---

9 THE COMMISSIONER: M'hm.

10 MR. DEROCHIE: --- you know, that's the
11 context that -- that I ---

12 MR. ENGELMANN: You don't have an age range
13 there, sir; do you?

14 MR. DEROCHIE: No, I don't have an age
15 range.

16 MR. ENGELMANN: You said little boys.

17 MR. DEROCHIE: Little boys, yes.

18 MR. ENGELMANN: And as well, sir, on this
19 one, I think we have a -- an actual rough note; if I could
20 take the witness to 728443.

21 THE COMMISSIONER: Yes.

22 (SHORT PAUSE/COURTE PAUSE)

23 THE COMMISSIONER: Thank you. Exhibit
24 Number 1303 are rough notes of Constable -- Sergeant
25 Derochie dated November 4th.

1 --- EXHIBIT NO./PIÈCE NO P-1303:

2 (728443) Rough notes of Garry Derochie -
3 04 Nov, 93

4 MR. ENGELMANN: I just wanted to make sure
5 that's the case, sir ---

6 THE COMMISSIONER: Okay, go ahead.

7 MR. ENGELMANN: --- perhaps, the witness
8 could just confirm that. Are these your handwritten notes?

9 MR. DEROCHIE: These are my notes. They
10 were made at approximately 9:30 a.m. on the 4th of November,
11 1993; it doesn't say that, but that's when it would have
12 been ---

13 THE COMMISSIONER: All right.

14 MR. DEROCHIE: It would have been made.

15 MR. ENGELMANN: So this would be an example,
16 Staff Sergeant Derochie, where we would have one of your
17 rough notes that you had been ---

18 MR. DEROCHIE: That's correct, yes.

19 MR. ENGELMANN: --- written up in your
20 dedicated notebook.

21 MR. DEROCHIE: That's right.

22 MR. ENGELMANN: All right. So in your
23 dedicated notebook, 1293, we have the reference:

24 "I was also advised that Malcolm
25 MacDonald (Father MacDonald's

1 lawyer)..."

2 Of course we know also Ken Seguin's lawyer,
3 but:

4 "...is also renowned to have a sexual
5 preference for little boys."

6 Sorry to have -- oh, rumoured; I'm sorry:

7 "...is also rumoured to have a sexual
8 preference for little boys. I was told
9 that Seguin, Father MacDonald and A.M.
10 MacDonald are close friends and move
11 within the same circles."

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

13 **MR. ENGELMANN:** All right. Now, in your
14 rough notes, you say "informed that Malcolm MacDonald is
15 suspected of..." and you use the term "sexual misconduct
16 involving young boys;" do you see that?

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** And then apparently you're -
19 - you're asking the question relevant to anything that --
20 that's you musing; is that fair?

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

22 **MR. ENGELMANN:** So in your rough notes, you
23 actually talk about "sexual misconduct involving young
24 boys."

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** So -- and when we go back to
2 your dedicated note, you talk about the fact that they're
3 close friends and move within the same circles.

4 **MR. DEROCHIE:** Yes, they socialize together.

5 **MR. ENGELMANN:** Okay. Well, they socialize
6 together or they move within the same circles as in,
7 they're suspected of doing similar things.

8 **MR. DEROCHIE:** No, I don't -- they move
9 within -- I don't get that connotation from "move within
10 the same circles"; I was meaning they socialized together.

11 **MR. ENGELMANN:** All right. Okay, well you
12 know that Mr. Silmsen's made allegations against Father
13 MacDonald and Ken Seguin.

14 **MR. DEROCHIE:** Yes, I know that ---

15 **MR. ENGELMANN:** And that's ---

16 **MR. DEROCHIE:** --- at this time, yes.

17 **MR. ENGELMANN:** --- what we're looking at.

18 **MR. DEROCHIE:** Yeah.

19 **MR. ENGELMANN:** And you're now talking about
20 Malcolm MacDonald, and whether it's rumoured to have a
21 sexual preference for little boys or suspected of sexual
22 misconduct involving young boys, you're told something
23 about him; and who are you told this by?

24 **MR. DEROCHIE:** I'm not sure. I'm not sure
25 that I didn't have knowledge of this rumour prior to this

1 meeting. I can't say that Staff Sergeant Brunet told me
2 that or Heidi Sebalj told me that or I just articulated
3 what I already knew, but definitely in the context it
4 sounds like we may have discussed this, the three of us.

5 **MR. ENGELMANN:** All right. Would it have
6 been fair to say that there would have been some discussion
7 amongst the three of you about this issue?

8 **MR. DEROCHIE:** I think that's fair.

9 I don't have an independent recollection of
10 that, but I think with the context of the notes, it is
11 probably -- it's likely that we did.

12 **MR. ENGELMANN:** And do you know if either
13 Staff Sergeant Brunet or Constable Sebalj undertook any
14 investigation of this connection?

15 **MR. DEROCHIE:** The connection ---

16 **MR. ENGELMANN:** Well, with these three men.

17 **MR. DEROCHIE:** No, I'm not aware of any
18 investigation.

19 **MR. ENGELMANN:** I'm just wondering because,
20 as I said, Mr. Silmsler had made allegations against two of
21 them, you know they're good friends, now their lawyer's
22 rumoured to do something similar to the allegation and I'm
23 just wondering what, if any, follow-up there would have
24 been either by Staff Sergeant Brunet, Heidi Sebalj or
25 perhaps yourself?

1 **MR. DEROCHIE:** I didn't conduct any
2 follow-up and I -- I don't believe that Sebalj or Luc
3 Brunet conducted any follow-up.

4 We had no allegation against them, the three
5 of them, in that context that you're speaking of, of
6 socializing together or moving in the same circles, so I --
7 I don't understand maybe the question that you're -- you're
8 putting to me.

9 **MR. ENGELMANN:** Well, I guess sometimes --
10 well, Mr. Silmsen had made an allegation that two of these
11 three men had done something to him; correct?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** Of a sexual nature?

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** Of a criminal nature and now
16 you're hearing that the third man, who's also a good friend
17 and the lawyer for both of them, may have done something
18 similar, is rumoured to. I'm just wondering if anybody
19 looked at the linkages?

20 **MR. DEROCHIE:** I didn't.

21 **MR. ENGELMANN:** All right. Now, there's
22 also a reference further down on the page -- and I'm
23 looking at your dedicated notes, 1293:

24 "I'm further advised that Crown
25 attorney Murray MacDonald's father was

1 convicted of sexual assault on a young
2 boy many years ago in Lancaster."

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** "The senior MacDonald was
5 apparently well-respected in the
6 community, but it was well-known that
7 he had 'that problem'."

8 And then you go on:

9 "This information in no way makes me
10 suspicious of Murray MacDonald's
11 involvement in this case, however, it
12 is information that must be
13 acknowledged given that the Crown did
14 declare a conflict at the start of this
15 investigation."

16 All right?

17 **MR. DEROCHIE:** That's correct, yes ---

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

19 **MR. DEROCHIE:** --- in my notes.

20 **MR. ENGELMANN:** And, again, in your rough
21 note, 1303, you say:

22 "Informed Murray MacDonald's father was
23 convicted of sexual assault...",

24 I think it's "on a young boy", and then you say:

25 "... (relevant to anything)."

1 So, again, you're musing out loud as to
2 whether or not this is of any relevance?

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

4 **MR. ENGELMANN:** All right. Was there any
5 follow-up on that issue at all or was there deemed to be
6 any need to follow up on that issue, to your knowledge?

7 **MR. DEROCHIE:** I didn't -- I didn't see any
8 need to follow up on that, that there was -- there was a
9 conviction registered on -- on Milton MacDonald; I wasn't
10 -- no, I wasn't aware of that but with regards to the Crown
11 attorney, I didn't see any ---

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

13 **MR. DEROCHIE:** --- any connection there.

14 **MR. ENGELMANN:** And you would have briefed
15 the Chief and the Deputy Chief on your meetings from that
16 day?

17 **MR. DEROCHIE:** I did, yes.

18 **MR. ENGELMANN:** And that comes right after
19 this discussion, so I'm assuming you would have given them
20 a fairly thorough briefing?

21 **MR. DEROCHIE:** I would have, yes.

22 **MR. ENGELMANN:** Yeah. And that's with
23 respect to your meeting with both Constable Sebalj and
24 Staff Sergeant Brunet and also your meeting with Rick Abell
25 earlier that day?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** Now, after that, after
3 talking to them, at the bottom of page 53 of your dedicated
4 note 1293, you say:

5 "We also spoke of Dunlop's role again."

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** So not only did you brief
8 them about your investigation of the investigation, but
9 there was also some discussion about Dunlop's role?

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** All right. And at this
12 point, you're telling them that -- one of two things.
13 Dunlop had either exercised incredibly bad judgment or that
14 his actions had been more calculated and sinister than
15 originally thought. Do you see that?

16 **MR. DEROCHIE:** I do, yes.

17 **MR. ENGELMANN:** Why did you have that
18 opinion at that time, that it was either extremely poor
19 judgment or that his actions were more calculated and
20 sinister than you originally thought?

21 **MR. DEROCHIE:** Well, I take you back to last
22 week's testimony, I believe, that we discussed that whole
23 issue of was there something else going on behind the
24 scenes that I wasn't aware of?

25 I suspected that that might be the case and

1 thus, I guess, I'm just restating that opinion that, you
2 know, there doesn't seem to be anything other than that.
3 Either he just -- he just exercised poor judgment or
4 there's something else going on here that I still haven't -
5 - I'm not comfortable with. It's just, I guess, a
6 restatement of that.

7 **MR. ENGELMANN:** All right. And I just --
8 that was for some of the reasons you gave us, I believe,
9 last week ---

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** --- that there were
12 inconsistencies in how he ---

13 **MR. DEROCHIE:** In the way people were
14 reacting, the different levels of -- of knowledge that
15 people that, you know, really I couldn't understand that
16 would have that kind of knowledge about it. Those caused
17 me those -- those concerns. That caused me those concerns.

18 **MR. ENGELMANN:** And apparently when you say
19 this to the Chief, he tells you that he'd have no trouble
20 considering more severe punishment for Dunlop should that
21 be required?

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

23 **MR. ENGELMANN:** All right. But he's -- he's
24 obviously looking for you to get back to him on this?

25 **MR. DEROCHIE:** To give him -- sure, to give

1 him -- to give him direction on that if I uncover anything
2 and I never did.

3 **MR. ENGELMANN:** All right. So you -- if
4 it's not sinister or calculated, you were of the opinion
5 that he exercised poor judgement?

6 **MR. DEROCHIE:** Exactly. As I said last
7 week, he ought to have dealt with it through the chain of
8 command. I think we could have resolved his concerns
9 through the chain of command or ---

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

11 **THE COMMISSIONER:** Certainly.

12 **(SHORT PAUSE/COURTE PAUSE)**

13 **MR. ENGELMANN:** Sir, at page 54 of your
14 notes -- and again I'm looking at the dedicated note -- you
15 reference a note, saying that the Chief tells you or
16 informs you that the local Crown had not been fully
17 informed when he gave an opinion to Sebalj on proceeding
18 with charges?

19 **MR. DEROCHIE:** That right.

20 **MR. ENGELMANN:** Do you see that?

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** So he -- the opinion that I
23 recall seeing is, is really in the letter form and it's
24 actually written to Staff Sergeant Brunet?

25 **MR. DEROCHIE:** Staff Sergeant Brunet, yes.

1 **MR. ENGELMANN:** That's the opinion; right?

2 **MR. DEROCHIE:** Yes.

3 **MR. ENGELMANN:** All right. And so what the
4 Chief is telling you is that Murray MacDonald wasn't fully
5 informed about some issues when he wrote that?

6 **MR. DEROCHIE:** I -- I think he was referring
7 to the two other people that we had interviewed -- that
8 Heidi had interviewed that -- that had -- had made -- had
9 given her descriptions of incidents that they had had with
10 Father MacDonald.

11 **MR. ENGELMANN:** All right, all right. I'm
12 not going to name these individuals but I -- okay, I know
13 what you're talking about.

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

15 **MR. ENGELMANN:** One of them being C-3, I
16 believe?

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

18 **MR. ENGELMANN:** All right. And your note
19 indicates, at least, that the Chief had since confirmed
20 that the Crown's advice may have been different if he had
21 possessed all the information. Is that something that the
22 Chief would have told you at your meeting on November 4th?

23 **MR. DEROCHIE:** I believe that it's in the
24 notes at that point because that's what we -- that's when
25 discussed it, yes.

1 **R. ENGELMANN:** And would you agree, sir,
2 that that would have been something important to tell the
3 Crown about if you're asking for advice on whether there is
4 reasonable and probably grounds or if you're seeking advice
5 generally about the fact that there may be other victims
6 that you've located?

7 **MR. DEROCHIE:** Yes. At this point, the
8 Crown had given us an opinion as to why -- that we
9 shouldn't proceed without the -- without the cooperation of
10 the victim. I don't think it was ever our intent having --
11 the Crown having declared a conflict that he would review
12 the evidence, he was going to ship that off to an outside
13 Crown was my understanding.

14 So the fact that Heidi had uncovered
15 information that may have been corroboration was important
16 to the investigation, certainly. I think there was some
17 concern whether or not it was corroboration, so ---

18 **MR. ENGELMANN:** All right. Well, the Chief
19 is certainly suggesting to you at the time that that should
20 have been mentioned.

21 **MR. DEROCHIE:** Yeah, I don't -- again, I
22 don't know what the level of his knowledge was, but there
23 was something; certainly, he expressed to me that, you
24 know, the Crown didn't have everything that Heidi had type
25 thing.

1 **MR. ENGELMANN:** And do you know how the
2 Chief knew that?

3 **MR. DEROCHIE:** I would suspect from
4 reviewing the file. He must have reviewed the file at some
5 point.

6 **MR. ENGELMANN:** All right. Do you know
7 whether he would have discussed that with Murray MacDonald?

8 **MR. DEROCHIE:** I don't know. He never told
9 me he had.

10 **MR. ENGELMANN:** All right. And again during
11 the course of that discussion, you're indicating to both
12 the Chief and the Deputy Chief, that you'd like or that you
13 had some interest in having the criminal charges pursued?

14 **MR. DEROCHIE:** Yeah, I'd like to see them
15 pursued, yes.

16 **MR. ENGELMANN:** And these would have been
17 the charges as against Father MacDonald and Ken Seguin?

18 **MR. DEROCHIE:** If we could go there, yes.

19 **MR. ENGELMANN:** All right. And it was also
20 -- again, I'm looking at your note, you would have informed
21 them that the CAS wanted the Service to do that as well?

22 **MR. DEROCHIE:** Certainly, Mr. Abell wanted
23 that done, yes.

24 **MR. ENGELMANN:** All right. Now, there's a
25 reference, sir, at the bottom of that page, did -- as a

1 result of this discussion with the Chief and Deputy Chief,
2 what was the position that appeared to develop?

3 MR. DEROCHIE: I'm sorry, that's -- that's
4 the same page, page 54, you are talking about?

5 MR. ENGELMANN: Yes, 55 -- I'm sorry, the
6 bottom of page 55.

7 MR. DEROCHIE: I'm sorry. Yes, exactly,
8 that if -- we discussed, we discussed this whole matter,
9 and we thought we were -- that the fact that the, probably,
10 that the fact that the victim was refusing to cooperate
11 would not allow us to continue, but, you know, I wanted one
12 last shot at it. I wanted to talk to the L'Original Crown.

13 MR. ENGELMANN: All right. It says:
14 "Without a cooperating victim and with
15 at best a lukewarm meeting from the
16 Crown..."

17 I'm just -- I'm a little confused and I
18 guess we'll come back to it in a minute, but the police
19 determine whether there are reasonable and probable
20 grounds.

21 MR. DEROCHIE: That's our job, yes.

22 MR. ENGELMANN: Yes, but sometimes you seek
23 guidance from the Crown?

24 MR. DEROCHIE: Sometimes you do.

25 MR. ENGELMANN: And when you seek that

1 guidance, you usually follow it when you get it?

2 MR. DEROCHIE: Yes, I would say that's --
3 that would be a wise course.

4 MR. ENGELMANN: All right.

5 THE COMMISSIONER: But one question I have
6 is you're talking about laying charges, and I'm saying,
7 okay, maybe you can't lay charges at this point, but what
8 about investigating?

9 MR. DEROCHIE: Well, that was the -- the
10 whole idea was to continue the investigation, to continue
11 investigating the whole matter.

12 THE COMMISSIONER: M'hm.

13 MR. DEROCHIE: Our opinion was from the
14 Crown that if you don't have a -- if you don't have a
15 cooperating victim, you can't -- where are you going to go?
16 We had already -- Heidi Sebalj had already canvassed the
17 altar boys and active youth of the parish in her
18 investigation. That information was out there. I would
19 assume that that information would have percolated through
20 the community at least to some degree, and we weren't
21 getting anything more. We weren't hearing anything more
22 coming forward.

23 THE COMMISSIONER: I was thinking more about
24 Seguin.

25 MR. DEROCHIE: I'm sorry?

1 **THE COMMISSIONER:** I was thinking more about
2 Seguin.

3 **MR. DEROCHIE:** Oh! I'm sorry. Yes, you're
4 right, but again our opinion was and, rightly or wrongly,
5 we believed at that time that we had -- we had allegations
6 and nothing but allegations. We also had a description of
7 the contacts that, in my opinion, still may have
8 represented a criminal act but hadn't been presented to
9 anybody. Quite right.

10 **MR. ENGELMANN:** But certainly something that
11 could have been investigated?

12 **MR. DEROCHIE:** I'm not sure that -- I'm not
13 sure that we could have investigated at that point. If the
14 victim is not cooperating with us and is not going to
15 assist us, do we start -- where would you start? You'd
16 have to -- most likely have to go to Probation Services and
17 knock at their door and want to get a list of clients, and
18 that would certainly put the whole allegation, the
19 untested, the unproven allegation to the employer. That
20 would have significant consequences on Mr. Seguin's life,
21 and I think that's where -- that's where we were -- we had
22 our problems getting our heads around that.

23 **MR. ENGELMANN:** Well, those allegations had
24 come to the knowledge of Father MacDonald's employer
25 sometime ---

1 **MR. DEROCHIE:** Even before we got involved,
2 yes.

3 **MR. ENGELMANN:** Yes.

4 **MR. DEROCHIE:** So it wasn't the same issue.

5 **MR. ENGELMANN:** I know, but -- and things
6 carried on with his relationship with the Diocese?

7 **MR. DEROCHIE:** Yes, but we weren't the ones
8 that revealed that information to the Diocese. They knew
9 that before -- probably before we knew it ---

10 **THE COMMISSIONER:** Mr. Seguin ---

11 **MR. DEROCHIE:** --- these allegations were
12 out there.

13 **THE COMMISSIONER:** Both Mr. Silmsler -- and
14 you knew that Mr. Silmsler was talking to Seguin.

15 **MR. DEROCHIE:** Yes. So Mr. Seguin knew, but
16 his employer didn't know.

17 **THE COMMISSIONER:** Okay.

18 **MR. ENGELMANN:** Well, one of the ways to
19 corroborate some of what he would say would be to examine
20 probation records, find out who he was on probation with
21 and when, things of that nature?

22 **MR. DEROCHIE:** That's right. That would
23 have been a way of doing it, yes.

24 **MR. ENGELMANN:** Right. What, if any,
25 efforts; you talk on many occasions about the alleged

1 victim being uncooperative, and I'm assuming that that's
2 not Murray MacDonald's finding; that's what he's being told
3 by either Constable Sebalj or Staff Sergeant Brunet?

4 **MR. DEROCHIE:** Yes, who is being told by
5 Silmser to ---

6 **MR. ENGELMANN:** Right. And that's what you
7 are being told as well?

8 **MR. DEROCHIE:** Exactly. That's the
9 information I'm going on.

10 **MR. ENGELMANN:** Right. So what, if any,
11 efforts are they making to determine why he's uncooperative
12 all of a sudden? Why is he uncooperative in the fall?

13 **MR. DEROCHIE:** Again, I think it goes back
14 to the whole idea they're not thinking that anymore; that
15 they've got an explanation from Silmser with regards to his
16 relationship with Seguin, and I interpret that as meaning
17 that he was, you know, maybe not comfortable with pursuing
18 the criminal allegations against Seguin based on how he
19 described the relationship with Mr. Seguin.

20 **MR. ENGELMANN:** But, sir, you know that he's
21 received some money from the Diocese and from Father
22 MacDonald.

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

24 **MR. ENGELMANN:** At or about the time ---

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** --- that he's no longer
2 cooperative, and he doesn't want to proceed?

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

4 **MR. ENGELMANN:** Right?

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** And you also know that he's
7 received some money from a third person and you think it's
8 likely Ken Seguin?

9 **MR. DEROCHIE:** Yes.

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

11 **MR. DEROCHIE:** Well, that's my suspicion.

12 **MR. ENGELMANN:** No, fair enough.

13 **MR. DEROCHIE:** That and \$1.39, you know.

14 **MR. ENGELMANN:** So isn't there an inference
15 that maybe you draw that he's uncooperative because he's
16 got this cash now?

17 **MR. DEROCHIE:** Well, I'm -- I don't think
18 there's any question that we thought that the investigation
19 was halted because he received a settlement, a monetary
20 settlement. There's no question at that point; he didn't
21 want to proceed with the investigation. He wanted the
22 whole thing dropped. So obviously there is a correlation
23 between that and our investigation terminating.

24 **MR. ENGELMANN:** And you would agree with me,
25 sir, and I know you don't have experience investigating

1 historical sexual abuse, but you supervise people.

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: That it's important to look
4 at why an alleged victim might change his or her mind to
5 pursue a charge?

6 MR. DEROCHIE: To what end? I'm sorry.

7 MR. ENGELMANN: Well, to ensure that there's
8 not something improper about why they're not pursuing the
9 charge?

10 MR. DEROCHIE: I don't think we had any
11 expertise and we don't try to -- I certainly don't have any
12 expertise at this time about settlements and the whole idea
13 that I had heard that in some settlements there are
14 confidentiality clauses where there's arrangements made
15 where you don't speak of the settlement or the details of
16 the settlement.

17 But beyond that, I don't know very much
18 about civil settlements, and I'm sure that Staff Sergeant
19 Brunet and Heidi are probably in the same situation.

20 MR. ENGELMANN: All right. Just forget the
21 settlement for a minute.

22 What I'm saying is whether it's a sexual
23 assault or a physical assault or whatever, if you've got a
24 victim who all of a sudden doesn't want to proceed ---

25 MR. DEROCHIE: Yes.

1 **MR. ENGELMANN:** And you are aware that, you
2 know, isn't it important to look at why they don't want to
3 proceed anymore to make sure that that's a voluntary action
4 on their part?

5 **MR. DEROCHIE:** As a general statement, I
6 guess that would be true. I don't think, you know, I don't
7 think there's any question with regards to Mr. Silmsner
8 whether Heidi knew exactly what type of a person he was.

9 Mr. Silmsner -- certainly, my dealings with
10 him, those dealings I have had with him -- is no shrinking
11 violet. He can speak his mind and knows what he wants to
12 do.

13 **MR. ENGELMANN:** But you had a phone call
14 with him?

15 **MR. DEROCHIE:** I had a phone call with him.

16 **MR. ENGELMANN:** I guess, sir, what I'm
17 saying is, let's take it out of context. By analogy, you
18 have a woman who files an assault, a physical assault
19 complaint against her husband?

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** And all of a sudden she
22 decides she wants to withdraw that charge?

23 **MR. DEROCHIE:** That's correct, yes.

24 **MR. ENGELMANN:** You'd want to look at why
25 and whether or not there might be some duress or

1 voluntariness?

2 **MR. DEROCHIE:** Well, the whole issue of
3 domestic violence is a little bit different because there
4 is legislation or there is direction to police with regards
5 to -- we just do not terminate domestic assaults
6 investigations.

7 **THE COMMISSIONER:** Bad example. Bad
8 example.

9 Let's assume some fellow is beat up by an
10 organization; it may be linked to an organization. All of
11 a sudden, he turns up and says, well, I got some money. I
12 mean, do you know the term extortion?

13 **MR. DEROCHIE:** I certainly do know the name,
14 yes -- the term, yes.

15 **THE COMMISSIONER:** All right, and so
16 extortion is you knowing that somebody has committed a
17 criminal offence and you want money so that you don't
18 report; right?

19 **MR. DEROCHIE:** Yes.

20 **THE COMMISSIONER:** Okay. And what's "hush
21 money"?

22 **MR. DEROCHIE:** I'm sorry.

23 **THE COMMISSIONER:** Do you know what "hush
24 money" would be?

25 **MR. DEROCHIE:** Well, that would certainly be

1 a description of it. If a bouncer from a hotel, if I can
2 use this analogy, becomes very physical with someone to the
3 point where's there's a criminal assault and they decide,
4 both of them agree, that they're going to accept a cash
5 settlement in lieu of that person charging them with
6 assault, for example, then certainly that would be in my
7 view hush money; don't report it to anybody, we can settle
8 this me and you.

9 There might be times in an office
10 environment where something similar would happen where
11 there would be a quiet hush money settlement.

12 Yeah, I'm familiar with that. I don't know.

13 **THE COMMISSIONER:** Do you see where it might
14 apply to this case?

15 **MR. DEROCHIE:** Yes, I can see. Yes, no
16 question.

17 **THE COMMISSIONER:** Okay. So is there a
18 reason why you didn't see it before?

19 **MR. DEROCHIE:** It didn't occur to me. I
20 believed that the victim had selected this remedy and it
21 was to him to accept this remedy and that we would not
22 force him to testify.

23 We could have, quite rightly. We could have
24 laid a charge, a criminal charge basically. Let's say if
25 Heidi had reached the point where she formed reasonable and

1 probable grounds, we could well have said to Mr. Silmsler,
2 sorry we've got your statement, we've got reasonable and
3 probable grounds, we are going to proceed with a charge and
4 we're going to have you subpoenaed to court. You can stand
5 up before a judge and tell him that you don't want to
6 testify. We could have done that but I believe we would
7 have been criticized rather harshly for doing that.

8 **MR. ENGELMANN:** Well, she could have done
9 that back in April as well?

10 **MR. DEROCHIE:** If she had reached reasonable
11 and probable grounds, yes, no question.

12 **MR. ENGELMANN:** Right.

13 **MR. DEROCHIE:** But she never got there as
14 far as I know.

15 **MR. ENGELMANN:** All right, well, we'll come
16 to that in a bit, but just so we're clear, when we're
17 talking about someone being uncooperative, did any of the
18 three of you at the time, when you're talking to Sebalj and
19 Brunet, talk about the possibility of looking at this
20 "settlement" and its possible connection with Mr. Silmsler's
21 disinterest in pursuing charges?

22 **MR. DEROCHIE:** No.

23 **MR. ENGELMANN:** Do you remember if any of
24 you were concerned at the time about why he changed his
25 mind?

1 **MR. DEROCHIE:** Sure we were.

2 **MR. ENGELMANN:** All right.

3 **MR. DEROCHIE:** We would have liked to have
4 gone to prosecute this thing, there's no question. Had we
5 reached that point, we -- I certainly wanted this thing to
6 continue. I didn't like the idea of it being settled.

7 **MR. ENGELMANN:** All right, well, in
8 hindsight, would you agree, sir, that someone from your
9 force should have looked at this settlement or at least
10 asked to look at it, in order to determine if Mr. Silmser's
11 decision not to proceed was voluntary?

12 **THE COMMISSIONER:** Mr. Callaghan?

13 **MR. CALLAGHAN:** There's a slight false
14 premise to that question insofar as that later and under
15 Chief Johnston in February, it was the Cornwall Police that
16 asked the OPP to look at exactly that issue, whether there
17 was an obstruct on the settlement. So it's not fair to say
18 no one in the Cornwall Police; obviously we did. We
19 initiated that the OPP do it at a later date.

20 **THE COMMISSIONER:** Okay, Mr. Engelmann, can
21 you rephrase it a little bit?

22 **MR. ENGELMANN:** I don't think it's
23 necessary, sir.

24 **THE COMMISSIONER:** Okay.

25 **MR. ENGELMANN:** There was a request to do

1 something after the settlement was publicized, and I'm
2 talking about in November.

3 **THE COMMISSIONER:** Okay, well, then keep it
4 in November and we're fine.

5 **MR. ENGELMANN:** I agree with Mr. Callaghan
6 that after this settlement was publicized and everybody
7 found out about it and it was publicized in a great deal in
8 January of '94 ---

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

10 **MR. ENGELMANN:** --- other things kicked into
11 place.

12 **THE COMMISSIONER:** Okay, I understand that,
13 but I think Mr. Callaghan's -- you know we have to be fair
14 ---

15 **MR. ENGELMANN:** Absolutely.

16 **THE COMMISSIONER:** --- in the sense that ---

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

18 **THE COMMISSIONER:** Okay, up until that
19 point, then you can finish.

20 **MR. ENGELMANN:** So we're in November of '93,
21 Staff Sergeant Derochie.

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** So this is still internal to
24 the Cornwall Police Service; settlement hasn't been
25 publicized in any way.

1 I'm asking you in hindsight, would you agree
2 that someone from the Cornwall Police Service should have
3 looked at the settlement or at least asked to look at it in
4 order to determine if Mr. Silmsers decision not to proceed
5 was voluntary. In other words, that it was not coerced or
6 compromised by some form of a legal settlement?

7 **MR. DEROCHIE:** No, we didn't look at it in
8 that terms. We were concentrating on seeing if we could
9 get this going again. We were quite willing to do whatever
10 it is we could go with CAS. They had indicated they were
11 going to look at it. If we -- I think I come to that
12 determination very shortly here that we'll just try to do
13 this, we'll try to get this investigation going again.
14 That was our intent at that point or at least that was my
15 intent at that point.

16 **MR. ENGELMANN:** So you wouldn't agree, sir,
17 that in hindsight before this goes public in January of
18 '94, that it would have been a good idea for someone from
19 the Cornwall Police Service to at least ask to see
20 settlement documents or something that describes the
21 settlement to determine whether or not his decision to
22 proceed was actually voluntary?

23 **MR. DEROCHIE:** In hindsight, yes, indeed.

24 **MR. ENGELMANN:** All right. Now, she didn't
25 write about this anywhere?

1 **MR. DEROCHIE:** I'm sorry?

2 **MR. ENGELMANN:** She didn't ---

3 **THE COMMISSIONER:** Who's she?

4 **MR. ENGELMANN:** She being Heidi Sebalj,
5 didn't write about looking into the settlement? It wasn't
6 anything that she apparently ---

7 **MR. DEROCHIE:** No. If I -- I would suggest
8 that if Luc Brunet and I -- myself, it didn't occur to us,
9 it would not have occurred to Heidi.

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

11 **MR. DEROCHIE:** That's in fairness to her.

12 **MR. ENGELMANN:** All right. And in fairness
13 to she would not have been aware that the settlement
14 required Mr. Silmsler to terminate or withdraw any criminal
15 complaint?

16 **MR. DEROCHIE:** No. Quite right. She didn't
17 know that.

18 **MR. ENGELMANN:** And Staff Sergeant Brunet
19 didn't know that and you didn't know that?

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

21 **MR. ENGELMANN:** And when did you find that
22 out?

23 **MR. DEROCHIE:** When they were charged. When
24 Malcolm Macdonald was charged. I don't -- that was the
25 first I had heard that there had been something improper

1 with regards to the settlement, and what I knew about it
2 was what I was reading in the local paper. I wasn't
3 involved beyond that.

4 **MR. ENGELMANN:** Okay, I don't think he was
5 charged until much later in '94. Would you have become
6 aware because of the publicity around the settlement in and
7 around January that there might have been an illegal
8 provision in it?

9 **MR. DEROCHIE:** I don't recall having that
10 knowledge then.

11 **MR. ENGELMANN:** All right.

12 **MR. DEROCHIE:** January of '94 you're
13 talking?

14 **MR. ENGELMANN:** Yes.

15 **MR. DEROCHIE:** No.

16 **MR. ENGELMANN:** And, sir, in the fall of
17 1993, do you know if either Constable Sebalj or Staff
18 Sergeant Brunet were aware that the settlement prohibited
19 Mr. Silmsler from talking to anyone about what happened
20 between him and Father MacDonald?

21 **MR. DEROCHIE:** At the time I didn't know
22 that. I subsequently read an article in the newspaper to
23 that effect.

24 **MR. ENGELMANN:** And did you become aware,
25 sir, that if he talked to anyone about what happened to him

1 that he was going to have to pay back the settlement
2 proceeds in full?

3 **MR. DEROCHIE:** That was his understanding of
4 the settlement.

5 **MR. ENGELMANN:** Were you aware that the
6 settlement provided for that?

7 **MR. DEROCHIE:** At this time, no, I did not.

8 **MR. ENGELMANN:** Did you become aware of that
9 ---

10 **MR. DEROCHIE:** I did subsequently become
11 aware of that, yes.

12 **MR. ENGELMANN:** You would agree with me,
13 sir, that that is a reason for someone not to be
14 cooperative with proceeding with criminal charges?

15 **MR. DEROCHIE:** Absolutely. And he was
16 released from that -- as I recall, he was released by the
17 Diocese from that. He could have gone forward and done
18 whatever he wanted at that time.

19 **MR. ENGELMANN:** Well, in fact, later on it
20 did go forward. There were charges that were pursued?

21 **MR. DEROCHIE:** Yes, but not in '94 because
22 the OPP came in in '94 and reinvestigated, and my
23 understanding is, and I'm sure they'll testify at some
24 point here, that he didn't cooperate with their
25 investigation.

1 **MR. ENGELMANN:** Okay. And who would have
2 told you that, sir?

3 **MR. DEROCHIE:** The OPP.

4 **MR. ENGELMANN:** All right. And they would
5 have been consulting with you and telling you that during
6 the calendar year '94?

7 **MR. DEROCHIE:** Oh, no. Well, I heard the
8 results of their investigation at the end of 1994, just as
9 everyone else did. I wasn't -- I didn't have -- I wasn't
10 privy to their ongoing investigation.

11 **MR. ENGELMANN:** You were aware that
12 subsequent to that, that these charges were in fact
13 pursued?

14 **MR. DEROCHIE:** They were, yes, yes.

15 **MR. ENGELMANN:** Against Father MacDonald?

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** And, of course, Mr. Seguin
18 was dead?

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

20 **(SHORT PAUSE/COURTE PAUSE)**

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

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

23 **MR. ENGELMANN:** Sir, I'm just reading the
24 bottom of page 55 and onto page 56, we've looked at the
25 bottom of 55, you say:

1 "Criminal charges would go nowhere in
2 court, we would be accused on going on
3 a fishing trip by laying charges."

4 Do you see that?

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** You would agree with me that
7 there's a distinction between laying charges and continuing
8 with an investigation?

9 **MR. DEROCHIE:** Yes. Some people might think
10 that that would be a good investigative strategy to lay the
11 charge when you didn't have -- and this is what I'm trying
12 to articulate here in my notes is we've got the statement,
13 let's just go ahead and lay the charge; put it in the media
14 and let's see what happens. Let's get our corroboration
15 from the media.

16 **MR. ENGELMANN:** Why is that a good strategy
17 and ---

18 **MR. DEROCHIE:** That's not a good strategy.

19 **MR. ENGELMANN:** Oh, it's not?

20 **MR. DEROCHIE:** No.

21 **MR. ENGELMANN:** I thought you said in some
22 cases, it might be.

23 **MR. DEROCHIE:** No, I said somebody might
24 consider that a strategy; I wouldn't. I wouldn't consider
25 that to be a good strategy. I would think that the courts

1 wouldn't look very favourably on that at all.

2 **MR. ENGELMANN:** Right. But you clearly see
3 a distinction between being accused of going on a fishing
4 expedition or trip if you lay the charges as opposed to
5 simply continuing investigating.

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

7 **MR. ENGELMANN:** You do say just after that:
8 "It would allow us to identify the
9 suspects in hopes that we can get other
10 victims who we are sure are out there
11 to come forward which..."

12 I think, "could" or "would":

13 "...allow us to lay charges that
14 provide convictions."

15 What are you saying there sir?

16 **MR. DEROCHIE:** Exactly what I was trying to
17 articulate just before that if you could -- if you used
18 that strategy of just laying a charge based on the
19 statement without corroboration, that you could, in fact,
20 get corroboration by making the suspect and the
21 circumstances public knowledge in hopes of other victims
22 coming forward.

23 And this -- that does happen in
24 investigations. When you lay one charge and the publicity
25 generated from that charge will stimulate other people into

1 coming forward. Then it just strengthens your overall
2 case.

3 **MR. ENGELMANN:** At the time, do I take it
4 from your note that you, Staff Sergeant Brunet and
5 Constable Sebalj thought there were other victims out
6 there?

7 **MR. DEROCHIE:** Yes, I was basing my opinion
8 on what Mr. Abell had told me and my previous knowledge
9 with regards to other similar-type allegations that have
10 come forward. If, you know, the theory is, and the
11 accepted theory is, is that a paedophile is someone who has
12 multiple victims.

13 **MR. ENGELMANN:** I note the word you used who
14 we are sure are out there.

15 **MR. DEROCHIE:** Yeah. That's speculative,
16 you know.

17 **MR. ENGELMANN:** Well, did you and Staff
18 Sergeant Brunet and Constable Sebalj talk about that?

19 **MR. DEROCHIE:** Obviously we did, yes.

20 **MR. ENGELMANN:** All right. Now, I think at
21 this point in time actually, you're referring to
22 discussions with the Chief and Deputy Chief if I'm reading
23 the notes correctly?

24 **MR. DEROCHIE:** Yes, yes, but I would ---

25 **MR. ENGELMANN:** You think that's something

1 that when we use the term "we" you're referring to them?

2 **MR. DEROCHIE:** Yeah, I'm -- the whole --
3 everybody that's involved, Brunet, Sebalj, the Chief, you
4 know, we're the service, the policing community, it's that
5 expansive.

6 **MR. ENGELMANN:** And presumably, you're aware
7 that often victims or alleged victims of this type of crime
8 have difficulty coming forward.

9 **MR. DEROCHIE:** Absolutely, yes. But they
10 may be encouraged by the fact that someone else has come
11 forward.

12 **MR. ENGELMANN:** Yes.

13 **MR. DEROCHIE:** That's why -- that's why it
14 happens.

15 **MR. ENGELMANN:** I think you either said it
16 or implied it, publicity sometimes make other victims come
17 forward.

18 **MR. DEROCHIE:** Exactly.

19 **MR. ENGELMANN:** And would you agree that, in
20 cases of this nature, especially where -- if you only have
21 the statement or word of the alleged victim that it's
22 important to attempt to find others who might be out there?

23 **MR. DEROCHIE:** Yes, very much so; historical
24 sexual assaults are inherently hard to investigate and hard
25 to prove in court simply because there's no forensics

1 involved; memories, you know, their memories, you know,
2 fade at the passing of time and there's never a witness, an
3 eye witness to a sexual assault.

4 So you're left with a statement and a lot of
5 circumstantial evidence, hopefully, you can find to
6 solidify the statement is what you're working on.

7 **MR. ENGELMANN:** So therefore it's important
8 to attempt to find other victims?

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** Or at least to attempt to
11 find other people who, whether they're going to be
12 complainants or not, who might be able to give similar fact
13 evidence?

14 **MR. DEROCHIE:** Similar fact evidence, yes.

15 **MR. ENGELMANN:** And sir, would one of the
16 other things that might be important is an attempt to get
17 some form of confession from the individual?

18 **MR. DEROCHIE:** That would be ideal.

19 **MR. ENGELMANN:** Yes.

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** In this particular case, I
22 believe, at least in the spring of 1993, there had been two
23 other individuals who had made allegations or had repeated
24 allegations to Constable Sebalj when she interviewed them?

25 **MR. DEROCHIE:** Yes, two other people

1 described circumstances and contacts they had had with
2 Father Charlie.

3 **MR. ENGELMANN:** All right. And I believe
4 there was a third individual who said -- or who implied
5 something may have happened? He said something like "Scary
6 stuff, close to home" or something like that?

7 **MR. DEROCHIE:** Yes. I don't know what terms
8 he was -- what he was referring to when he said that but
9 it's my understanding that Constable Sebalj spoke to him
10 and he -- I think he wanted her to come up to Ottawa to see
11 ---

12 **MR. ENGELMANN:** Right.

13 **MR. DEROCHIE:** --- him face to face and she
14 says "Well, if you've got something to tell me, you know,
15 we can do that." That was the impression I got, and that
16 he had nothing to report over the phone to her.

17 **MR. ENGELMANN:** Well, she never went to
18 Ottawa to see.

19 **MR. DEROCHIE:** On that individual, no, she
20 did not go. He had nothing to tell her he told him -- she
21 told him.

22 **MR. ENGELMANN:** And this is what she
23 reported to you?

24 **MR. DEROCHIE:** This is what I got from the
25 overview of her statement -- of the statement for this

1 individual.

2 **MR. ENGELMANN:** And do you know what, if
3 any, efforts were made during the CPS investigation from
4 December of '92 until September of '93 to obtain a
5 statement from Father Charles MacDonald?

6 **MR. DEROCHIE:** My understanding is that he
7 was never interviewed.

8 **MR. ENGELMANN:** Do you know if a request was
9 ever made to interview him?

10 **MR. DEROCHIE:** Not that I'm aware of.

11 **MR. ENGELMANN:** All right. And his lawyer
12 had had several contacts with your fellow officers.

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** And despite that during none
15 of those contacts was there any request made for either a
16 statement or a polygraph or anything else?

17 **MR. DEROCHIE:** No, there was not. Well, the
18 polygraph was I think offered by the -- by Mr. MacDonald,
19 Malcolm MacDonald, but it was not considered -- I wouldn't
20 recommend to an investigator that they do a polygraph until
21 the investigation is done.

22 You want -- the real value of a polygraph is
23 the interview prior to the polygraph and a lot of times,
24 you'll get a confession without using the polygraph. It's
25 just being in the same room with the polygraph and the

1 investigator's trained in -- to a high degree, to a high
2 level in interviewing.

3 And in order for him to conduct a proper
4 interview, he has to have all of the facts. He has to be
5 able to confront the suspect with the facts and to be able
6 to identify inconsistencies or lies, so ---

7 **MR. ENGELMANN:** All right. So was that ever
8 followed up sir?

9 **MR. DEROCHIE:** The polygraph?

10 **MR. ENGELMANN:** Yes, or the pre-interview
11 for the polygraph?

12 **MR. DEROCHIE:** No.

13 **MR. ENGELMANN:** Then I think you told us
14 that an investigation of Ken Seguin never really started?

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

16 **MR. ENGELMANN:** So there would have been no
17 effort to speak with him and obtain a statement?

18 **MR. DEROCHIE:** No, there was not.

19 **MR. ENGELMANN:** So at this point in time,
20 November -- early November of '93, it's my understanding
21 that what the Cornwall Police Service decides to do is not
22 to reinvestigate but simply to cooperate with the CAS in
23 their investigation?

24 **MR. DEROCHIE:** Yes, we came to a
25 determination that if we were going to -- if we were going

1 to be successful with Mr. Silmser, he had -- he was very
2 emphatic in his telling us that he did not want to be
3 bothered by the Cornwall Police Service anymore.

4 He was speaking to the CAS so we adopted the
5 -- the position that we'll just wait and see. They may be
6 able to get him to cooperate, we may be able to get
7 something and we may yet be able to lay a charge.

8 That was -- that was something we discussed
9 and that was the strategy we adopted.

10 **MR. ENGELMANN:** I'm just -- I just got that
11 from the bottom of page 56 of your notes. You say:

12 "Our best bet to accomplish our
13 objective 'identifying the suspects to
14 the community' is through the CAS
15 inquiry. We will assist CAS as much as
16 possible."

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** At page 59, I note you make
19 a reference to the fact that Greg Bell of the CAS speaks to
20 you and informs you that he's actually spoken to Silmser?

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** And at least in the context
23 of some kind of an interview or call, he's saying, at that
24 time, Silmser's amicable and willing to cooperate?

25 **MR. DEROCHIE:** Yes, that was as a -- prior

1 to that, previous to that, we had got a visit from -- or
2 Sebalj had gotten a telephone call from Silmser and he was
3 quite hostile with regards to how CAS had got his name; how
4 they -- how he had come to be known to CAS and he thought
5 that the -- as it turns out, Helen Dunlop had been put onto
6 him by CAS.

7 I knew that they were going to interview him
8 and I gave the CAS a heads-up saying, listen, he's pretty
9 hot and he thinks that you put Helen Dunlop onto him. I
10 knew that -- I wanted to make sure that they would, you
11 know, mend whatever fences they had to to get him to
12 cooperate and obviously they did because he -- he did
13 cooperate with them or at least agree to speak with them.

14 **MR. ENGELMANN:** But you -- I think you make
15 the note, not at all the same person Sebalj described at
16 9:05 p.m.

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

18 **MR. ENGELMANN:** Because he phoned her and --
19 -

20 **MR. DEROCHIE:** Yes, quite irate in her
21 telling of it, yes.

22 **MR. ENGELMANN:** Now, given the context of
23 the meeting you have on November 4th with the Chief and
24 Deputy Chief, do you suggest to them that you should be
25 meeting with the Crown prosecutor or Crown attorney from

1 L'Orignal?

2 **MR. DEROCHIE:** Yes, I brought that -- that
3 subject matter up. I wanted him to judge them. I wanted
4 an opinion on the merits of our original investigation. I
5 wanted him to look at the -- the statements provided by the
6 other two individuals and see if they could be in any way
7 used as corroboration.

8 **MR. ENGELMANN:** All right. Who was the
9 Crown attorney at that time from L'Orignal?

10 **MR. DEROCHIE:** I believe it was Mr.
11 Pelletier. I'm not a 100 percent sure, but I think it is
12 Pelletier.

13 **MR. ENGELMANN:** And I see a reference to
14 this at page 58 of 1293. You say:

15 "Meeting with the..." ---

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** --- "L'Orignal Crown does
18 suggest yet another extension of my
19 mandate. The Chief and Deputy Chief
20 both reminded me to stay focussed on
21 the tasks I've been given."

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** "I've not taken over a
24 criminal investigation."

25 So were they saying to you that that really

1 wasn't within your mandate at that time?

2 **MR. DEROCHIE:** At that time, it was not.

3 **MR. ENGELMANN:** Okay. So they didn't want
4 you going to meet with Bob Pelletier ---

5 **MR. DEROCHIE:** Well ---

6 **MR. ENGELMANN:** --- at that point?

7 **MR. DEROCHIE:** I -- eventually, they did
8 cave-in to my pestering, I guess, for want of a better
9 word.

10 **MR. ENGELMANN:** All right. And did you, in
11 fact, meet with Mr. Pelletier at some point?

12 **MR. DEROCHIE:** I did not, no.

13 **MR. ENGELMANN:** And that was because the
14 meeting was to be set up through Murray MacDonald?

15 **MR. DEROCHIE:** That's the protocol, yes.

16 **MR. ENGELMANN:** And he would only do that if
17 he was satisfied that there were reasonable and probable
18 grounds?

19 **MR. DEROCHIE:** No, that we had a willing or
20 cooperating victim. If we had a victim, he would be
21 willing to go forward and arrange the meeting.

22 **MR. ENGELMANN:** You say here on this page:
23 "Constable Sebalj's investigation is
24 completed. I want to confirm with the
25 L'Original Crown that Sebalj's

1 investigation has ended because of the
2 victim's wishes that it be dropped."

3 Do you see that?

4 **MR. DEROCHIE:** Yes, I do.

5 **MR. ENGELMANN:** It just -- it seems to be
6 that there's still an open question about the victim's
7 wishes, or was there?

8 **MR. DEROCHIE:** No, there wasn't -- there
9 wasn't in my mind. I -- I was -- I had knowledge that Mr.
10 Silmsler really did not want this thing pursued; that was
11 his wishes. I had -- I wanted to make sure that we had --
12 we had crossed every "T" and dotted every "I" with regards
13 to the certainty in which we could say, well, we're euchred
14 on this.

15 **MR. ENGELMANN:** All right, but the only
16 knowledge you had as to why -- that you had available to
17 you was the cash settlement?

18 **MR. DEROCHIE:** What -- I'm sorry, was?

19 **MR. ENGELMANN:** The only knowledge that you
20 would have had as to why he wouldn't have wanted to
21 continue would have been the cash settlement?

22 **MR. DEROCHIE:** Yes, yes, that's ---

23 **MR. ENGELMANN:** And nothing else that you
24 knew of?

25 **MR. DEROCHIE:** Well, and the -- well, no,

1 nothing else that I knew. You're right.

2 **MR. ENGELMANN:** At the bottom of this page,
3 page 58, you say:

4 "If there's a chance to continue and
5 undo some of the damage which was done
6 by not ..."

7 I think it says "dealing". I think that's the word.

8 **THE COMMISSIONER:** "By not dealing ..."

9 **MR. ENGELMANN:** Yes.

10 **THE COMMISSIONER:** --- "...appropriately
11 at this time."

12 **MR. ENGELMANN:** Yes. "If there's..." ---

13 **MR. DEROCHIE:** "Apparently at this time".

14 **MR. ENGELMANN:** "... a chance to continue
15 and undo some of the damage which was
16 done by not dealing (apparently at this
17 time) with the complaint in a more
18 timely fashion, then we would all do
19 what we had to in order to fix this
20 investigation."

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** All right. So I just want
23 to ask you a couple of questions about that.

24 "... undo some of the damage which was
25 done by not dealing (apparently at this

1 led to his becoming uncooperative?

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: And you'd agree, sir, that
4 if something isn't dealt with for a long time and there's
5 another option made available, it may be something that a
6 victim or an alleged victim might want to pursue?

7 MR. DEROCHIE: Well, it was -- it was my
8 opinion that the -- reading again -- reading from Sebalj's
9 notes and getting -- getting an impression from her on this
10 that -- that he was quite satisfied with the way the
11 investigation was progressing.

12 To answer your question, yes, that's
13 certainly a possibility. Yes, that he got to that point.

14 MR. ENGELMANN: And what did you hope could
15 be fixed because it says, "In order to fix this
16 investigation"?

17 MR. DEROCHIE: I thought we could -- I was
18 hoping that we could get this case before a court, lay a
19 charge and get a criminal -- criminal trial going. That's
20 what I wanted to do.

21 MR. ENGELMANN: All right. Now, during your
22 conversation with Mr. Bell a couple of days later -- I'm
23 sorry, I guess it's November 5th -- I'm on page 59.

24 MR. DEROCHIE: Yes.

25 MR. ENGELMANN: He asked you if the names of

1 the other two people assaulted -- I'm just reading your
2 note:

3 "Bell is one of the case workers
4 assigned to the CAS investigation. He
5 asked me if the names of the other two
6 people assaulted by Father MacDonald
7 could be provided to them. I told him
8 I didn't know at this time. (The Chief
9 is of the opinion that we should not)."

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** Do you see that?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** All right. So this is a
14 point-in-time where the Cornwall Police Service -- at least
15 those of you involved -- the Chief, the Deputy Chief,
16 yourself, possibly Staff Sergeant Brunet and Constable
17 Sebalj, have decided not to do anything but, further, from
18 your point-of-view ---

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

20 **MR. ENGELMANN:** --- but to cooperate fully
21 with the CAS?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** All right? And after making
24 that decision, you're asked for some names, but the Chief
25 tells you not to give them. Is that what happened?

1 **MR. DEROCHIE:** Yes, I believe there was a
2 consensus that we could not provide those names, they
3 didn't want to be identified. Therefore, we couldn't -- we
4 could not -- we could not identify them to the CAS.

5 **MR. ENGELMANN:** All right. So there was a
6 consensus on it because your note just says "The Chief is
7 of the opinion that we should not"?

8 **MR. DEROCHIE:** Yes, but I believe that was -
9 - I believe I also went to Luc Brunet with that same
10 question.

11 **MR. ENGELMANN:** All right.

12 **MR. DEROCHIE:** And the same thing applied.
13 It's our understanding that -- and I thought at the time
14 and -- and I know I don't note it in my notebook, but that
15 he had sought a legal opinion on that.

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

17 **MR. DEROCHIE:** I don't -- I don't know if
18 that -- I never followed through on that.

19 **MR. ENGELMANN:** Because isn't that something
20 that you had indicated to Richard Abell, that you would try
21 and provide him?

22 **MR. DEROCHIE:** Yes, yes.

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

24 **THE COMMISSIONER:** Time for a break here,
25 Mr. Engelmann?

1 **MR. ENGELMANN:** Sure, thank you.

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

4 This hearing will resume at 11:15.

5 --- Upon recessing at 11:00 a.m./

6 L'audience est suspendue à 11h00

7 --- Upon resuming at 11:20 a.m./

8 L'audience est reprise à 11h20

9 **THE REGISTRAR:** This hearing is now resumed,
10 please be seated. Veuillez vous asseoir.

11 **GARRY DEROCHIE, Resumed/Sous le même serment:**

12 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
13 **ENGELMANN (Continued/Suite):**

14 **MR. ENGELMANN:** Staff Sergeant Derochie,
15 when we left off we were dealing with interactions I think
16 with Greg Bell of the CAS. I was at page 59 of your
17 dedicated notes, Exhibit 1293.

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** And you had told us that --
20 well, the notes indicate "The Chief is of the opinion that
21 we should not", and that's divulge these two names and I
22 think you told us that that was a consensus, not just the
23 Chief but, presumably, the Deputy Chief and yourself?

24 **MR. DEROCHIE:** I can't say that the -- I
25 can't say that -- I can't say for sure whether it was the

1 Deputy Chief, but certainly Luc Brunet ---

2 MR. ENGELMANN: Okay.

3 MR. DEROCHIE: --- was of that opinion and
4 once they explained it to me, I accept it.

5 MR. ENGELMANN: And I think what you said to
6 us is that -- or, at least, how it was told to you by
7 either Constable Sebalj or Staff Sergeant Brunet, is that
8 these individuals didn't want to be identified?

9 MR. DEROCHIE: At best, one would be a
10 witness to a -- to a -- some other complaint. If they --
11 if we could find -- if Mr. Silmsler wanted to proceed with
12 the -- with the charge and if it was relevant, if his
13 evidence was relevant, that he'd be willing to be a
14 witness, at best.

15 MR. ENGELMANN: All right. And who's
16 telling you that? Is that Sebalj or is it Brunet?

17 MR. DEROCHIE: That's Sebalj and Brunet or,
18 you know, both.

19 MR. ENGELMANN: All right. And do you know
20 when either of them had last spoken to either of these two
21 individuals?

22 MR. DEROCHIE: No. I -- I was going on
23 Heidi's notes with regards to when she made contact with
24 him.

25 I know one individual, she spent a

1 considerable amount of time trying to encourage to provide
2 a statement. At the end of the day, he did not want to be
3 involved, didn't want to be identified as a victim.

4 **MR. ENGELMANN:** All right, because it was my
5 understanding that the last contact, at least from the
6 notes, would have been at or around the 3rd of April of '93?

7 **MR. DEROCHIE:** I -- I wouldn't disagree with
8 that.

9 **MR. ENGELMANN:** All right. And do you know
10 if anyone -- and by "anyone", either Staff Sergeant Brunet,
11 yourself, the Deputy Chief or the Chief -- would have asked
12 her or Staff Sergeant Brunet to follow up with one or both
13 of these individuals?

14 **MR. DEROCHIE:** I have no knowledge of that.

15 **MR. ENGELMANN:** All right. So to your
16 knowledge, no one did follow up with them in the fall to
17 see if they might want to cooperate with the CAS
18 investigation?

19 **MR. DEROCHIE:** That's right. I don't know
20 if they did or they didn't.

21 **MR. ENGELMANN:** Right. Well, you -- would
22 you -- you would know, sir, wouldn't you?

23 **MR. DEROCHIE:** I would know and I don't have
24 that knowledge ---

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

1 MR. DEROCHIE: --- that they did.

2 MR. ENGELMANN: So presumably that never
3 happened?

4 MR. DEROCHIE: Presumably it did not.

5 MR. ENGELMANN: All right. Now, after that
6 consensus was reached, you would spoken with Mr. Abell. Is
7 that fair?

8 MR. DEROCHIE: Yes.

9 MR. ENGELMANN: I'm looking at your notes,
10 page 60, there's a reference to speaking to him on
11 November 8th?

12 MR. DEROCHIE: Yes.

13 MR. ENGELMANN: And amongst other things,
14 you would have told him that Mr. Silmser's not aware of who
15 Helen Dunlop is or was?

16 MR. DEROCHIE: That's right.

17 MR. ENGELMANN: And he was -- he wanted to
18 know, or words to that effect. Is that fair?

19 MR. DEROCHIE: Mr. Silmser?

20 MR. ENGELMANN: Yes.

21 MR. DEROCHIE: Was asking, yes.

22 MR. ENGELMANN: Yeah. He also made,
23 apparently, and I assume this is something Mr. Abell is
24 telling you, that Silmser indicated to them that he'd
25 received a call from a mother of a couple of boys?

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: That's not something you're
3 relating to Abell, that's something he's relating to you?

4 MR. DEROCHIE: That's correct.

5 MR. ENGELMANN: All right. And you would
6 have had a discussion with Mr. Abell about unnamed victims
7 and you would have advised him that there had been a
8 decision not to give him those names?

9 MR. DEROCHIE: Yes.

10 MR. ENGELMANN: And, according to your note,
11 you asked him:

12 "Was this issue, our hesitating about
13 identifying these two people, a matter
14 he considered governed by (1) our
15 requirement to disclose and (b) were
16 these two people critical to his
17 ongoing investigation?"

18 MR. DEROCHIE: Yes.

19 MR. ENGELMANN: So you would have asked
20 questions similar to those, to Mr. Abell ---

21 MR. DEROCHIE: Yes.

22 MR. ENGELMANN: --- in that call?

23 MR. DEROCHIE: Yes.

24 MR. ENGELMANN: And your answer's then set
25 out at the top of page 61?

1 MR. DEROCHIE: Yes, that's right.

2 MR. ENGELMANN: He answered "no" to both?

3 MR. DEROCHIE: That's correct.

4 MR. ENGELMANN: "The identity of these
5 people would be helpful but not
6 essential."

7 MR. DEROCHIE: Yes.

8 MR. ENGELMANN: "In the same way, our duty
9 to disclose was not required under
10 these circumstances."

11 MR. DEROCHIE: Right, but it would be
12 helpful.

13 MR. ENGELMANN: All right. So -- all right.
14 So he's saying there's no statutory duty, at least in his
15 view, for you to give him that information?

16 MR. DEROCHIE: That's my understanding, yes
17 ---

18 MR. ENGELMANN: All right.

19 MR. DEROCHIE: --- of what he was saying to
20 me.

21 MR. ENGELMANN: But in a general sense he's
22 saying, "Look, you don't have to do this but I'd still like
23 you to do it"?

24 MR. DEROCHIE: Yes, that's what he was
25 saying.

1 **MR. ENGELMANN:** Yeah. Do you think, given
2 that call, that perhaps someone from the CPS should have
3 followed up with these two individuals to see what their
4 view was about cooperating, at or about that time, in
5 November of '93?

6 **MR. DEROCHIE:** It's a fair question.
7 I believe, yes, we should have.

8 **MR. ENGELMANN:** Because at that point-in-
9 time ---

10 **MR. DEROCHIE:** They're trying ---

11 **MR. ENGELMANN:** --- you're trying to help
12 them?

13 **MR. DEROCHIE:** Yes, in hindsight, I'm saying
14 we should have done it.

15 **MR. ENGELMANN:** Yes.

16 **MR. DEROCHIE:** It didn't occur to us, at
17 that time to do it.

18 **MR. ENGELMANN:** Well, again, sir, it wasn't
19 your investigation?

20 **MR. DEROCHIE:** No, I shouldn't say "we"; it
21 -- it wasn't done.

22 **MR. ENGELMANN:** Yeah. Now, then it appears,
23 sir, that you continue with your review of the CPS
24 investigation by speaking to someone, a ---

25 **MR. DEROCHIE:** Staff Inspector Stuart

1 McDonald.

2 MR. ENGELMANN: All right. I was going to
3 say Superintendent Inspector. Staff Inspector Stuart
4 McDonald?

5 MR. DEROCHIE: That's correct.

6 MR. ENGELMANN: There's a lot of McDonalds,
7 so I just want to make sure we have a first name.

8 MR. DEROCHIE: Yes. M-C.

9 MR. ENGELMANN: All right. And why did you
10 speak with him, sir?

11 MR. DEROCHIE: Well, he was the -- he had
12 received the information from Sergeant Nakic. He had gone
13 to the Chief -- he was involved in the original complaint
14 coming in and I wanted to get his perspective on what
15 happened.

16 MR. ENGELMANN: All right. And did he give
17 you a general overview of his involvement in this matter?

18 MR. DEROCHIE: He did.

19 MR. ENGELMANN: And could you just tell us
20 briefly what that would have been?

21 MR. DEROCHIE: Yes, he -- when he received
22 the information from Nakic, he had originally thought that
23 he would give it to Constable Malloy, who was in the SACA
24 unit.

25 Subsequent to that, he had gone to the Chief

1 to discuss the matter and I -- I don't recall now what the
2 reason was, but there was a decision that it would be -- it
3 would go to Sergeant Lortie.

4 **MR. ENGELMANN:** Do you know, and I don't
5 know if this came up with Stuart McDonald or if it only
6 came up later, whether there was any issue of preference of
7 a male investigator?

8 **MR. DEROCHIE:** I don't believe that was
9 considered at that time.

10 **MR. ENGELMANN:** Fair enough.

11 **THE COMMISSIONER:** So Stuart McDonald is Mr.
12 Dunlop's brother-in-law?

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

14 **THE COMMISSIONER:** All right. So during --
15 while you were doing all of this, did you have any
16 discussions with him with respect to what was going on with
17 Mr. Dunlop?

18 **MR. DEROCHIE:** At this particular time, I
19 don't believe so.

20 **THE COMMISSIONER:** Okay.

21 **MR. ENGELMANN:** Would he have been aware of
22 your mandate and -- I mean, of your dual mandate?

23 **MR. DEROCHIE:** I believe so.

24 **MR. ENGELMANN:** So, one, that you were
25 investigating Dunlop's role in the release?

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: And, two, that you were
3 reinvestigating or reviewing the CPS ---

4 MR. DEROCHIE: Yes.

5 MR. ENGELMANN: --- investigation?

6 MR. DEROCHIE: Yes. I don't know to what
7 degree he -- what knowledge he had, to what -- to what
8 degree he had ---

9 MR. ENGELMANN: M'hm.

10 MR. DEROCHIE: --- but -- but he certainly
11 knew what I was about, yes.

12 MR. ENGELMANN: And did you have any
13 discussion with him at all about Dunlop's role?

14 MR. DEROCHIE: I can't recall if I did at
15 that particular time. Subsequently, I had had discussions
16 with him. This -- it had caused him a great amount of
17 pain, this whole issue. It had had severe consequences on
18 his -- on his extended family and that of his wife, so,
19 yes.

20 MR. ENGELMANN: When would that have been,
21 sir, approximately?

22 MR. DEROCHIE: I don't know if it would have
23 been early in '94 or thereabouts or late in '93. I really
24 wouldn't be able to say with any kind of degree of
25 accuracy.

1 **MR. ENGELMANN:** Do you know if Mr. Dunlop
2 had already gone off on extended sick leave?

3 **MR. DEROCHIE:** I'd be guessing. I'm sorry.

4 **MR. ENGELMANN:** All right. That's fair.

5 **MR. DEROCHIE:** Yeah.

6 **MR. ENGELMANN:** And he simply expressed to
7 you how the issue had affected him and his family
8 relationships?

9 **MR. DEROCHIE:** Yeah, at that -- I don't know
10 if that particular time it was that severe a consequence of
11 -- that affected the family, but certainly as time went by,
12 it became a real issue, and I really -- I'd be doing a
13 disservice if I tried to pinpoint that. I just can't do
14 it. I'm sorry.

15 **MR. ENGELMANN:** That's fine. So he tells
16 you that he -- essentially, he has limited involvement in
17 the Silmsler investigation?

18 **MR. DEROCHIE:** Yes. Yes, very limited.

19 **MR. ENGELMANN:** All right. And whose
20 decision is it then to involve Sergeant Lortie?

21 **MR. DEROCHIE:** I ---

22 **MR. ENGELMANN:** Did he indicate that to you?

23 **MR. DEROCHIE:** Well, I believe it was the
24 Chief's decision to assign it to Lortie, and he -- but I
25 believe there was a conversation between Stuart and the

1 Chief with regards to who would be best to do this, you
2 know, whether -- what was going on at CID at that
3 particular time, whether there was enough resources there
4 to deal with this in addition to everything else they were
5 doing. They obviously recognized it to be a significant
6 investigation, so they were looking for someone to do it.

7 **MR. ENGELMANN:** All right. And was it --
8 Sergeant Lortie was the Intelligence Officer at that time?

9 **MR. DEROCHIE:** Yes, he was Intelligence
10 Officer.

11 **MR. ENGELMANN:** Did he get assigned
12 responsibility for specific investigations at that time, to
13 your knowledge?

14 **MR. DEROCHIE:** At that time, I have no
15 knowledge that he was.

16 **MR. ENGELMANN:** My understanding is he
17 reported directly to the Chief?

18 **MR. DEROCHIE:** Yes, as the Force's
19 Intelligence Officer, typically, the CISO Officer reports
20 directly to the Chief.

21 **MR. ENGELMANN:** And would he have been
22 involved though in the CID Unit at that time or is it just
23 separate and apart.

24 **MR. DEROCHIE:** No, this is separate and
25 apart.

1 **MR. ENGELMANN:** Would he gather information
2 or data about matters that members of the Cornwall Police
3 Service would become aware of regarding suspects on various
4 types of cases?

5 **MR. DEROCHIE:** He was a liaison person with
6 -- he was our CISO Officer, which means he contributed to
7 the central database of information on organized crime
8 criminal activity. If he came across information with
9 regards to who was doing B & E's in the town, certainly he
10 would pass that kind of information. If he got
11 intelligence on that type of thing, he would certainly pass
12 on information to the troops to be watchful for these
13 people, these vehicles, things like that.

14 **MR. ENGELMANN:** What about the role of other
15 officers? If they knew about a group of people involved in
16 break and enters or they heard rumours or suspected there
17 was a group?

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

19 **MR. ENGELMANN:** Was that something that they
20 would have a duty to tell him about?

21 **MR. DEROCHIE:** Oh, yes. They would
22 certainly provide all of that information. He was the
23 repository for raw intelligence.

24 **MR. ENGELMANN:** What was he then to do with
25 it?

1 **MR. DEROCHIE:** He may well do profiles. He
2 may well expand on a little bit of information that's
3 provided to him; get the description of registered vehicles
4 to an individual; where they were living; where they were
5 working; things of that nature, just to build a profile on
6 the individual.

7 **MR. ENGELMANN:** What about if members of the
8 Police Service heard about two, three or more men possibly
9 engaging in sexual abuse of young people? Would that be
10 information of the sort that they might want to tell the
11 intelligence officer?

12 **MR. DEROCHIE:** I have a -- I have a sense
13 that no. However, he would certainly be the best person to
14 ask.

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

16 **MR. DEROCHIE:** I just don't recall ever
17 having intelligence of that nature or hearing of
18 intelligence of that nature.

19 **MR. ENGELMANN:** I'm just saying if there
20 were suspicions about break and enters and two, or three or
21 more individuals involved, and that was something that they
22 would pass on to the intelligence officer, I would assume
23 that if there were suspicions or rumours about a group of
24 men being involved in sexual activity of some sort that was
25 improper, that might also be an issue to pass ---

1 **MR. DEROCHIE:** You may well be right. I
2 don't know, I'm sorry, if he ever received that kind of raw
3 intelligence.

4 **MR. ENGELMANN:** Now, after meeting with
5 Stuart McDonald, did you then have a follow-up meeting with
6 Constable Sebalj; this being on November 10th?

7 Sir, if you want to take a look at the
8 bottom of page 62 is I believe where it starts, in 1293.

9 **MR. DEROCHIE:** Yes, it indicates that I was
10 interviewing Sebalj.

11 **MR. ENGELMANN:** All right. Do you have a
12 sense, sir, as to how long this particular meeting was?

13 **MR. DEROCHIE:** With her?

14 **MR. ENGELMANN:** Yeah?

15 **MR. DEROCHIE:** I would suspect it would be
16 around a half-hour or three quarters of an hour. I really,
17 I really didn't record times.

18 **MR. ENGELMANN:** You have several pages of
19 notes about it.

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

21 **MR. ENGELMANN:** I was just wondering if this
22 was a longer meeting than normal.

23 **MR. DEROCHIE:** Well, half an hour or three
24 quarters of an hour would be quite a long meeting.

25 **MR. ENGELMANN:** All right. Okay. And do

1 you know if Staff Sergeant Brunet was present for this one
2 or whether it was just with Constable Sebalj?

3 **MR. DEROCHIE:** I don't have a -- I don't
4 have a notation of being there, and I have no recollection
5 of him being there.

6 **MR. ENGELMANN:** So you, in thinking back on
7 it, you think it was just with her?

8 **MR. DEROCHIE:** Exactly, yes.

9 **MR. ENGELMANN:** All right. And do you have
10 a sense, sir, at this point what of her file you'd had an
11 opportunity to review?

12 **MR. DEROCHIE:** I would have had those
13 documents I originally documented in my notebook.

14 **MR. ENGELMANN:** The 13 items?

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** I'm sorry, I didn't mean to
17 cut you off.

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** The 13 items?

20 **MR. DEROCHIE:** Yeah.

21 **MR. ENGELMANN:** What about her notes?

22 **MR. DEROCHIE:** Yes, I had her notes.

23 **MR. ENGELMANN:** All right. And did you have
24 her dedicated notes or did you have rough notes or did you
25 have both?

1 **MR. DEROCHIE:** I had her -- I had a copy of
2 her formal notes that she would use. I didn't have rough
3 notes.

4 **MR. ENGELMANN:** All right. And did you talk
5 to her about when she would have just transcribed the
6 formal notes from rough notes? Did you get into that kind
7 of discussion?

8 **MR. DEROCHIE:** Well, if she did that, no.
9 We didn't have that discussion.

10 **MR. ENGELMANN:** All right. Were you ever
11 provided with rough notes?

12 **MR. DEROCHIE:** No.

13 **MR. ENGELMANN:** I just -- I know on one
14 circumstance, we have her notes of the January 28th
15 interview over and above the dedicated notebook, and I'm
16 just wondering if we have other interview notes aside from
17 the dedicated notes.

18 **MR. DEROCHIE:** No, I don't. I don't, I'm
19 sorry.

20 **MR. CALLAGHAN:** Just to assist, you may
21 recall, Mr. Commissioner, when Staff Inspector -- oh,
22 sorry, I'm going to get this wrong -- but Mr. Skinner was
23 in the stand, there were notes in the Ottawa Police file
24 that were identified as Ms. Sebalj's. So just if that
25 assists my friend, but you recall that with Mr. -- and I'm

1 not sure my friend was here.

2 THE COMMISSIONER: Yeah.

3 MR. CALLAGHAN: Thank you.

4 MR. ENGELMANN: We may be having a debate
5 about what rough notes are, but in any event, I'll move on.

6 Perhaps, though, if the witness could be
7 shown Exhibit 295.

8 MR. ENGELMANN: Sir, do you have Exhibit
9 295?

10 MR. DEROCHIE: I do.

11 MR. ENGELMANN: All right. And as I
12 understand it, these are the -- if I can use the term
13 "dedicated notes" that she had?

14 MR. DEROCHIE: Yes. Yes, I understand that.

15 MR. ENGELMANN: And would you have had those
16 at the time, sir?

17 MR. DEROCHIE: I believe I do. I believe I
18 got a copy right at the start of her notes or at least I
19 asked her at some point for a copy of her notes.

20 MR. ENGELMANN: All right. Now, obviously
21 that would have been after October 7th?

22 MR. DEROCHIE: Obviously, yes.

23 MR. ENGELMANN: Yes. And you're not sure
24 when these actual notes were written?

25 MR. DEROCHIE: Do I know when these notes

1 were written?

2 **MR. ENGELMANN:** Yes?

3 **MR. DEROCHIE:** No.

4 **MR. ENGELMANN:** All right. Because in your
5 case with your dedicated notes, you sometimes say "October
6 12th, note made November 3rd."

7 **MR. DEROCHIE:** Yes. She would be required
8 to do that too.

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

10 **MR. DEROCHIE:** These notes are normally
11 scrutinized very closely by the courts.

12 **MR. ENGELMANN:** Sorry?

13 **MR. DEROCHIE:** The notes would be
14 scrutinized by the courts, so you would want to make sure
15 that if you made a late notation, that you made that
16 notation, that these were late.

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

18 **MR. DEROCHIE:** As part of my regimen
19 anyways, and I believe that would be part of everybody's,
20 every police officers regimen.

21 **MR. ENGELMANN:** Okay. You didn't talk to
22 her about when she made these particular notes?

23 **MR. DEROCHIE:** No, I took the notes at face
24 value; they were made on the dates indicated.

25 **MR. ENGELMANN:** All right. On page 63 of

1 Exhibit 1293 of your dedicated notes, you say:

2 "Activity on this case is well
3 documented up until the end of
4 February. From then on there appears
5 to be little activity."

6 Do you see that?

7 **MR. DEROCHIE:** Yes.

8 **MR. ENGELMANN:** Do you know on what basis
9 you would have made that observation, sir?

10 **MR. DEROCHIE:** Well, it would either be the
11 OMPPAC printouts or possibly reading her notes, I can't
12 recall. There was an overview on OMPPAC.

13 **MR. ENGELMANN:** All right, because it would
14 appear, at least from my just summary review of Exhibit
15 295, that she had a number of interviews in March.

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** And I believe, and you
18 indicate that in your note at page 63 at least that she
19 advised you that during March she was actively tracking
20 down altar boys?

21 **MR. DEROCHIE:** Yes, yes.

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

23 **MR. DEROCHIE:** And that would be borne out
24 by the statements that she actually took.

25 **MR. ENGELMANN:** All right, and you would

1 agree with me, sir, that February would really be the first
2 month of her investigation?

3 MR. DEROCHIE: Yes.

4 MR. ENGELMANN: Because she's involved in an
5 initial interview at the end of January?

6 MR. DEROCHIE: Yes.

7 MR. ENGELMANN: And then starts doing some
8 work on this after that?

9 MR. DEROCHIE: Yes. There's a lot of
10 contact between her and Silmsler but it appears that she
11 gets down to the actual tracking down altar boys in March;
12 that's what she spends March doing.

13 MR. ENGELMANN: But the comment about, "well
14 documented up until the end of February,"- is that your
15 comment or her comment?

16 MR. DEROCHIE: That's my comment.

17 MR. ENGELMANN: All right.

18 (SHORT PAUSE / COURTE PAUSE)

19 MR. ENGELMANN: Now the reference to her
20 work in March, that would have been her comment to you
21 about what she was doing?

22 MR. DEROCHIE: Are you referring to the
23 notes up right now on March 12?

24 MR. ENGELMANN: Yes. Oh, sorry, the
25 reference to just above that, if we could. I'm just

1 concerned about -- I'm not concerned. There's a reference
2 to C-3 in these notes. I'm not going to refer to him by
3 name and Staff Sergeant Derochie, please, also?

4 **MR. DEROCHIE:** I will not.

5 **MR. ENGELMANN:** She's telling you that she
6 was trying to track down altar boys during the month of
7 March?

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

9 **MR. ENGELMANN:** And do you know where she
10 was getting that information from?

11 **MR. DEROCHIE:** Where she was getting the
12 information?

13 **MR. ENGELMANN:** Some of the names.

14 **MR. DEROCHIE:** I believe originally she got
15 some from Mr. Silmser; and subsequently by interviewing
16 those people, she would have got names of other people
17 involved at the time.

18 **MR. ENGELMANN:** Do you know if she also got
19 names from Malcolm Macdonald?

20 **MR. DEROCHIE:** I'm not aware, she may have.

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

22 **MR. DEROCHIE:** I'm not aware.

23 **MR. ENGELMANN:** The reference at the bottom
24 of the page where there's a comment, "appears to have been
25 consensual;" do you see that?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** Sir, do you know if that was
3 something that she would have said to you or is that
4 something that you were musing about?

5 **MR. DEROCHIE:** Either/or; I'm not sure now.

6 **MR. ENGELMANN:** That's not something the
7 individual would have said to her?

8 **MR. DEROCHIE:** No.

9 **MR. ENGELMANN:** All right. And as you said
10 there, she reports to you speaking with C-3 on more than
11 one occasion?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** And the last one being on
14 April 3rd of 1993; is that correct?

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** And it concludes with your
17 saying, I think on page 65, that essentially with this
18 witness it was a dead end, or words to that effect?

19 **MR. DEROCHIE:** Yes, that's right.

20 **MR. ENGELMANN:** Now I understand, sir, that
21 at the end of her encounters with this individual on April
22 3rd, and I'm looking at Exhibit 295, Bates page 7063830 and
23 I think it's, "observed OBS male, very torn..."

24 **MR. DEROCHIE:** I'm sorry, I'm not on your
25 page.

1 **THE COMMISSIONER:** We're not there yet, hang
2 on.

3 **MR. ENGELMANN:** I'm sorry.

4 **MR. DEROCHIE:** What is that Bates page again
5 please?

6 **MR. ENGELMANN:** 7063830.

7 **THE COMMISSIONER:** So it would be about page
8 40.

9 **MR. ENGELMANN:** It's a page at the bottom
10 that says 0132 and I think it's -- I can't tell if it's 40

11 **THE COMMISSIONER:** It is, well---

12 **MR. ENGELMANN:** At the top, 41.

13 **THE COMMISSIONER:** You're right.

14 **MR. ENGELMANN:** It's April 3rd. There we go.

15 **MR. DEROCHIE:** That would be April 3rd in her
16 notes, her notation?

17 **MR. ENGELMANN:** Yes.

18 **THE COMMISSIONER:** 1993, yes.

19 **MR. ENGELMANN:** It's on the screen right now
20 and I believe and I'm looking about two-thirds of the way
21 down the screen:

22 "Observed male very torn as to proper
23 thing to do. Asked me to keep in touch
24 and let him know if I located any
25 further victims."

1 Would she have indicated that to you, sir?

2 **MR. DEROCHIE:** I'm sorry, who are we talking
3 of?

4 **MR. ENGELMANN:** C-3.

5 **MR. DEROCHIE:** C-3. She may have, I really
6 don't recall.

7 **MR. ENGELMANN:** All right. Now on page 66,
8 as I understand it, she's talking to you about her views on
9 the complainant?

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** And she's saying, "Good
12 statement," but behaviour was such that she had some
13 nagging doubts or had nagging doubts. Appeared to run hot
14 and cold on the level of cooperation he was providing her.
15 Do you see that?

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** And then also says:

18 "He had not followed up in providing
19 his school records to one of the few
20 bits of circumstantial evidence which
21 would corroborate part of his
22 statement?

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** So did she talk to you about
25 this?

1 **MR. DEROCHIE:** Not that I can recall.

2 **MR. ENGELMANN:** All right. I'm just
3 wondering if you know if she made any efforts to obtain
4 these school records.

5 **MR. DEROCHIE:** No, I understood that she had
6 left it to Mr. Silmser to get his school records.

7 **MR. ENGELMANN:** Do you know about records
8 from elsewhere, whether there was any request by her or
9 Staff Sergeant Brunet to get records from the Diocese?

10 **MR. DEROCHIE:** I'm not aware.

11 **MR. ENGELMANN:** All right. What about
12 school book, year books, things like that from the school
13 as further corroboration; any indication?

14 **MR. DEROCHIE:** No. They would not have
15 assisted. Well, I shouldn't say that. I don't know. No.

16 **MR. ENGELMANN:** School year books wouldn't
17 have assisted?

18 **MR. DEROCHIE:** Not at elementary school
19 level.

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

21 **MR. DEROCHIE:** I don't recall us ever having
22 anywhere in the elementary school system year books. I was
23 part of that system, but ---

24 **MR. ENGELMANN:** All right, even if the
25 allegations span into Grades 7 and 8, possibly?

1 **MR. DEROCHIE:** No. I guess my answer to the
2 question is I have no knowledge. I really don't know what
3 was available.

4 **MR. ENGELMANN:** All right. Did you get a
5 sense, sir, about the frequency of contacts she would have
6 had during the course of her investigation with her
7 supervisor?

8 **MR. DEROCHIE:** I knew that they had been
9 speaking; how many times specifically I could never find a
10 record of that, but they certainly were discussing the case
11 from time to time.

12 **MR. ENGELMANN:** Well, let me just pick up on
13 that for a minute. There was no record of them speaking,
14 was there?

15 **MR. DEROCHIE:** Not that I could find, no.

16 **MR. ENGELMANN:** So the only way you knew
17 that they had spoken was because one or both of them would
18 have told you?

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

20 **MR. ENGELMANN:** And did she indicate to you
21 during the course of this meeting how often they would have
22 met or spoken?

23 **MR. DEROCHIE:** No, but I certainly got the
24 sense from Staff Sergeant Brunet that he was satisfied with
25 the amount of information he had been receiving from her.

1 So it was never an issue that I identified.

2 MR. ENGELMANN: Well, it might be somewhat
3 difficult to identify if you can't tell from some objective
4 standard how often?

5 MR. DEROCHIE: Yes, but I never got the
6 sense -- you're right -- I never got the sense from Staff
7 Sergeant Brunet that he was surprised by anything, you
8 know, that -- in the investigation, so I got the impression
9 that he was up-to-speed on what was going on with the
10 investigation.

11 MR. ENGELMANN: Did you ever get the sense
12 that he encouraged her to get it going and to keep it
13 going?

14 MR. DEROCHIE: Well, that would be part of
15 your jobs as a supervisor. I don't -- he never
16 specifically said that, that I had had to push her along or
17 anything like that. I never got that impression.

18 MR. ENGELMANN: Because I just note at page
19 67, and I assume this is what she is saying to you or maybe
20 it's not:

21 "Activity on the case decreased during
22 May, June, July and August."

23 MR. DEROCHIE: Yes.

24 MR. ENGELMANN: Was that your observation or
25 is that her telling you or is it both?

1 MR. DEROCHIE: No, that was my observation.

2 MR. ENGELMANN: All right.

3 MR. DEROCHIE: And probably a little bit of
4 information from her as to what she was doing.

5 MR. ENGELMANN: And she attributed the
6 inactivity to a number of things?

7 MR. DEROCHIE: Yes, she did.

8 MR. ENGELMANN: All right. And apparently
9 she had a number of other investigations that had been
10 assigned to her?

11 MR. DEROCHIE: That's correct. She would
12 have carried -- she would have carried investigations prior
13 to -- she would have had a caseload prior to being assigned
14 Silmsers. She would have been assigned other
15 investigations while Silmsers was ongoing.

16 You know, you don't just grab one
17 investigation and run with it and finish it off and then
18 take another one. You have a multitude of things you are
19 doing at the same time and we're only seeing a snapshot of
20 what she was doing with regards to Silmsers. We don't see
21 everything else she was doing.

22 MR. ENGELMANN: Right. And many of her
23 other cases were sexual assault cases?

24 MR. DEROCHIE: Yes, they were. There would
25 have been court preps. There would have been, as she

1 identifies later on, courses for her to go on.

2 MR. ENGELMANN: She does talk about courses;
3 she does talk about annual leave.

4 MR. DEROCHIE: M'hm.

5 MR. ENGELMANN: And she said she did not
6 feel any great sense of urgency. She was not being pushed
7 by anyone to get this investigation completed?

8 MR. DEROCHIE: Yeah. Everybody seemed to be
9 pleased with what she was doing on the investigation, both
10 Mr. Silmsler and -- that was my impression -- both Mr.
11 Silmsler and Staff Sergeant Brunet, who was her boss.

12 MR. ENGELMANN: Right. Well, you didn't
13 speak to Mr. Silmsler about the speed at which his
14 investigation was being handled?

15 MR. DEROCHIE: No, I never did. I never did
16 speak to Mr. Silmsler on those issues.

17
18 MR. ENGELMANN: And did Staff Sergeant
19 Brunet tell you that he was satisfied with the speed at
20 which this was being done?

21 MR. DEROCHIE: He must have because I had
22 the impression that he was satisfied.

23 MR. ENGELMANN: All right. So he had no
24 concerns about the fact that there was no documented
25 activity on the file essentially in May, June, July and

1 almost to the end of August?

2 **MR. DEROCHIE:** No, he never expressed any
3 concern to me about that at all. He would certainly know
4 what she was up to, what she was doing. She wasn't just,
5 you know, she was at the office. She was working or she
6 was on course. So ---

7 **MR. ENGELMANN:** I'm not suggesting that
8 Constable Sebalj wasn't working; not at all.

9 **MR. DEROCHIE:** No.

10 **MR. ENGELMANN:** But I'm just wondering,
11 given the record of the investigation and what seems to
12 have been done by sort of sometime in April until late
13 August, there's not much documented on the file?

14 **MR. DEROCHIE:** There's not much documents
15 (sic) with regards to her investigation on this?

16 **MR. ENGELMANN:** Right.

17 **MR. DEROCHIE:** Yes, you're quite right in
18 that.

19 **MR. ENGELMANN:** Nor by anyone else?

20 **MR. DEROCHIE:** On this particular
21 investigation?

22 **MR. ENGELMANN:** Yes.

23 **MR. DEROCHIE:** No, she was the only one.
24 Her and Brunet were involved -- the only two involved in
25 this investigation.

1 **MR. ENGELMANN:** Because I think after about
2 March 10th, when she's accompanied by I think it's Sergeant
3 or Staff Sergeant Lefebvre to an interview, after that it's
4 really just her?

5 **MR. DEROCHIE:** It's just her working on it,
6 yes.

7 **MR. ENGELMANN:** Yes.

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** And did she express a
10 concern about that, that perhaps the force didn't provide
11 enough resources for an investigation of this nature?

12 **MR. DEROCHIE:** She certainly never expressed
13 that concern to me. She would have had -- she would have
14 had access to both Malloy and Lefebvre and Brunet, of
15 course, on a daily basis had she -- they were, like, Malloy
16 was working out of the same office and so was at that time
17 Ron Lefebvre. They were -- Malloy and Lefebvre were
18 working on a child abuse -- physical abuse of a child that
19 turned out to be a homicide. So they were prepping for
20 court on that issue. So they were there in the office.

21 **MR. ENGELMANN:** Well, the reason I asked you
22 about whether or not she might have expressed a concern is
23 on the next page, sir, page 68, and presumably this is her
24 talking to you in that same meeting on November 10th?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** She is aware that within the
2 organization there are those who believe she mishandled the
3 case. She pointed out that:

4 "Similar investigations had been
5 assigned much more resources and that
6 ..."

7 I don't know what that means -- "that IO"?

8 **MR. DEROCHIE:** Investigating Officer.

9 **MR. ENGELMANN:** "...had been pulled from
10 current assignments and had been
11 allowed to concentrate on the case at
12 hand."

13 She had not been given that luxury.

14 All right, so it appears, at least in that
15 meeting with you, that she is expressing some concerns
16 about the resources?

17 **MR. DEROCHIE:** I got the impression that she
18 was being a little bit defensive with regards to the
19 quality or what she -- how she had done her investigation.
20 Like, she knew that people were talking about, you know,
21 she shouldn't have been doing this investigation or things
22 to that effect.

23 And, you know, I never got the sense from
24 Heidi that she thought she was not competent or up-to-speed
25 to do this. You know, I saw good work from her. I had

1 known her for several years. She worked for me in uniform
2 patrol. She was an excellent police officer. I never got
3 the sense that she had any doubts about her abilities to do
4 this investigation.

5 MR. ENGELMANN: But it seems to me and I
6 just -- when I look through these notes, generally, she
7 appears to be explaining or justifying ---

8 MR. DEROCHIE: Yeah, I thought she ---

9 MR. ENGELMANN: --- if I could just finish -
10 --

11 MR. DEROCHIE: Sorry.

12 MR. ENGELMANN: --- some of the delays and
13 also the fact that charges weren't laid back in the spring?

14 MR. DEROCHIE: Yes, there's no question.
15 She's -- she feels the need to be defensive at this point.

16 MR. ENGELMANN: And she knows you are
17 looking at what she did?

18 MR. DEROCHIE: Absolutely, she knows that.

19 MR. ENGELMANN: Did you ask her about
20 whether she thought she was getting sufficient supervision,
21 both quantity and quality, from Staff Sergeant Brunet?

22 MR. DEROCHIE: I can't recall any discussion
23 to that effect.

24 MR. ENGELMANN: Did it concern you, sir,
25 when she told you she did not feel any great sense of

1 urgency on investigating this matter?

2 MR. DEROCHIE: Did it concern me?

3 MR. ENGELMANN: Yeah.

4 MR. DEROCHIE: I don't believe so. I don't.

5 (SHORT PAUSE/COURTE PAUSE)

6 MR. ENGELMANN: And, in fact, sir, when you
7 asked her how she felt about how she'd handled the
8 investigation, at the bottom of page 67 you say:

9 "She replied that in hindsight she
10 probably should have went(sic) to the
11 Crown in April."

12 MR. DEROCHIE: Yes.

13 MR. ENGELMANN: Then there's brackets:

14 "(And may have, but she was having
15 difficulty with reasonable probable
16 grounds)."

17 MR. DEROCHIE: That's right.

18 MR. ENGELMANN: And she indicates that she
19 had several informal meetings with the Crown?

20 MR. DEROCHIE: That's what she told me.

21 MR. ENGELMANN: Do I have that right?

22 MR. DEROCHIE: Yes. Yes.

23 MR. ENGELMANN: Was that common, sir?

24 MR. DEROCHIE: Oh, yes.

25 MR. ENGELMANN: All right, because there's

1 reference to several meetings with the Crown and I -- and
2 maybe it's not unusual at all, but there's no reference to
3 meetings with her supervisor but there's reference to
4 meetings with the Crown.

5 I'm assuming typically officers would meet
6 with their supervisors more often than they would meet with
7 the Crown?

8 **MR. DEROCHIE:** Typically they would. Are
9 you suggesting that the -- I don't recall, but are the
10 meetings documented in her notes? Is that what you are
11 saying?

12 **MR. ENGELMANN:** No, I'm just reading from
13 your notes ---

14 **MR. DEROCHIE:** Oh.

15 **MR. ENGELMANN:** --- where she is apparently
16 indicating to you that she consulted the Crown several
17 times on an informal basis.

18 **MR. DEROCHIE:** Yes, yes, she said that. She
19 said that to me.

20 **MR. ENGELMANN:** All right. And presumably
21 never with a Crown brief?

22 **MR. DEROCHIE:** No. She never did ---

23 **MR. ENGELMANN:** Was that ever done?

24 **MR. DEROCHIE:** No, not to my knowledge.

25 **MR. ENGELMANN:** And when she said to you

1 that there were those who believed she mishandled the case,
2 did you ask her about that at all, who she was talking
3 about or what ---

4 **MR. DEROCHIE:** No, I don't think -- I don't
5 think there had to have been -- we didn't have to have that
6 conversation.

7 **THE COMMISSIONER:** I'm sorry, why is that?

8 **MR. DEROCHIE:** Well, we would have known.
9 We would have been -- what I was referring to earlier in my
10 testimony with regards to some people second-guessing
11 everyone about how they do things.

12 **MR. ENGELMANN:** All right, sir. And after
13 she talks to you a little bit about the issue about
14 resources and saying she didn't have certain luxuries, she
15 does say, at the bottom of page 68:

16 "Even so, she recognizes that a charge
17 should have been laid earlier in the
18 investigation."

19 **MR. DEROCHIE:** Yes. And I -- I can't say
20 that that was -- those were her words -- excuse me -- I --
21 I came across that when I was reviewing these notes and
22 there was never talk -- she never reached a point in her
23 investigation where she felt she had reasonable and
24 probable grounds to -- to lay a charge.

25 That was me miswriting the fact that she

1 should have gone to the Crown in April and -- and said,
2 "Here's what I've got; what are the reasonable prospects of
3 a conviction?"

4 **MR. ENGELMANN:** Well, you do say, sir:
5 "...she recognizes that a charge should
6 have been laid earlier in the
7 investigation".

8 **MR. DEROCHIE:** Exactly.

9 **MR. ENGELMANN:** You made these notes on
10 November 10th, 1993, correct?

11 **MR. DEROCHIE:** Yes, or November 11th, the
12 next day, whatever, there was a note somewhere; I saw that
13 it was.

14 **MR. ENGELMANN:** You would agree with me,
15 would you not, that your memory about what would have
16 happened in your meeting with Constable Sebalj would be
17 better then than it is today?

18 **MR. DEROCHIE:** Absolutely my memory would be
19 better.

20 What I'm suggesting is that I miswrote that.
21 I had meant -- I didn't mean to say a "charge." Like I
22 knew -- I knew that she had never reached that point where
23 she could lay a charge.

24 **MR. ENGELMANN:** So you're saying to us
25 today, almost 15 years later, that you have a specific

1 recollection that she didn't say that?

2 **MR. DEROCHIE:** No, I don't have a specific
3 regulation (sic) that she did not -- or recollection that
4 she did not say that; I know -- I have knowledge that she
5 had never reached that point so that I make the assumption
6 that she didn't use the word "charge;" I put that in there.

7 I'm not -- you know, she's not quoted. I'm
8 not quoting her. I'm saying this is the -- she's telling
9 me all of these various things, that's my interpretation of
10 what she said, but I'm saying that I -- I -- there's no
11 question in my mind that she never reached RNPG.

12 **MR. ENGELMANN:** The only reason I say is
13 because you used the term "she recognized."

14 **MR. DEROCHIE:** I -- I realize that, yes.

15 **MR. ENGELMANN:** It doesn't look like it's
16 your opinion; it looks like it's something she says to you.

17 **MR. DEROCHIE:** Well, she -- she recognized
18 that the whole issue should have been resolved earlier than
19 August.

20 **MR. ENGELMANN:** And again, we get back to
21 the top of page 69:

22 "No sense of urgency, certainly not
23 getting pressure from her supervisor or
24 from the victim."

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

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

2 **MR. DEROCHIE:** Which supports the fact that
3 she was -- she never reached that -- she never reached that
4 point in her investigation where a charge could be laid.

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

6 **MR. DEROCHIE:** And I know what you're
7 saying, Mr. Engelmann. I just wanted ---

8 **MR. ENGELMANN:** No, I'm just reading your
9 notes.

10 **MR. DEROCHIE:** Yes, I know.

11 And I want to be very clear about that.

12 **MR. ENGELMANN:** You don't usually disagree
13 with your notes.

14 **MR. DEROCHIE:** Well ---

15 **MR. ENGELMANN:** You haven't yet.

16 **MR. DEROCHIE:** No.

17 You're right, you're right.

18 And it's a mistake that I -- I recognized
19 when I was reviewing these notes, and am I subject to being
20 evaluated on that with regards to later entries? Well, you
21 know, yes.

22 **MR. ENGELMANN:** All right. And the reason I
23 asked you if -- if you'd actually seen her file before this
24 meeting, one, you reference the fact that there's not much
25 documentation before -- or after February, that's a couple

1 of pages back, and there appears to be some -- at least
2 when we look at Exhibit 295 -- extensive notes from what
3 she does in March.

4 And if we look at this next paragraph, on
5 page 69, it says:

6 "Sebalj turned over her file to me.
7 She has extensive notes and will
8 provide me with a copy."

9 So do you know, sir, just reading that, it
10 almost seems like she hasn't given you a copy yet.

11 **MR. DEROCHIE:** Well, I had -- I had received
12 that copy in -- in October that contained everything and I
13 thought I had asked previously, I thought I had asked her
14 for a copy of her notes.

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

16 **MR. DEROCHIE:** What I would have got in her
17 file was her -- her investigative file, which would have
18 included copies of -- or the originals, as I recall now, of
19 the statements she had taken from each of the witnesses she
20 had interviewed; that's what it would have contained. It
21 would have been her investigative file which would have
22 contained that kind of documentation.

23 **MR. ENGELMANN:** All right. Because I'm just
24 wondering about how we should interpret that:

25 "She has extensive notes and will

1 provide me with a copy."

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: You're saying that you may
4 have actually seen the originals and she was just going to
5 give you a copy afterwards or are you saying ---

6 MR. DEROCHIE: I don't -- I don't recall and
7 -- and now that you're bringing it up here, it sort of
8 indicates that I didn't have the notes previously and I --
9 I thought I had asked for them right at the start.

10 MR. ENGELMANN: So you're not sure now?

11 MR. DEROCHIE: I'm not sure now.

12 MR. ENGELMANN: Fair enough.

13 Now, you then have a discussion with
14 Sergeant Lortie? I'm looking ---

15 MR. DEROCHIE: Yes, yes.

16 MR. ENGELMANN: --- at November 10th?

17 MR. DEROCHIE: Yes.

18 MR. ENGELMANN: And just -- and what was
19 your reason, sir, in then meeting with him?

20 MR. DEROCHIE: Again, to get his
21 understanding of the -- of the chronology, his involvement
22 in it and what he did.

23 MR. ENGELMANN: And very briefly, then, sir,
24 what did he tell you what his role was, if any?

25 MR. DEROCHIE: Well, he told me that he had

1 been given this investigation by the Chief of Police, that
2 he had subsequently spoken to Mr. Silmsler over the
3 telephone -- excuse me -- that Mr. Silmsler had indicated to
4 him that he did not want to start an investigation over the
5 Christmas holiday season, that Lortie had explained to him
6 that he was due for some elective surgery in January and
7 would not be available to meet with him until some time in
8 mid-January, that Mr. Silmsler was -- was quite content with
9 those arrangements.

10 And that was -- that was the end of his
11 involvement until some time between Christmas and New Years
12 of 1992, he was approached by the Deputy Chief, asked for
13 an update on what was going on and having told the Deputy
14 Chief that he wasn't going to deal with it until mid-
15 January, that the Deputy Chief said, "Turn the file over;
16 I'm going to assign to someone else."

17 **MR. ENGELMANN:** All right. And apparently,
18 he would have indicated to you that Mr. Silmsler would have
19 spoken to him about some discussion with either a Bishop or
20 Archbishop?

21 **MR. DEROCHIE:** Yeah, he indicated that Mr.
22 Silmsler had informed him, during that conversation, that he
23 had had some conversation with the Church with regards to
24 his allegations.

25 **MR. ENGELMANN:** Now, Sergeant Lortie was

1 coming back to work in mid-January or about the 12th of
2 January?

3 MR. DEROCHIE: Yes.

4 MR. ENGELMANN: And as I understand it,
5 Constable Sebalj was not assigned this file until
6 January 13th?

7 MR. DEROCHIE: Quite right, yes.

8 MR. ENGELMANN: Is that why, sir, you have
9 the square bracket notation you do on page 71?

10 MR. DEROCHIE: Yes, I was -- I wasn't
11 pleased with that whole -- that whole matter, that nothing
12 was gained by -- by taking it from Lortie and giving it to
13 Sebalj. We didn't save any time here at all.

14 MR. ENGELMANN: All right. Because you seem
15 to be posing a question; "What was gained from pulling
16 Lortie from the case?"

17 MR. DEROCHIE: Exactly.

18 MR. ENGELMANN: That wasn't your decision,
19 obviously. That was the decision of ---

20 MR. DEROCHIE: Oh, no.

21 MR. ENGELMANN: --- the then Deputy Chief?

22 MR. DEROCHIE: It was made long before I
23 became involved in this, yes.

24 MR. ENGELMANN: Whose decision -- was that
25 the Deputy Chief's decision or the ---

1 **MR. DEROCHIE:** My understanding was he told
2 me that he was approached by the Deputy Chief of Police
3 with regards to that whole issue.

4 **MR. ENGELMANN:** Do you know why he wasn't
5 reassigned the file, I mean if he was back at work almost
6 immediately thereafter?

7 **MR. DEROCHIE:** No.

8 **MR. ENGELMANN:** And wasn't it at or about
9 that time or shortly thereafter that Mr. Silmser's
10 indicating to both Constable Sebalj and to the Chief that
11 he'd prefer a male officer?

12 **MR. DEROCHIE:** You're right, yes.

13 **MR. ENGELMANN:** And it is -- Sergeant Lortie
14 is Claude Lortie, male?

15 **MR. DEROCHIE:** Yes, Sergeant Claude Lortie,
16 yes.

17 **MR. ENGELMANN:** Yeah. I know "Claude" can
18 be a female name, as well, he's -- he is a he?

19 **MR. DEROCHIE:** He's definitely a male.

20 **MR. ENGELMANN:** You're right.

21 Now, do you recall asking either the Chief
22 or the Deputy Chief about that reassignment?

23 **MR. DEROCHIE:** I asked the Deputy Chief
24 about it. I had gone to him and asked him what had
25 occurred during that period of time that made him take the

1 file from Lortie and give it to -- give it to -- or CID,
2 Staff Sergeant Brunet.

3 **MR. ENGELMANN:** All right. And at page 75
4 of your notes, you indicate that he couldn't recall why he
5 had done it?

6 **MR. DEROCHIE:** Yes, that's right. He said,
7 "I have no recollection of why I did that." I could ask
8 the Chief of Police.

9 **MR. ENGELMANN:** All right. And do you know
10 if you did follow up with the Chief to find out?

11 **MR. DEROCHIE:** No, I never -- I never got to
12 that point.

13 **MR. ENGELMANN:** Now, I understand sir, and
14 you'd mentioned this earlier, that you wanted to consult
15 with a Crown attorney before concluding your
16 reinvestigation of the investigation?

17 **MR. DEROCHIE:** Yes. I wanted an opinion on
18 the merits of the information we had and whether or not we
19 could proceed with the continued investigation and laying -
20 - hopefully laying a charge.

21 **MR. ENGELMANN:** And some of that is set out
22 earlier, is it not, at page 57 and 58 of your notes, why
23 you might want -- why you wanted to do that?

24 **MR. DEROCHIE:** Yes.

25 **MR. ENGELMANN:** Did you end up consulting

1 with either the local Crown attorney or the attorney in
2 L'Orignal about possibly laying a charge?

3 **MR. DEROCHIE:** Yes. I spoke to Murray
4 MacDonald and asked him if he could refer me to the
5 L'Orignal Crown and at that point he asked me -- he would
6 if we had a cooperative victim. If our victim was willing
7 to cooperate with the investigation then he would follow
8 through and make those arrangements.

9 **MR. ENGELMANN:** And, in fact, on page 72 you
10 say:

11 "He said that he would if we had a
12 victim."

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

14 **MR. ENGELMANN:** And then in square brackets,
15 I think you're thinking out loud:

16 "[I got the impression that he would
17 not arrange a meeting unless we had a
18 charge to lay.]"

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

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

21 **MR. DEROCHIE:** Yes, that's fair.

22 **MR. ENGELMANN:** Now, did you think you
23 should be seeing an outside Crown because of a conflict
24 issue or was that something that someone else suggested to
25 you?

1 **MR. DEROCHIE:** Well, I think that was
2 suggested right at the very start when Mr. MacDonald
3 declared a conflict that -- and that was a suggestion --
4 when it comes time to do something with this file, then
5 I'll arrange for a meeting with the L'Original Crown.

6 That was my understanding from the very
7 start of my involvement in it, that Heidi had, in fact,
8 already determined that Murray wouldn't be handling the
9 file in the formal manner.

10 **MR. ENGELMANN:** All right. So he is
11 declaring a conflict, so he's saying, "I'm not the guy to
12 go to."?

13 **MR. DEROCHIE:** Exactly. Well ---

14 **MR. ENGELMANN:** Yet he's saying you can't go
15 to the other guy unless you have reasonable and probable
16 grounds?

17 **MR. DEROCHIE:** No, he said, if you -- unless
18 you've got a cooperating victim. If your victim is not
19 cooperating with you, our policy stands, we won't, you
20 know, we won't force the issue.

21 **MR. ENGELMANN:** Yeah. I guess we go back to
22 the whole issue of cooperation, but just on this issue, on
23 reasonable and probable grounds, it's my understanding that
24 -- you may have said this -- the police determined whether
25 or not there are reasonable and probable grounds?

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: And if there are questions
3 about that, they seek guidance typically from the local
4 Crown?

5 MR. DEROCHIE: From the local Crown.

6 MR. ENGELMANN: And did he, in fact, tell
7 you that he'd make arrangements with the L'Original Crown
8 when the time was right?

9 MR. DEROCHIE: Words to that effect, yes.

10 MR. ENGELMANN: And do you know what he
11 meant by "when the time was right"?

12 MR. DEROCHIE: When we got to that point
13 where we had sufficient grounds to lay a charge, put a
14 brief together and present it to him for an opinion. That
15 was my understanding of it.

16 MR. ENGELMANN: Yeah.

17 MR. DEROCHIE: That's how it normally works.

18 MR. ENGELMANN: But if you're waiting to
19 have guidance from an outside Crown on reasonable and
20 probable grounds and he's waiting to refer until you have
21 reasonable and probable grounds ---

22 MR. DEROCHIE: Yeah.

23 MR. ENGELMANN: --- don't you have a bit of
24 a stalemate there?

25 MR. DEROCHIE: Well, we have a stalemate in

1 that I'm not investigating this criminally. I'm not going
2 to be the one that reaches that whole idea of reasonable
3 and probable grounds and I guess I'm looking for some
4 guidance from the L'Original Crown. Do we have sufficient
5 here? It wouldn't hurt to get a second opinion with
6 regards to the protocol about the non-cooperating witness
7 or victim.

8 Now, that's not any kind of an indictment
9 that I -- problems I had with Murray MacDonald. I know him
10 to be nothing but a fine gentleman, but I thought because
11 there was some sort of -- it was blurred with regards to
12 his conflict that it's best that we get this said by
13 someone else; that listen, this is the policy, we will not
14 proceed unless the victim wants us to proceed.

15 And that was only to eliminate any doubt
16 that that policy -- or somebody could criticize that, not
17 taking that additional step.

18 **MR. ENGELMANN:** So could you have just gone
19 to the L'Original Crown or did you need his permission?

20 **MR. DEROCHIE:** I would have needed -- I
21 would have required a meeting. I would have had to set up
22 a meeting with the L'Original Crown and the protocol is is
23 you do that through your local Crown. You just don't go
24 and shop around for a Crown attorney.

25 **MR. ENGELMANN:** So the L'Original Crown

1 wouldn't have met with you unless ---

2 **MR. DEROCHIE:** He would not have -- he would
3 not have agreed to have met with me I believe.

4 **MR. ENGELMANN:** I'll just be a moment, sir.

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

6 **MR. ENGELMANN:** On page 73 of your notes,
7 Staff Sergeant Durochie, as you are -- you're writing up
8 some notes of your meeting with Murray MacDonald, at the
9 top of the page, you're talking about him explaining to you
10 what that conflict might be?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** And you then write:

13 "He identified this case as being
14 another example of the church covering
15 up sexual misconduct by a priest."

16 Do you see that?

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** Did he tell you what he
19 meant by that or why he said that?

20 **MR. DEROCHIE:** It's in the context of the --
21 he's explaining -- he's trying to explain to me this
22 conflict he has and he explains it. He's been on a -- he
23 was on a church committee some years previous that was to
24 identify the -- or was to advise the Bishop with regards to
25 how allegations similar to what we had -- and I'm assuming

1 that we're talking about DesLauriers, the DesLauriers
2 investigation -- similar to those types of situation.

3 How the church -- what role church should
4 play and how we should be cooperating or how the church
5 should be cooperating with the authorities on these types
6 of matters.

7 **MR. ENGELMANN:** All right. So that's your
8 assumption but it never went further than that? You didn't
9 talk ---

10 **MR. DEROCHIE:** He never went -- he never
11 went further than that. He was talking about the churches
12 on occasion will deal with this internally; will deal with
13 these types of allegations internally for the obvious
14 reason of not wanting them to be made public. That was my
15 assumption of what we were talking ---

16 **MR. ENGELMANN:** Do you know what -- I'm
17 sorry.

18 **MR. DEROCHIE:** I'm sorry?

19 **MR. ENGELMANN:** I don't think you were
20 finished, I apologize.

21 **MR. DEROCHIE:** I am finished, yes, I'm
22 sorry.

23 **MR. ENGELMANN:** Do you know whether he was
24 talking about the local church, in other words, the local
25 Diocese or do you know if he was talking about ---

1 **MR. DEROCHIE:** You know, I would assume that
2 we're ---

3 **MR. ENGELMANN:** --- church ---

4 **MR. DEROCHIE:** Yeah. I would assume that he
5 was talking about the local Diocese but possibly the church
6 in general, North America.

7 **MR. ENGELMANN:** But he didn't tell you
8 specifically about other examples nor did you ask?

9 **MR. DEROCHIE:** That's correct. I made an
10 assumption. We were -- I had an idea of what he was
11 talking about.

12 **MR. ENGELMANN:** All right. And then, as
13 well, you asked him if he was aware of these two other
14 alleged victims?

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** And he indicated to you that
17 he was not aware?

18 I'm sorry. I'm on page 73, about the middle
19 of the page, sir.

20 **MR. DEROCHIE:** Yes, that's correct.

21 **MR. ENGELMANN:** We looked at this issue
22 earlier. I think it was in the context of, I think, Chief
23 Shaver saying this to you as well that Mr. MacDonald wasn't
24 aware?

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

1 **MR. ENGELMANN:** Yeah.

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

3 **MR. ENGELMANN:** Did you -- is that all that
4 was said, just simply did you know -- no, I didn't know?
5 Or was there some discussion about whether that information
6 was relevant or could have been relevant to his decision
7 way back when about this?

8 **MR. DEROCHIE:** I don't have -- I don't have
9 an independent recollection of this, but I would assume
10 that we probably did discuss the merits of that.

11 **MR. ENGELMANN:** I'm sorry?

12 **MR. DEROCHIE:** I said I don't have a
13 recollection but it seems to me that we would have talked
14 about it to some extent.

15 **MR. ENGELMANN:** And then there was a
16 discussion about a policy about not forcing victims of
17 sexual assault or sexual abuse to testify if they didn't
18 want to?

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

20 **MR. ENGELMANN:** Now, apparently this wasn't
21 a lengthy conversation because you were going to follow it
22 up with a conversation where you'd go into more detail?

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** And did you, in fact, have a
25 later meeting with him?

1 **MR. DEROCHIE:** I believe we did. I know we
2 missed each other a couple of times but I thought we had
3 followed it up.

4 **MR. ENGELMANN:** Yeah, I think you do in
5 December, so we'll come there.

6 Did you during the course of this meeting
7 with Murray MacDonald discuss with him his meetings or
8 conversations with Heidi Sebalj?

9 **MR. DEROCHIE:** In general terms he would
10 have -- we would have discussed them, yes.

11 **MR. ENGELMANN:** Did he indicate to you
12 whether he spoke with her or with Staff Sergeant Brunet, or
13 both?

14 **MR. DEROCHIE:** It seems to me I got the
15 impression he had spoke to both of them, that there was
16 some communications between both Brunet and Sebalj with
17 him.

18 **MR. ENGELMANN:** And presumably information
19 he had about Mr. Silmsen would have come from one or both
20 of them?

21 **MR. DEROCHIE:** I assume, yes.

22 **MR. ENGELMANN:** He didn't indicate to you
23 that he met or spoke with Mr. Silmsen himself?

24 **MR. DEROCHIE:** Oh, no, no.

25 **MR. ENGELMANN:** Now you told us that this

1 part of your mandate, the reinvestigation or review of what
2 the Cornwall Police Service did in the Silmsier
3 investigation, ended at or about the time of Mr. Seguin's
4 death?

5 MR. DEROCHIE: I don't know that it ended,
6 but it certainly stalled, it stopped.

7 MR. ENGELMANN: Right.

8 MR. DEROCHIE: As far as the active
9 investigation. I never -- I never wrote it off saying this
10 is -- now that this has happened, I will not be proceeding
11 any further on this.

12 MR. ENGELMANN: But statements that you had
13 asked of others ---

14 MR. DEROCHIE: Yes.

15 MR. ENGELMANN: --- and never obtained ---

16 MR. DEROCHIE: Yes.

17 MR. ENGELMANN: --- you never followed up?

18 MR. DEROCHIE: No. Those statements I would
19 have only asked for had I decided we were going to go with
20 a Police Act charge. I would not have -- I wouldn't have
21 required them otherwise. So very soon in my review of
22 Dunlop's matters, I lost any interest in getting those
23 statements.

24 MR. ENGELMANN: All right, so maybe I
25 misunderstood. I thought that you were asking for

1 statements both for the Dunlop issue and possibly *Police*
2 *Service Act* charges and as well statements on your
3 reinvestigation?

4 **MR. DEROCHIE:** No ---

5 **MR. ENGELMANN:** Am I mistaken; it was simply
6 on the first?

7 **MR. DEROCHIE:** Yeah, I believe it was only
8 on the first issue. I only remember asking two -- for two
9 statements, one from Sebalj and I'm sorry, I know we
10 discussed it last week but it slips my mind.

11 **MR. ENGELMANN:** I think it may have been
12 Staff Sergeant Brunet, but I may be mistaken myself. But
13 there were a couple of people that you'd asked for
14 statements?

15 **MR. DEROCHIE:** Yes. Yes, Brunet would be a
16 likely one that I would have ---

17 **MR. ENGELMANN:** All right, and in any event,
18 there was no need or you determined that you didn't need to
19 get statements?

20 **MR. DEROCHIE:** No, correct; and I recollect
21 now, Mr. Engelmann, that it was -- that Brunet indicated
22 that he would provide me with a detailed statement. You're
23 quite right.

24 **MR. ENGELMANN:** All right. So there was
25 little, if any, active investigation on the reinvestigation

1 after Mr. Seguin's death?

2 MR. DEROCHIE: Yes. We -- well, on two
3 matters. First of all CAS had involved the OPP.

4 MR. ENGELMANN: Right.

5 MR. DEROCHIE: The OPP were now actively
6 involved in a criminal allegation, and also I knew that
7 there would be an investigation into Mr. Seguin's death and
8 subsequently another criminal investigation into Mr.
9 Silmsers involvement.

10 MR. ENGELMANN: But what you were doing was
11 internal?

12 MR. DEROCHIE: It was an internal review,
13 yes.

14 MR. ENGELMANN: CPS?

15 MR. DEROCHIE: Yes.

16 MR. ENGELMANN: That wouldn't have precluded
17 you from continuing?

18 MR. DEROCHIE: No, but it may well have
19 brought something else to light.

20 MR. ENGELMANN: All right, and were you told
21 to set it down or set is aside?

22 MR. DEROCHIE: No. I don't have a
23 recollection of anybody coming to me and saying, you know,
24 stop it for now, pause it for now, we'll get back to it
25 later.

1 **MR. ENGELMANN:** But certainly no one was
2 suggesting to you that you had to do it?

3 **MR. DEROCHIE:** No, no. And my notes
4 indicate that -- my other notes indicate that I'm back
5 working on my shift, so obviously there's -- I had that
6 two-week period of time and then I was back doing my
7 regular duties.

8 **MR. ENGELMANN:** So neither the -- well I
9 guess the Chief sort of is no longer there as of about this
10 time, late November, early December?

11 **MR. DEROCHIE:** Yes, that's right. I later
12 found out that he was in the process of leaving the
13 Service.

14 **MR. ENGELMANN:** But the Deputy Chief didn't
15 follow up with you and say, "Hey Garry I want you to get
16 this thing wrapped up and get me a report"?

17 **MR. DEROCHIE:** Obviously not or I would have
18 complied with that.

19 **MR. ENGELMANN:** And in fact presumably never
20 asked you for a report because if he had you no doubt would
21 have done that?

22 **MR. DEROCHIE:** Exactly. The first time I
23 was asked for a report was from Acting Chief Carl Johnston.

24 **MR. ENGELMANN:** And that was simply vis-à-
25 vis *Police Service Act* charges and Silmsner?

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

2 **MR. ENGELMANN:** And he didn't ask you at
3 that time for your notes or a briefing on the other matter?

4 **MR. DEROCHIE:** Not that we -- we may well
5 have had -- we may well have discussed the other matter
6 but, no he never asked for a report nor my notes.

7 **MR. ENGELMANN:** All right. Now how is it
8 that you become aware of -- I'm sorry, do you become aware
9 in late November of the fact that Mr. Silmsers contacts the
10 Cornwall Police Service?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** And how is it you become
13 aware of that, sir?

14 **MR. DEROCHIE:** Staff Sergeant Dupuis called
15 me and reported that these things had occurred, that David
16 Silmsers had called him and gave him some information and
17 that he had heard from a different source, and I can't
18 recall now what that source was, that the word was that Mr.
19 Seguin had committed suicide.

20 **MR. ENGELMANN:** All right. And you
21 summarized your discussion with Staff Sergeant Dupuis
22 starting on page 75 of Exhibit 1293?

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

24 **MR. ENGELMANN:** So the first thing is a call
25 from Mr. Silmsers on the Wednesday night?

1 **MR. DEROCHIE:** Yes, that would have been the
2 night before, the 24th.

3 **MR. ENGELMANN:** All right, and I'm just --
4 so the notes refer to a call -- so you receive a call from
5 Staff Sergeant Dupuis on Thursday, the 25th?

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** You write the notes on the
8 26th?

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

10 **MR. ENGELMANN:** And he's referring to a call
11 that Silmsler makes to the Service on Wednesday, the 24th?
12 Do I have that right?

13 **MR. DEROCHIE:** Yes, I believe you do.

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

15 **MR. DEROCHIE:** That was after hours; I
16 recall he called me at home.

17 **MR. ENGELMANN:** Staff Sergeant Dupuis?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** All right. And so he
20 thought it was important to get a hold of you about this?

21 **MR. DEROCHIE:** Well, he knew that I was
22 involved in this -- in these matters, yes.

23 **MR. ENGELMANN:** What did he know about what
24 you were doing? Did he know that you were just doing a
25 *Police Service Act* charges or that you were reinvestigating

1 the whole matter or do you know?

2 **MR. DEROCHIE:** I can say with confidence he
3 knew that I was looking at Perry Dunlop's involvement in
4 delivering the statement to CAS. Whether I had told him or
5 whether he had found out through other means that I was
6 also looking at reporting on how the investigation had been
7 done, I'm not sure; but for sure about Perry Dunlop.

8 **MR. ENGELMANN:** All right, so what exactly
9 did he report to you about his telephone call with Mr.
10 Silmsers?

11 **MR. DEROCHIE:** As I recall he -- I'll see
12 what my notes say about it, but as I recall he indicates
13 that Mr. Silmsers was very agitated and that he had
14 indicated to Staff Sergeant Dupuis words to the effect that
15 listen if anything happens to me, I'm in the middle of
16 negotiations here, you should look at these people. He
17 says:

18 There's a lot of money at stake and
19 reputations are at stake here."

20 So he was obviously -- Mr. Silmsers had some
21 sort of a concern that there would be -- that he may be in
22 some form of danger. That was the impression I got from
23 Staff Sergeant Dupuis.

24 **MR. ENGELMANN:** And it was in that same call
25 with Staff Sergeant Dupuis that you also found out about

1 Mr. Seguin's suicide?

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: Or his death, in any ---

4 MR. DEROCHIE: Yeah. He had said he had
5 heard and he was going to confirm if what he had heard was
6 true. I didn't get the impression, in anticipation of your
7 next question, that he was told that by Silmsler. I don't
8 know where he got that information.

9 MR. ENGELMANN: All right, fair enough.

10 THE COMMISSIONER: Lunchtime, Mr. Engelmann?

11 MR. ENGELMANN: Sure, it's a good time to
12 break.

13 THE REGISTRAR: Order; all rise. À l'ordre;
14 veuillez vous lever. This hearing will resume at 2:00 p.m.

15 --- Upon recessing at 12:28 p.m. /

16 L'audience est suspendue à 12h28

17 --- Upon resuming at 14:07 p.m. /

18 L'audience est reprise à 14h07

19 THE REGISTRAR: This hearing is now resumed.
20 Please be seated. Veuillez vous asseoir.

21 MR. ENGELMANN: Good afternoon, Mr.
22 Commissioner. Good afternoon, Mr. Derochie.

23 MR. DEROCHIE: Good afternoon, Mr.
24 Engelmann.

25 GARRY DEROCHIE, Resumed/Sous le meme serment:

1 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
2 PETER ENGELMANN: (Continued/Suite)

3 MR. ENGELMANN: When we left off we were
4 talking about a call that Mr. Silmsler had made to one of
5 your colleagues, Staff Sergeant Dupuis?

6 MR. DEROCHIE: Yes.

7 MR. ENGELMANN: And Staff Sergeant Dupuis
8 had reported it to you, and he had also reported to you at
9 the same time as he reported the call that Mr. Seguin had
10 died?

11 MR. DEROCHIE: That's correct.

12 MR. ENGELMANN: And that it was probable
13 suicide?

14 MR. DEROCHIE: It appeared to be a suicide
15 yes.

16 MR. ENGELMANN: And this was set out at page
17 76 of 1293?

18 MR. DEROCHIE: Correct.

19 MR. ENGELMANN: Correct? And was Mr.
20 Seguin's death shortly thereafter confirmed by someone?

21 MR. DEROCHIE: Yes, it was.

22 MR. ENGELMANN: And who told you about it?

23 (SHORT PAUSE/COURTE PAUSE)

24 MR. ENGELMANN: Would that have been Staff
25 Sergeant Brunet? Page 77 of your notes.

1 **MR. DEROCHIE:** Yes, that's right.

2 **MR. ENGELMANN:** All right. And do you know
3 how he found out? Had he been dealing with the OPP?

4 **MR. DEROCHIE:** I don't know.

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

6 Now, on that page, page 77, you indicate:

7 "The OPP had been advised of our
8 interest in Seguin and we had agreed to
9 give them everything we had."

10 Do you see that?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** Do you know who was the
13 liaison at that time with the OPP on this matter?

14 **MR. DEROCHIE:** I believe I spoke to
15 Detective Ronald Wilson with regards to his investigation.

16 With regards to the investigation of death,
17 no, I don't know who would have been the liaison. I would
18 assume it would have been Brunet, as the Officer in Charge
19 of CID.

20 **MR. ENGELMANN:** All right. So what was your
21 understanding that Constable Wilson was investigating?

22 **MR. DEROCHIE:** He was investigating the
23 allegations made by Mr. Silmsler of a sexual assault that
24 had occurred in their jurisdiction, out in the country, in
25 South Stormont.

1 **MR. ENGELMANN:** All right. And that was a
2 sexual assault by whom -- allegedly whom?

3 **MR. DEROCHIE:** By Father Charlie on Mr.
4 Silmser.

5 **MR. ENGELMANN:** All right, but was he
6 investigating anything to do with Ken Seguin?

7 **MR. DEROCHIE:** Mr. Wilson, no, he was not.

8 **MR. ENGELMANN:** All right. The liaison with
9 respect to the death and the follow-up investigation into a
10 possible extortion on the part of Mr. Silmser?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** Who was the liaison with the
13 OPP from your agency?

14 **MR. DEROCHIE:** Again, I would suspect that
15 it was Staff Sergeant Brunet. I may have had a
16 conversation with the officers, but ---

17 **MR. ENGELMANN:** All right. Now you say in
18 your notes:

19 "It was obvious to all of us that
20 Silmer's wanting more money and his
21 threatening to expose Seguin was most
22 likely the reason he took his own
23 life."

24 **MR. DEROCHIE:** Yes.

25 **MR. ENGELMANN:** Do you see that?

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: Who do you mean by "all of
3 us"?

4 MR. DEROCHIE: Well, I would suspect I mean
5 Staff Sergeant Brunet, myself, and the OPP officers.

6 MR. ENGELMANN: All right; you would assume.
7 Did you actually talk to the OPP officers about this, sir?

8 MR. DEROCHIE: I did talk to them about it -
9 - about my involvement with the whole matter, but I have no
10 recollection of exactly what we said -- what was said, but
11 I know that it was certainly my understanding or my belief
12 that that had happened based on my conversation with Staff
13 Sergeant Dupuis. They were linked together.

14 MR. ENGELMANN: All right. And certainly
15 Staff Sergeant Dupuis had talked to Silmser?

16 MR. DEROCHIE: Yes.

17 MR. ENGELMANN: At that time, I don't
18 believe anybody else had from your force, right, with
19 respect to this issue?

20 MR. DEROCHIE: No.

21 MR. ENGELMANN: And you were speculating as
22 to what might have caused Mr. Seguin to kill himself?

23 MR. DEROCHIE: That's correct.

24 MR. ENGELMANN: You agree there could be
25 many reasons?

1 **MR. DEROCHIE:** Absolutely. There could have
2 been many other causes that we -- or issues that we were
3 unaware of.

4 **MR. ENGELMANN:** And at that particular time,
5 outside from Mr. Silmsler's allegation against Mr. Seguin,
6 were you aware of other allegations against Mr. Seguin?

7 **MR. DEROCHIE:** No. No, I was not.

8 **MR. ENGELMANN:** Did you become aware
9 sometime later about other allegations?

10 **MR. DEROCHIE:** Yes, sometime much later, I
11 believe.

12 **MR. ENGELMANN:** All right. So you weren't
13 aware of that at the time when you had these thoughts?

14 **MR. DEROCHIE:** No.

15 **MR. ENGELMANN:** That there were many others
16 possibly?

17 **MR. DEROCHIE:** No. No.

18 **MR. ENGELMANN:** Now, what did you do after
19 receiving this information about Mr. Seguin's suicide?

20 **MR. DEROCHIE:** I contacted Richard Abell at
21 CAS and advised him. He was already aware of it and I also
22 contacted -- I don't know if it was at the same time -- but
23 I also contacted the Crown attorney, Mr. MacDonald.

24 **MR. ENGELMANN:** And why would you have
25 contacted Mr. MacDonald?

1 **MR. DEROCHIE:** Just to advise him that this
2 had happened. I knew he was in -- he knew of the case. So
3 I just ---

4 **MR. ENGELMANN:** Did he already know of Mr.
5 Seguin's death as well?

6 **MR. DEROCHIE:** Yeah, he had already -- he
7 had received a message, a telephone message, from the OPP
8 with regards to it.

9 **MR. ENGELMANN:** Did you meet with two
10 officers from the OPP at or about that time, being Chris
11 McDonell and Randy Millar?

12 **MR. DEROCHIE:** That's right, I did.

13 **MR. ENGELMANN:** And what was the purpose of
14 that meeting?

15 **MR. DEROCHIE:** It was to just -- I believe
16 it was between -- I believe Staff Sergeant Brunet was also
17 present at that meeting. We were just filling him in on
18 what we were doing with regards to the Seguin -- what the
19 history of our involvement with Mr. Silmsler was and what we
20 knew about Mr. Seguin's involvement.

21 **MR. ENGELMANN:** All right. So it was an
22 exchange of information?

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

24 **MR. ENGELMANN:** And Officers McDonell and
25 Millar, what were they investigating about Ken Seguin?

1 **MR. DEROCHIE:** At that time, to my
2 knowledge, they were investigating the death, his death.

3 **MR. ENGELMANN:** All right. Now, you had
4 said that:

5 "The OPP had been advised of our
6 interest in Seguin. We agreed to give
7 them everything we had."

8 Do you recall what, in fact, you would have
9 given the OPP?

10 **MR. DEROCHIE:** I'm not sure. I don't recall
11 exactly what it was. I would assume it would have been at
12 least the statement, a copy of the statement.

13 **MR. ENGELMANN:** The original statement ---

14 **MR. DEROCHIE:** Of the -- Mr. Silmsers
15 statement, yes. That sticks in my mind for some reason.

16 **MR. ENGELMANN:** Now, had the OPP been
17 contacted earlier when the Silmsers complaint first came in?

18 **MR. DEROCHIE:** No, not that I'm aware of.

19 **MR. ENGELMANN:** And do you know, as part of
20 the information that would have been given to them, whether
21 at that time Constable Sebalj's notes and some of those
22 other items that you were given when you first were asked
23 to look into this in October, were given to the OPP?

24 **MR. DEROCHIE:** At this time?

25 **MR. ENGELMANN:** Yes?

1 **MR. DEROCHIE:** I don't have a recollection
2 of that.

3 **MR. ENGELMANN:** Fair enough. And the person
4 who would have given documents to them, would that have
5 been more likely to be Luc Brunet?

6 **MR. DEROCHIE:** I would think so.

7 **MR. ENGELMANN:** All right. That wasn't
8 something you did?

9 **MR. DEROCHIE:** No, not that I recall.

10 **MR. ENGELMANN:** Now, when you met with
11 Officers McDonell and Millar ---

12 **MR. DEROCHIE:** Just -- can we just go back
13 here a second?

14 **MR. ENGELMANN:** Yes.

15 **MR. DEROCHIE:** I'm reading my notes from --
16 on page 79.

17 **MR. ENGELMANN:** Yes?

18 **MR. DEROCHIE:** And I -- indicates here that
19 I provided copies of Sebalj's case history, Silmsers's
20 statement and Sergeant Ron Lefebvre's rough notes
21 concerning Silmsers's involvement with Seguin to the OPP.

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

23 It appears that Constable Sebalj also joined
24 you in that meeting?

25 **MR. DEROCHIE:** It would appear, yes.

1 **MR. ENGELMANN:** And do you recall for what
2 reason?

3 **MR. DEROCHIE:** I believe she came in to
4 report that she had received a telephone call from Mr.
5 Silmser. Yes, yes that's exactly what she came in to do.

6 He was quite upset, had heard about the
7 suicide and apparently indicated to her that he had
8 anticipated that Mr. Seguin was a desperate man and might
9 do something desperate after their earlier telephone
10 conversation.

11 **THE COMMISSIONER:** So tell me, sir. You
12 write there:

13 "The OPP had been advised of our
14 interest in Seguin."

15 Do you know how that was done and when it
16 was done?

17 **MR. DEROCHIE:** I'm sorry, Mr. Commissioner,
18 I don't. I just ---

19 **THE COMMISSIONER:** Well, if you just ---

20 **MR. DEROCHIE:** I would have --- I'm sorry.

21 It may well have been CAS advising them when
22 they were doing -- when CAS got involved with Ron Wilson's
23 investigation.

24 **THE COMMISSIONER:** Right. Okay, and so help
25 me again.

1 You phoned Murray MacDonald?

2 **MR. DEROCHIE:** Yes.

3 **THE COMMISSIONER:** And so why would you have
4 phoned Murray MacDonald? Seguin wasn't on the radar for
5 investigation purposes. He had been consulted from Father
6 MacDonald's thing.

7 **MR. DEROCHIE:** Yeah, you're right. I don't
8 have a good explanation other than it's something I thought
9 he should know because of the -- the information he had
10 with regards to the -- our involvement with Mr. Silmser,
11 Father MacDonald and Ken Seguin.

12 **THE COMMISSIONER:** Okay.

13 **MR. DEROCHIE:** I have no better explanation
14 than that. Sorry.

15 **THE COMMISSIONER:** No, that's okay.

16 **MR. ENGELMANN:** So just to turn back to the
17 Commissioner's question from your notes on page 77 that:

18 "The OPP had been advised of our
19 interest in Seguin."

20 I had asked you if they'd been advised of
21 Silmser's complaints about MacDonald and Seguin, way back
22 when. You didn't think that they had?

23 **MR. DEROCHIE:** Well, we hadn't advised them,
24 as far as I know, but I do know that Mr. Abell had a copy
25 of Silmser's statement.

1 **MR. ENGELMANN:** Yes.

2 **MR. DEROCHIE:** That the OPP were doing an
3 investigation into the -- that part of the statement that
4 occurred in their jurisdiction and, therefore, it seemed
5 reasonable that they would have -- you know, they would
6 have had that information.

7 **MR. ENGELMANN:** All right. So that would
8 have been information that would have been provided to them
9 sometime after the beginning of October of '93?

10 **MR. DEROCHIE:** Well, whenever the Project
11 Blue from CAS was started, I ---

12 **MR. ENGELMANN:** Right.

13 **MR. DEROCHIE:** And I don't -- no, I don't
14 have an independent recollection of becoming aware of that
15 knowledge but, you know, there's maybe some assumptions
16 being made by myself at this point, that that's how they
17 would -- they would have been advised of our interest in
18 the whole matter.

19 **MR. ENGELMANN:** I'm just, again, interested
20 by the comment, "Our interest in Seguin" because, at least,
21 that would have been very recent -- your force's interest
22 in Seguin?

23 **MR. DEROCHIE:** Yes. It might have been an
24 overstatement, you know, to say that we were interested in
25 him. He was identified in the statement.

1 **MR. ENGELMANN:** But he hadn't been
2 investigated?

3 **MR. DEROCHIE:** He hadn't been investigated.

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

5 I'm not sure if you can help us with this,
6 but the reference you made, sir, on page 79 to Ron
7 Lefebvre's rough notes, do you know if those would have
8 been his interview notes from the first meeting -- the
9 first full meeting with Mr. Silmsers on January 28th, '93 or
10 ---

11 **MR. DEROCHIE:** I believe so. I know there
12 was a subsequent meeting at Mr. Silmsers home and notes
13 were taken as well, but I'm ---

14 **MR. ENGELMANN:** Okay.

15 **MR. DEROCHIE:** --- I'm not sure.

16 **MR. ENGELMANN:** The meeting on March 10th?

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** All right. Now, according
19 to this:

20 "They agreed to keep up posted on the
21 progress of their investigation."

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And, again, would that have
24 been through Mr. -- through Staff Sergeant Brunet?

25 **MR. DEROCHIE:** That would be in the normal

1 flow of information, through Staff Sergeant Brunet. I
2 really wasn't involved in criminal investigations.
3 Probably by this time I would have been back on my team,
4 you know?

5 **MR. ENGELMANN:** All right. And on page 80
6 and, again, you were referred to this earlier, this is the
7 call you make to Murray MacDonald?

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** And he was already aware;
10 he'd received a call from McDonnell and Millar?

11 **MR. DEROCHIE:** That's my understanding.

12 **MR. ENGELMANN:** Do you know why they were
13 trying to get a hold of him?

14 **MR. DEROCHIE:** No.

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

16 **MR. DEROCHIE:** I also see that I go on to
17 record the fact that I was supposed to meet with him
18 earlier, on November 23rd, and I had missed that meeting
19 because that would originally, you know, cause me to call
20 him possibly or --

21 **MR. ENGELMANN:** Okay.

22 **MR. DEROCHIE:** --- there's -- obviously, I
23 was interested in meeting with him still from that -- from
24 my previous testimony. I had said that we had missed each
25 other a couple of times, trying to set up a meeting after

1 that casual or quick meeting that we had had earlier.

2 **MR. ENGELMANN:** All right. Well, just
3 before we go to that meeting because I understand that it
4 then happens on or about the 6th of December, according to
5 your notes on page 81?

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** The meeting you had with Mr.
8 Abell -- and there's a brief reference to this on, I
9 believe, it's page 77, the bottom of the page.

10 **MR. DEROCHIE:** I contacted Richard Abell by
11 telephone.

12 **MR. ENGELMANN:** All right. So it was a
13 telephone call?

14 **MR. DEROCHIE:** It was.

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

16 **MR. DEROCHIE:** It was for the same purpose,
17 to advise him of Mr. Seguin's death and, again, he had
18 already -- he already knew.

19 **MR. ENGELMANN:** Just wondering if the
20 witness could be shown Document Number 703605?

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

22 **MR. ENGELMANN:** Mr. Commissioner, this is a
23 note from Mr. Abell of the call from Staff Sergeant Garry
24 Derochie on November 26th, 1993.

25 **THE COMMISSIONER:** Thank you.

1 Exhibit 1304.

2 --- EXHIBIT NO./PIÈCE NO. P-1304:

3 (703605) Notes of Richard Abell - November
4 26, 1993

5 MR. ENGELMANN: Staff Sergeant Derochie,
6 have you had a chance to look at this in the last few
7 weeks?

8 MR. DEROCHIE: Yes.

9 MR. ENGELMANN: All right. This is Mr.
10 Abell's account of your call ---

11 MR. DEROCHIE: M'hm.

12 MR. ENGELMANN: --- from that date?

13 MR. DEROCHIE: Yes.

14 MR. ENGELMANN: And he actually talks about
15 a specific amount of money ---

16 MR. DEROCHIE: Yes.

17 MR. ENGELMANN: --- being referenced?

18 MR. DEROCHIE: M'hm.

19 MR. ENGELMANN: Would you have given that
20 information to him?

21 MR. DEROCHIE: I don't recall. I don't
22 recall if I -- I don't recall what the full context of the
23 information I'd received from Darcy Dupuis, whether he -- I
24 know that they had discussed a large amount of money -- I
25 don't know if it was \$100,000 -- but it's possible that I

1 did. It's possible that he had it from whatever source had
2 told him about it before I got the -- before he heard it
3 from me. I don't recall.

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

5 **MR. DEROCHIE:** If I knew that amount at that
6 particular time.

7 **MR. ENGELMANN:** All right. The reference to
8 the press that would have begin -- again, something that
9 Dupuis would have told you that Silmser said to him?

10 **MR. DEROCHIE:** That was my understanding,
11 you know, pay up or I'm going to go to the press with this
12 information.

13 **MR. ENGELMANN:** Because when Ms. Sebalj came
14 to your meeting, she talked about if he didn't get paid, he
15 would get a lawyer and start a civil action?

16 **MR. DEROCHIE:** Yes, yes.

17 **MR. ENGELMANN:** Do you seem to be getting
18 conflicting advice ---

19 **MR. DEROCHIE:** Yes.

20 **MR. ENGELMANN:** --- from both of your
21 colleagues. Perhaps they were getting conflicting comments
22 from Mr. Silmser, but ---

23 **MR. DEROCHIE:** Possibly.

24 **MR. ENGELMANN:** All right. And you bring up
25 apparently in this call that:

1 "The relationship may have been, in
2 part, voluntary"?

3 That's in quotes.

4 **MR. DEROCHIE:** Yes, I may well have said
5 that, yes.

6 **MR. ENGELMANN:** And is that getting back to
7 what Constable Sebalj may have told you earlier?

8 **MR. DEROCHIE:** Yes, that and the notes as
9 well that I'd -- well, I can't say that I had viewed the
10 notes at this time, but certainly from what Mrs. -- or what
11 Ms. Sebalj told me, that was my understanding.

12 **MR. ENGELMANN:** Because you referred to an
13 homosexual relationship that grew between them?

14 **MR. DEROCHIE:** That was my understanding of
15 the relationship.

16 **MR. ENGELMANN:** Right. And that's certainly
17 not how Mr. Silmsler had described it at least initially, is
18 it ---

19 **MR. DEROCHIE:** Well, he had ---

20 **MR. ENGELMANN:** --- in his statement?

21 **MR. DEROCHIE:** --- he had described it as
22 abuse. "I was also abused by, if I recall, by Mr. Seguin
23 as well." Something to that effect.

24 **MR. ENGELMANN:** Now, there's a reference at
25 the bottom of that page and I'm not sure I understand it.

1 Are you -- there's a comment there about
2 Silmsler saying there are other names he can name, hinting
3 at a homosexual ring; may or may not involve children.

4 Is this something you're saying or is this
5 something Abell's saying to you, or can you help us?

6 **MR. DEROCHIE:** I'm sorry, I can't help you
7 out on that. I don't know.

8 **MR. ENGELMANN:** All right. And then there's
9 a comment, something about Garry dubious about ---

10 **MR. DEROCHIE:** Motives?

11 **MR. ENGELMANN:** And this is about Silmsler's
12 motives?

13 **MR. DEROCHIE:** i.e. money -- yeah, my
14 interpretation that meaning his interpretation.

15 **MR. ENGELMANN:** All right. Do you recall
16 expressing any concern about the fact that since he was
17 seeking money, that you should be concerned about his
18 motives?

19 **MR. DEROCHIE:** With regards to his
20 involvement with Mr. Seguin?

21 **MR. ENGELMANN:** Right.

22 **MR. DEROCHIE:** I don't think I was dubious
23 about that. It -- he had said that to -- or my
24 understanding of what he told Darcy Dupuis is that, I want
25 the money or I'm going to do "X", whether it be go to the

1 press or get a lawyer and sue you and that was -- that's
2 what was motivating his contact with Mr. Seguin.

3 MR. ENGELMANN: I'm just trying to
4 understand ---

5 MR. DEROCHIE: Did we have that
6 conversation? I -- we may well have. I -- you know, I
7 don't recall it. I didn't make a note of it but, you know,
8 Mr. Abell's an honourable man, I have no reason to question
9 whether or not -- I don't know what he knew. He was
10 already doing an investigation, you know, and when people
11 have information, they can interpret ---

12 MR. ENGELMANN: Sure.

13 MR. DEROCHIE: --- more information
14 differently. I don't really know what he was thinking at
15 that point.

16 MR. ENGELMANN: It's not really that clear
17 from his notes, so perhaps I'll just leave that for him.

18 MR. DEROCHIE: Sure.

19 MR. ENGELMANN: Thank you.

20 MR. DEROCHIE: Yeah.

21 MR. ENGELMANN: Now, you had expressed a
22 concern though earlier about why the relationship, in your
23 view, wasn't voluntary between Seguin and Silmsler.

24 MR. DEROCHIE: Yeah, I didn't it was -- I
25 didn't -- I thought there might be -- I might -- there

1 might be that whole idea of -- of position of -- of trust
2 or position of authority so I wasn't about to, you know,
3 give him the benefit of the doubt at that time; I -- I
4 needed more information.

5 **MR. ENGELMANN:** Now, sir, you did have a
6 meeting with Murray MacDonald on the 6th of December.

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

8 **MR. ENGELMANN:** And, at the point in time,
9 what was the purpose of the meeting?

10 **MR. DEROCHIE:** I just wanted to make sure
11 that we had all of the -- he had all of the information and
12 I was -- I was looking to -- to continue to explore that
13 whole idea of going to the -- going to the L'Original Crown.
14 I believe that's what we were talking about at this
15 meeting, that the -- will you just give me a second to read
16 over the notes, please?

17 **MR. ENGELMANN:** Yes, absolutely.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MR. DEROCHIE:** Okay, obviously, the reason I
20 was meeting with him was to -- as part of my internal
21 review of how the investigation was handled. I -- I
22 questioned him on his involvement with our investigation,
23 so obviously I'm not following up on that or maybe we'd
24 already had that meeting. I don't recall.

25 **MR. ENGELMANN:** All right. Well, he says he

1 wanted to go on record as saying the information he had on
2 the case -- that he had no problem with the way Constable
3 Sebalj and Staff Sergeant had handled the investigation.

4 MR. DEROCHIE: That's what he told me, yes.

5 MR. ENGELMANN: All right and did he tell
6 you -- and so you must have asked him that question ---

7 MR. DEROCHIE: I would've asked him ---

8 MR. ENGELMANN: --- on whether he had any
9 problem.

10 MR. DEROCHIE: --- yes, what's your --
11 what's your opinion on what was -- went on here; what was
12 your involvement?

13 MR. ENGELMANN: And did he give you a sense
14 as to what information he had received from them?

15 MR. DEROCHIE: No, not specifically.

16 MR. ENGELMANN: Did he -- he did not get a
17 Crown Brief; we know that.

18 MR. DEROCHIE: No, he did not get a Crown
19 Brief.

20 MR. ENGELMANN: Do we know what, if any,
21 notes he ever received or was it just oral communication?

22 MR. DEROCHIE: I would -- I would -- I would
23 have thought that he would have seen the statement, but I
24 don't know that for sure. That was the only piece of
25 tangible evidence that she had. Did she show it to him? I

1 -- I can't recall asking him that question; I can't recall
2 us discussing that at all.

3 **MR. ENGELMANN:** All right. Well, we -- we
4 knew earlier -- we found out earlier that she hadn't told
5 him about two other alleged victims.

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** So would it be safe to say
8 that she would not have or he -- either he, Brunet, or she,
9 Sebalj, would not have turned over witness statements or
10 interview statements?

11 **MR. DEROCHIE:** That would be my thought that
12 she hadn't done that. That would come with the Crown
13 Brief, once she went to him to get -- to get an opinion or
14 get advice, "Here's what I've got; what do you think?"

15 **MR. ENGELMANN:** And you'd have some "Will
16 Says" or "Will States" in that.

17 **MR. DEROCHIE:** Yes.

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

19 **MR. DEROCHIE:** There was a Crown Brief
20 generated on the OMPPAC project system, but I don't know
21 that that ever went to him for review.

22 **MR. ENGELMANN:** Well, you don't have any
23 information that it did; correct?

24 **MR. DEROCHIE:** No, my understanding the --
25 the purpose that -- the purpose of that document was to

1 brief the Chief of Police when he first realized that --
2 that the -- there had been a settlement in the case and the
3 investigation was terminated.

4 **MR. ENGELMANN:** And that's something he
5 specifically asked for because he was concerned that that
6 information wasn't there.

7 **MR. DEROCHIE:** Yes, the Chief, yes.

8 **MR. ENGELMANN:** This is where that comment I
9 mentioned earlier, sir, on page 82 he says he told Sebalj
10 that he would make arrangements with the L'Original Crown
11 when the time was right.

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** Do you see that?

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** And he, apparently, did have
16 some contact with an outside Crown.

17 **MR. DEROCHIE:** It was my understanding that
18 he -- he called Mr. Pelletier and just put him on -- on
19 notice that you might be getting this; this may be coming
20 to you.

21 **MR. ENGELMANN:** And, sir, he -- he would
22 have told you at this meeting that he's had a meeting with
23 both Sergeant Lortie and Constable Dunlop.

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

25 **MR. ENGELMANN:** And had you been aware of

1 that?

2 **MR. DEROCHIE:** No, I had not.

3 **MR. ENGELMANN:** All right and did he explain
4 how that arose and who set it up?

5 **MR. DEROCHIE:** I -- I got the impression it
6 was a rather casual meeting; that they just sort of dropped
7 in on -- on the Crown and -- and wanted to discuss this
8 with him. I was, you know, taken aback by it a little bit
9 and he informed me that he had -- he had discussed the
10 merits of the case, I take it, with them and clearly, both
11 of them were not satisfied that the -- what the results of
12 the -- of the investigation; the fact that it had been
13 terminated, and he gave them some advice.

14 **MR. ENGELMANN:** All right and that advice is
15 set out at the top of page 83.

16 **MR. DEROCHIE:** That's right and it was, if -
17 - if the service can't lay a charge, maybe we could deal
18 with the community safety concerns by going to CAS or the
19 Ministry of Correctional Services.

20 **MR. ENGELMANN:** So he's suggesting that
21 officers from your force could either go to the CAS or the
22 Ministry of Corrections.

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** In -- in fact, that's what
25 happened; they did go to the -- do you know when he would

1 have had this meeting with Constable Dunlop and Sergeant
2 Lortie?

3 **MR. DEROCHIE:** No, I -- I -- I just imagine
4 it would have been shortly after -- around when everything
5 was going on, I would think in the latter part of
6 September.

7 **MR. ENGELMANN:** All right. And, in fact,
8 right at about that time, Constable Dunlop was doing just
9 that; he was going to the CAS.

10 **MR. DEROCHIE:** Well, it makes sense now when
11 -- when -- yes, and it -- it makes sense when Dunlop then
12 was speaking with -- with -- with Sergeant or Staff
13 Sergeant Brunet when he suggested that, you know, can't we
14 do something; can't we go to the church, something to that
15 effect that, you know, that was a suggestion. I recall the
16 Staff Sergeant telling me that -- that Perry came up with
17 that suggestion; why can't we do something about this, at
18 least tell the -- tell the -- the Diocese about this and
19 Staff Sergeant Brunet thought that was a good idea and
20 subsequently, he and the Chief did go.

21 **MR. ENGELMANN:** All right, but going to the
22 CAS or the Ministry of Corrections, they didn't think that
23 was a good idea.

24 **MR. DEROCHIE:** Well, at this point, that had
25 already occurred. Oh ---

1 **MR. ENGELMANN:** No, I know, but if ---

2 **MR. DEROCHIE:** Well, I don't know -- I don't
3 know that -- I'm sorry.

4 **MR. ENGELMANN:** --- if Murray MacDonald had
5 the meeting on the 29th of September with Perry Dunlop and
6 Sergeant Lortie, and then Dunlop meets with Brunet just
7 after and Dunlop says to Brunet, "Why don't you go to the
8 church" and things like that ---

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** I mean, if, in fact, Murray
11 MacDonald had told him on the 29th, well, there's also the
12 CAS or the Ministry of Corrections ---

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** --- Dunlop did go to CAS.

15 **MR. DEROCHIE:** Yes, he did and I -- I don't
16 know that -- and I don't think that Staff Sergeant Brunet
17 was aware that that idea came from Murray MacDonald.

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

19 **MR. DEROCHIE:** He had already -- obviously,
20 he had already gone to CAS. We were -- no, he hadn't gone
21 to CAS yet; you're right.

22 **MR. ENGELMANN:** Well, it was at or around
23 that time.

24 **MR. DEROCHIE:** It was at or around that
25 time.

1 **MR. ENGELMANN:** He certainly hadn't provided
2 the statement.

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

4 **MR. ENGELMANN:** Okay. So I don't know --
5 did you -- did you reflect upon this, getting this
6 information on December 6th, I know you hadn't quite
7 finalized the report that ---

8 **MR. DEROCHIE:** No, I -- I just recorded the
9 information.

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

11 **MR. DEROCHIE:** I didn't -- I didn't give it
12 any further thought than that. I just wanted to make sure
13 that I could revisit it if I had to and ---

14 **MR. ENGELMANN:** All right. And again, the
15 Ministry of Correctional Services, that would have been Mr.
16 Seguin's employer.

17 **MR. DEROCHIE:** Yes.

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

19 **MR. DEROCHIE:** That's what -- that's what
20 Mr. MacDonald was, apparently, telling Dunlop and Lortie at
21 that time.

22 **MR. ENGELMANN:** And what did you think of
23 MacDonald giving them advice when you -- when you heard
24 this?

25 **MR. DEROCHIE:** Well, I -- I thought that,

1 you know, Murray MacDonald was going to give advice to any
2 police officer that goes in there and talks to him. He's
3 that -- he's that kind of a man; he's approachable. I -- I
4 thought that Murray must have thought that there was some
5 sort of a -- an official involvement by Dunlop and Lortie
6 and he never gave me the impression that he thought
7 anything other than that, so he was giving them advice as
8 he would any other police officer that came in to see him.

9 **MR. ENGELMANN:** So you weren't concerned
10 with MacDonald giving them advice, but you might have been
11 concerned about them not telling him that they didn't have
12 an official role.

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

14 **MR. ENGELMANN:** I'm just trying to ---

15 **MR. DEROCHIE:** Yes, yes.

16 **MR. ENGELMANN:** --- understand how you view
17 this.

18 **MR. DEROCHIE:** Exactly, it -- it's exactly
19 that. They didn't have an official role, you know, why
20 were they -- why were they going to see Murray MacDonald
21 about this?

22 **THE COMMISSIONER:** So what do you think --
23 what should they have done then? I mean, Dunlop and Lortie
24 are trying to figure out what can be done.

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

1 **THE COMMISSIONER:** And so they go see a
2 Crown attorney; what else could they have done?

3 **MR. DEROCHIE:** Possibly gone to Staff
4 Sergeant Brunet and tried to get an explanation that way
5 and tried to do it in-house saying, you know, what -- what
6 happened to this thing; what advice were we getting and
7 then if, you know, if -- if at the end of the day, they
8 were not satisfied with -- with what they did then as we
9 said before, we hadn't -- I had no -- personally I had no
10 problem with Mr. Dunlop going to CAS; I had a problem with
11 him delivering a copy of the statement.

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

13 **MR. DEROCHIE:** But, you know, go and -- go
14 and report it to CAS, sure.

15 **THE COMMISSIONER:** But you're saying, "Well,
16 you know, they went to see Murray MacDonald." He's
17 approachable?

18 **MR. DEROCHIE:** Yes.

19 **THE COMMISSIONER:** He's a Crown attorney?

20 **MR. DEROCHIE:** Exactly.

21 **THE COMMISSIONER:** Dunlop didn't know of any
22 conflict or anything, at that time?

23 **MR. DEROCHIE:** No, well Dunlop was a good --
24 was -- it's my understanding, he was a personal friend of
25 Murray MacDonald's as well; they -- they hunted together.

1 **THE COMMISSIONER:** Okay.

2 **MR. DEROCHIE:** You know, that kind of stuff.

3 So I could -- I could see that happening,
4 you know. I could see Murray talking to them quite freely
5 and openly about this whole thing.

6 **MR. ENGELMANN:** Sir, in your notes after
7 this meet, you indicate a discussion you had with Randy
8 Millar, one of the OPP officers?

9 **MR. DEROCHIE:** On January the 4th?

10 **MR. ENGELMANN:** And he was one of the
11 officers investigating Mr. Seguin's death?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** And your reason for doing
14 that?

15 **MR. DEROCHIE:** I want -- I want to -- I want
16 to get back into this investigation. I knew that I wanted
17 to see what the status of their investigations were, both
18 Randy's and Ron Wilson. As you'll -- as you'll notice
19 later on, I'm -- I'm also calling Ron Wilson.

20 Now, I don't -- I don't recall if I was
21 motivated to do that for a specific did somebody come to me
22 and ask me or anything at all; I just know that on that --
23 at that particular date, I wanted to know what the status
24 of their investigation was.

25 **MR. ENGELMANN:** Well, isn't it about this

1 time that your new Chief -- the Acting Chief is asking you
2 to at least wrap up the Dunlop part of your investigation?

3 **MR. DEROCHIE:** Yes, I -- I received a
4 telephone call from him asking me about that very thing. I
5 don't know -- I don't know if I have a notation of it here,
6 but I -- I recall that he's coming in. He took over on --
7 on -- at the beginning of January and subsequent to that,
8 very early in his tenure, he -- he gave me a call and asked
9 me what the status of the investigation was.

10 I briefed him.

11 He said his one concern was -- his primary
12 concern was, "Have you uncovered anything that would have -
13 -- that would suggest to you that Perry acted in anything
14 other than -- in any way -- in a way other than his concern
15 for the community, the safety issue of the community?" And
16 I indicated, no, I had not.

17 And he said, "Well give me a report on -- on
18 your findings and on your -- on your determination on that
19 -- that issue."

20 **MR. ENGELMANN:** So that -- that just comes
21 back to that point I think we discussed earlier, that you
22 didn't find anything sinister or ---

23 **MR. DEROCHIE:** NO.

24 **MR. ENGELMANN:** --- calculating on his part?

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

1 **MR. ENGELMANN:** You still maintain that
2 there was some poor judgment exercised by him for going
3 outside of ---

4 **MR. DEROCHIE:** Yes, I would have -- I would
5 have rather -- as I say, I would have rather that he -- he
6 deal with this in-house and if he didn't get satisfaction
7 at that point, well then he always had CAS to go to.

8 **MR. ENGELMANN:** And you now knew, of course,
9 that that suggestion may have actually come from Murray
10 MacDonald?

11 **MR. DEROCHIE:** It may well have, yes, yes.

12 **MR. ENGELMANN:** And that it might be
13 reasonable for Mr. Dunlop to seek advice from him?

14 **MR. DEROCHIE:** I didn't think it was
15 unreasonable other -- other than the fact that he didn't
16 have an official role in that. He's a police officer. He
17 has a legitimate concern. He's a member of that parish --
18 or his family, his extended family is a member of that
19 parish. I understood why he was doing what he was doing.

20 **MR. ENGELMANN:** All right. And you spoke to
21 both Constable Millar and another Constable Wilson that
22 same day, January 4th?

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

24 **MR. ENGELMANN:** One concerning Seguin's
25 suicide and the other concerning the possible investigation

1 of one of Silmsers's complaints, vis-à-vis
2 Father MacDonald?

3 MR. DEROCHIE: That's correct.

4 MR. ENGELMANN: And you were advised by
5 Constable Wilson that that investigation had been
6 dead-ended?

7 MR. DEROCHIE: Yes, Mr. Silmsers refused to
8 cooperate with the -- with their investigation.

9 MR. ENGELMANN: I'll just be a moment, sir.

10 THE COMMISSIONER: M'hm.

11 (SHORT PAUSE/COURTE PAUSE)

12 MR. ENGELMANN: So, sir, we looked at this
13 earlier, but on or about the 8th of January, '94, that's
14 when you turned in your report?

15 MR. DEROCHIE: Yes. The report, yes.

16 MR. ENGELMANN: To -- to the Acting Chief?

17 MR. DEROCHIE: That's correct.

18 MR. ENGELMANN: And that's Exhibit 1301.

19 THE COMMISSIONER: All right.

20 (SHORT PAUSE/COURTE PAUSE)

21 MR. ENGELMANN: And I think you've said this
22 before, at this point in time no further action
23 contemplated other than the counselling that we see
24 attached at Appendix B?

25 MR. DEROCHIE: That's correct.

1 **MR. ENGELMANN:** And you've told us earlier,
2 sir, that you attempted to do that a couple of months later
3 when Mr. Dunlop was off on extended leave?

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** All right. Now, shortly
6 after you issued that report to the Acting Chief, he asked
7 another police force to come in and investigate some
8 matters involving the Cornwall Police Service?

9 **MR. DEROCHIE:** Yes, to investigate how we
10 had dealt -- how we had conducted the investigation and
11 whether or not there was any wrongdoing or misconduct on
12 the part of our members.

13 **MR. ENGELMANN:** My understanding is that it
14 was sort of a three-part request; to conduct a review of
15 the investigation carried out by the CPS into allegations
16 of sexual assault made by David Silmser?

17 **MR. DEROCHIE:** Correct.

18 **MR. ENGELMANN:** To determine whether or not
19 an efficient investigation was pursued; and thirdly, to
20 determine whether or not any effort was made by any member
21 of the CPS to conceal or downplay these allegations?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And were you made aware of
24 this request at the time that it was made?

25 **MR. DEROCHIE:** Other than -- other than the

1 fact that he was going to call in another police service to
2 investigate, no, I had no dealings with that at all, that I
3 can recall anyways.

4 MR. ENGELMANN: All right. Well, you had
5 just done very similar work, at least in part?

6 MR. DEROCHIE: Yes, in part.

7 MR. ENGELMANN: I realize you hadn't
8 finished ---

9 MR. DEROCHIE: Yeah.

10 MR. ENGELMANN: --- it, but you had at least
11 started it?

12 MR. DEROCHIE: I had started it, yes.

13 MR. ENGELMANN: Was there no -- did the new
14 Acting Chief know that you had done this work?

15 MR. DEROCHIE: Oh, I'm sure he did, yes.
16 Well, he knew that I had -- I had started it, I had some
17 involvement in it and I'm sure I briefed him on that.

18 MR. ENGELMANN: All right. And I just would
19 have thought that he would have wanted you to play a role
20 with the Ottawa Police Service when they were doing their
21 investigation.

22 MR. DEROCHIE: Well, I didn't want to -- he
23 didn't want me, surely, to play a -- a direct role; he
24 wanted ---

25 MR. ENGELMANN: No.

1 **MR. DEROCHIE:** He wanted us to be at -- at
2 arm's distance from this just to -- just to put at rest
3 these allegations that -- that there was something improper
4 going on and it wouldn't have been proper for me to be
5 involved at that point.

6 **MR. ENGELMANN:** All right. But did he --
7 did he at least give your name and information to these
8 officers ---

9 **MR. DEROCHIE:** I'm sure he -- they did,
10 because I did speak to both -- both officers.

11 **MR. ENGELMANN:** I just wanted to get into
12 that.

13 What was your role with these two officers -
14 ---

15 **MR. DEROCHIE:** I was -- I would coordinate
16 things for them. I would make people available, find out
17 when they were available. Arrange meetings so that they
18 could interview these people.

19 **MR. ENGELMANN:** So you had a
20 facilitation-type role?

21 **MR. DEROCHIE:** That -- that would well
22 explain it, yes, or well define it.

23 **MR. ENGELMANN:** And do you recall what, if
24 anything, you turned over to them?

25 **MR. DEROCHIE:** I believe I turned over my

1 file. I should -- I would have turned it over to them ---

2 **MR. ENGELMANN:** You say in your -- in 1293,
3 there's a reference to January 21st, '94; the bottom of
4 page 84 and onto page 85.

5 **MR. DEROCHIE:** M'hm, yes.

6 **MR. ENGELMANN:** You say:

7 "I had turned the file over to
8 Superintendent Brian Skinner and Staff
9 Sergeant Bill Blake of the Ottawa
10 Police Service to assist in their
11 review of this case."

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** "I had Superintendent
14 Skinner fax me a copy of the
15 statement."

16 I guess that's Mr. Silmsers original
17 statement?

18 **MR. DEROCHIE:** That's Mr. Silmsers original
19 statement.

20 He came in with his -- with his lawyer and I
21 met Mr. Silmsers for the first time, at that time. He had
22 come in to file a complaint against -- against our police
23 service members for disclosing his statement to the media
24 and I hadn't kept a copy of the statement and I wanted to
25 make sure that there were no extra copies of the statement

1 floating around so I hadn't even kept a copy for myself.

2 Staff Sergeant Wells was responding to a
3 request from Mr. Silmsler to have a copy of that statement;
4 therefore I gave a -- I called Superintendent Skinner and
5 asked him to send me a copy of the statement.

6 **MR. ENGELMANN:** When you said you'd turned
7 over your file, you turned over those items, those
8 documents you received from the Deputy Chief in October?

9 **MR. DEROCHIE:** Yes, I believe that would
10 have been my file on that.

11 **MR. ENGELMANN:** And what about the notes
12 we've been looking at, Exhibit 1293?

13 **MR. DEROCHIE:** I don't know that I turned
14 them over or -- I know that I was -- no, I wouldn't have
15 turned them over because I was ---

16 **MR. ENGELMANN:** You're still making them?

17 **MR. DEROCHIE:** Yeah, I'm still making them
18 and I was preparing to turn them over eventually to the
19 OPP, so obviously I'm still making notes in this book.
20 They may have gotten a copy of what I had to date, but I
21 don't recall.

22 **MR. ENGELMANN:** All right, so they didn't
23 really have any of your, if I can use the term, value
24 added? They simply got what you received October 7th?

25 **MR. DEROCHIE:** Absolutely, do what I did and

1 -- yeah.

2 **MR. ENGELMANN:** Start at 'A'?

3 **MR. DEROCHIE:** Start at 'A'; don't be
4 influenced by what I say or what I've done.

5 **MR. ENGELMANN:** So you didn't give over your
6 notes, did they ever ask you to review notes or review the
7 work that you had done reinvestigating?

8 **MR. DEROCHIE:** Not that I recall.

9 **THE COMMISSIONER:** Wait a minute. I'm
10 sorry. Page 85 at the bottom, it says:

11 "I received a request for these notes
12 and a statement of my involvement in
13 this matter as it pertains to Constable
14 Dunlop delivering a copy of Silmsen's
15 Statement of Claim."

16 So ---

17 **MR. ENGELMANN:** Sir, this is quite a bit
18 later.

19 **THE COMMISSIONER:** Oh.

20 **MR. DEROCHIE:** yes.

21 **THE COMMISSIONER:** I'm sorry.

22 **MR. ENGELMANN:** You see the -- I just want
23 to make the point. As I understand it, maybe Staff
24 Sergeant Derochie can help us -- and you certainly heard
25 this evidence of Mr. Skinner.

1 **THE COMMISSIONER:** Yes.

2 **MR. ENGELMANN:** But I understood that
3 investigation was from about January 10th to about January
4 19th.

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

6 **MR. ENGELMANN:** And he's writing a note
7 January 21st and then on February 4th he saying, turn these
8 over.

9 **THE COMMISSIONER:** Okay, okay.

10 **MR. DEROCHIE:** That was to Staff Sergeant
11 Wells who was conducting a PCC, a Police Complaints
12 Commissioner investigation.

13 **MR. ENGELMANN:** Okay, but the Commissioner
14 has pointed out here that you also anticipate turning them
15 over to the OPP?

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** On February 7th, and why is
18 that?

19 **MR. DEROCHIE:** Well by this time I knew that
20 the OPP are going to reinvestigate our investigation, that
21 Acting Chief Johnston had made a request for that. So I
22 don't know if I was told by Deputy Chief or Acting Chief
23 Johnston that he had called in the OPP, but certainly it
24 was my understanding by this time that there had been a
25 recommendation from Ottawa and that we would -- this

1 investigation would be -- this matter would be
2 reinvestigated.

3 **MR. ENGELMANN:** All right, so let's just go
4 there for a minute.

5 So you had found out that there was a
6 recommendation from Ottawa that someone else should come in
7 and do a more thorough investigation, or what do you
8 recall?

9 **MR. DEROCHIE:** That's -- pretty much that's
10 what I recall that there was going to be a reinvestigation.

11 **MR. ENGELMANN:** All right.

12 **MR. DEROCHIE:** And that may have been as a
13 result of a news release around that particular time. I
14 just don't ---

15 **MR. ENGELMANN:** Well, were you aware of the
16 length of the Ottawa investigation?

17 **MR. DEROCHIE:** No.

18 **MR. ENGELMANN:** And did you ---

19 **MR. DEROCHIE:** Well, I must have been aware.
20 I was their facilitator, but I don't have a recollection
21 that it was a week or two weeks. They were around the
22 office periodically. Whenever they needed something they
23 would give me a shout and I would try to facilitate
24 whatever it was they were looking for, but other than that
25 I wasn't -- you know they were independent of me and I

1 think they wanted it that way and I certainly wanted it
2 that way. Let them go and do their thing.

3 **MR. ENGELMANN:** I understood it was from
4 approximately the 10th of January until the 19th of January,
5 1994. Does that ---

6 **MR. DEROCHIE:** That sounds reasonable, yes.

7 **MR. ENGELMANN:** And did you receive a copy
8 of the report that they issued later in January?

9 **MR. DEROCHIE:** Did I receive a copy of it?
10 No. I subsequently requested, I think it would have been
11 years later, a copy of that report and delivered it. Our
12 board -- our Police Services Board wanted to have a look at
13 it.

14 **MR. ENGELMANN:** Yes, and that's in the year
15 2000, I believe?

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** Many years later?

18 **MR. DEROCHIE:** Many years later.

19 **MR. ENGELMANN:** All right, so in early 1994
20 do you know who at the Cornwall Police Service would have
21 received this report?

22 **MR. DEROCHIE:** Well, I had -- I found out
23 that Chief Johnston had received the report and submitted
24 it to the Board. That's what he told me subsequently when
25 I went looking for the report in 2000, as you say.

1 Did I know that they had submitted a report
2 at that time? I believe I did, and I believe I even may
3 have been shown portions of it, but I never had possession
4 of it. I would have been -- I think it was Staff Sergeant
5 Blake actually that ---

6 **MR. ENGELMANN:** Do you know how many
7 officers from the Cornwall Police Service were given access
8 to that report at the time, in January of '94?

9 **MR. DEROCHIE:** No. I wouldn't know, if any.

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

11 **MR. DEROCHIE:** It was for the Board, so ---

12 **MR. ENGELMANN:** It was really a need to know
13 report?

14 **MR. DEROCHIE:** Yeah, yeah.

15 **MR. ENGELMANN:** And it was kept fairly
16 confidential?

17 **MR. DEROCHIE:** Yeah, I think that's
18 accurate, yeah.

19 **MR. ENGELMANN:** So would you have been aware
20 at the time of some of the criticisms that were mentioned
21 in that report?

22 **MR. DEROCHIE:** I would have to say yes I
23 would be aware of some of them.

24 **MR. ENGELMANN:** And do you remember now
25 thinking back what some of those were?

1 **MR. DEROCHIE:** Well, it's hard for me to
2 recall, after having heard Mr. Skinner's testimony, what I
3 knew then and what I know now and when I came to know this
4 stuff during the course of my dealings with this since
5 1993. You know I've been involved in this for so very long
6 that sometimes when I got the information, if it's not
7 reflected in my notes, I have no idea when I came to have
8 knowledge of it.

9 I do recall that when Chief Repa questioned
10 me about it, I had very little recollection of what was
11 contained in that report and thought that I'd only been,
12 you know, had a quick look at it just out of -- you know,
13 they were sort of saying here this is what we're
14 submitting. And I don't even think I read the whole thing
15 through. I may have but if I did, it's ---

16 **MR. ENGELMANN:** All right, so your
17 recollection of criticisms that were contained in the
18 report may well have been from 2000 when you actually ---

19 **MR. DEROCHIE:** Yes, but I think it's fair to
20 say that I knew that there had been criticisms in that
21 report. It wasn't a glowing evaluation of how we had done
22 the investigation.

23 **MR. ENGELMANN:** And is that in part then,
24 sir, because you knew as well that there was a
25 recommendation that a further Force come in and look at it

1 for a longer period of time?

2 MR. DEROCHIE: Yes, absolutely.

3 MR. ENGELMANN: All right.

4 MR. DEROCHIE: That would certainly give you
5 the indication that they weren't satisfied with what we had
6 done.

7 MR. ENGELMANN: Now, sir, shortly after this
8 report and I think you talked about this as well, there's a
9 staff sergeant at the Cornwall Police Service by the name
10 of Brendon Wells?

11 MR. DEROCHIE: Yes.

12 MR. ENGELMANN: And what was he tasked to do
13 in early 1994?

14 MR. DEROCHIE: Well, he was our complaints
15 officer. He dealt with complaints from the public about
16 misconduct by police officers and he was tasked with doing
17 an investigation on how Mr. Silmsers's statement came to be
18 on CJOH television. And that complaint was made by Mr.
19 Silmsers. And originally he investigated Constable Heidi
20 Sebalj for that particular misconduct.

21 MR. ENGELMANN: And do you recall how this
22 came about? Were you familiar, for example, with the fact
23 that Mr. Silmsers's lawyer would have written a letter at or
24 around January 11th first complaining about the widespread
25 publicity around the statement and CJOH, et cetera?

1 **MR. DEROCHIE:** I knew that Mr. Silmser was
2 represented by a Mr. Geoffrey, I believe his name was and
3 that he had made a complaint in writing, I guess it was. I
4 don't know if I would have known it was by letter, but
5 certainly I knew that there had been a complaint generated
6 about that whole matter.

7 **MR. ENGELMANN:** It's my understanding he
8 wrote a letter first and then he came in, filed a formal
9 complaint at or around the 21st of January?

10 **MR. DEROCHIE:** No, I know that by having
11 looked at the documents over the years but I wasn't --
12 would not have been involved in that investigation
13 whatsoever, so I wouldn't have seen those documents at the
14 time.

15 **MR. ENGELMANN:** All right, but -- and the
16 dates aren't that important but I understand there was a
17 letter and then there was a complaint, but you're not
18 familiar with that?

19 **MR. DEROCHIE:** Well, I knew that -- I didn't
20 do police professional standards under the old legislation.
21 I did it when the Police Act was revised later on. But it
22 was my understanding back then that the writing, the
23 complaint had to be in writing, there had to be a
24 complying, a signed complaints form in order to give
25 jurisdiction to the professional standards unit to do the

1 investigation. And really that's the same today, that part
2 of it anyways.

3 **MR. ENGELMANN:** All right, and sir, did
4 Staff Sergeant Wells ask you to provide a statement?

5 **MR. DEROCHIE:** He did. He asked for my
6 notes and for statements.

7 **MR. ENGELMANN:** All right. And if the
8 witness could be shown Document Number 728336. It's
9 entitled, Statement of Staff Sergeant Garry Derochie in the
10 David Silmser matter.

11 **(SHORT PAUSE/COURTE PAUSE)**

12 **THE COMMISSIONER:** Exhibit 1305.

13 **--- EXHIBIT NO./PIÈCE No. P-1305:**

14 (728336) Statement of Garry Derochie in the
15 David Silmser Matter

16 **MR. ENGELMANN:** Sir, is this a copy of the
17 statement that you would have provided to Staff Sergeant
18 Wells?

19 **MR. DEROCHIE:** It is.

20 **MR. ENGELMANN:** Can you tell us how you
21 prepared this statement, sir?

22 **MR. DEROCHIE:** I would imagine I prepared it
23 from my notes.

24 **MR. ENGELMANN:** Right. So this would be a
25 summary of the notes that we've gone through in some detail

1 with you?

2 **MR. DEROCHIE:** Yes, of what I did and how I
3 became involved in this thing; who I met with.

4 **MR. ENGELMANN:** All right. And at the point
5 when you were asked to do this, were you made aware of what
6 the charges were that were alleged against Constable
7 Dunlop?

8 **MR. DEROCHIE:** When I provided this
9 statement, the statement was in regards to an investigation
10 of Constable Sebalj.

11 **MR. ENGELMANN:** All right.

12 **MR. DEROCHIE:** Subsequently, it included --
13 and I don't know if it included right from the start, but
14 it did, in effect, evolve to include Constable Dunlop.

15 **MR. ENGELMANN:** Sir, I -- and I may be
16 mistaken, but I thought the original thrust of the concern
17 was the release to CJOH and the publicity and then there
18 were some additional charges or complaints concerning the
19 release to the CAS?

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** And that nothing proceeded
22 by way of a *Police Service Act* charge with respect to the
23 release to the CJOH.

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

25 **MR. ENGELMANN:** But that charges did proceed

1 with respect to Mr. Dunlop and the release to the CAS?

2 MR. DEROCHIE: That's how I understand it as
3 well, yes.

4 MR. ENGELMANN: All right. Okay.

5 And when you prepared and provided this
6 statement to Staff Sergeant Wells, he was investigating
7 whether or not these charges would proceed to some form of
8 tribunal hearing?

9 MR. DEROCHIE: He was -- yes, he was doing
10 an investigation into Mr. Silmser's complaint.

11 MR. ENGELMANN: Right.

12 MR. DEROCHIE: Which ultimately could lead
13 to a Police Act charge, which could lead to a hearing.

14 MR. ENGELMANN: And in fact it did, sir,
15 with respect to certain issues?

16 MR. DEROCHIE: It did. You're quite right.

17 MR. ENGELMANN: And my understanding is that
18 it didn't lead to any *Police Service Act* charges against
19 Constable Sebalj?

20 MR. DEROCHIE: That's correct. He wrote
21 reports to the PCC indicating that there is -- he could
22 find no wrongdoing on the part of Constable Sebalj.

23 MR. ENGELMANN: Nor did it refer to any
24 wrongdoing of Constable Dunlop vis-à-vis the release to
25 CJOH?

1 **MR. DEROCHIE:** That's correct. We never
2 found out who released that to the media.

3 **MR. ENGELMANN:** But the charges that were
4 brought against Constable Dunlop involved:

5 "Discreditable conduct for providing
6 the Silmsler statement to Abell. Breach
7 of confidence providing the Silmsler
8 statement to Abell; and breach of
9 confidence showing the Silmsler
10 statement to Abell."

11 Were you aware of that sir?

12 **MR. DEROCHIE:** No, I don't believe I was.

13 **MR. ENGELMANN:** All right.

14 **MR. DEROCHIE:** I reviewed this file years
15 later and became aware of those facts but not at this time.

16 **MR. ENGELMANN:** Now, when you turned over
17 your report and your recommendations to the Acting Chief on
18 January 8th, and in other words that there wouldn't be
19 *Police Service Act* charges and accounts, same as your
20 recommended suggestion, was there any -- did you receive
21 any feedback from the Acting Chief that that was in any way
22 inadequate or insufficient?

23 **MR. DEROCHIE:** No, I had the impression that
24 I -- I proceeded to try to apply the discipline, so I would
25 suspect that that's what his direction to me was, go ahead

1 and do it.

2 MR. ENGELMANN: All right. And it, at least
3 it part, dealt with his release of information to the CAS?

4 MR. DEROCHIE: To CAS, yes. Well, that's
5 all -- my report, that's all it applied to.

6 MR. ENGELMANN: Right.

7 MR. DEROCHIE: Didn't apply to anything
8 else.

9 MR. ENGELMANN: Now, just prior to the
10 investigation by Staff Sergeant Wells, were you familiar
11 with a press release that was issued by the Cornwall Police
12 Service?

13 MR. DEROCHIE: Yes, I recall that press
14 release. That's Mr. Corriveau's press release?

15 MR. ENGELMANN: I believe so. It's Exhibit
16 1224.

17 THE COMMISSIONER: That will be in another
18 binder, I believe.

19 Anytime you want to take a break, Mr.
20 Engelmann.

21 MR. ENGELMANN: We could do that now, sir,
22 you'd like.

23 THE COMMISSIONER: Sure.

24 MR. ENGELMANN: Fine.

25 THE COMMISSIONER: We will take the

1 afternoon break.

2 **MR. DEROCHIE:** Thank you.

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

5 This hearing will resume at 3:20 p.m.

6 --- Upon recessing at 3:04 p.m. /

7 L'audience est suspendue à 15h04

8 --- Upon resuming at 3:23 p.m. /

9 L'audience est reprise à 15h23

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

12 This hearing is now resumed.

13 **GARRY DEROCHIE, Resumed/Sous le même serment:**

14 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
15 **ENGELMANN (Cont'd/Suite):**

16 **MR. ENGELMANN:** Staff Sergeant Derochie, I
17 believe when we broke, I was asking you to take a look at
18 Exhibit 1224.

19 **MR. DEROCHIE:** Yes, I have it.

20 **MR. ENGELMANN:** Have you seen this before?

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

22 **MR. ENGELMANN:** All right. Just recently or
23 had you seen it ---

24 **MR. DEROCHIE:** No -- I probably saw it at
25 the time that it was issued.

1 **MR. ENGELMANN:** Do you know how these are
2 prepared, sir, or who prepares them?

3 **MR. DEROCHIE:** I would suspect that this
4 would be prepared on behalf of the Board by one of our
5 secretarial staff.

6 **MR. ENGELMANN:** Would there be an officer
7 that would be directly involved, you know, back at that
8 time?

9 **MR. DEROCHIE:** There would have been
10 somebody providing the information. I can tell you I was
11 not.

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

13 **MR. DEROCHIE:** I was not involved in that.
14 They may have used some of my material.

15 **MR. ENGELMANN:** All right. That was going
16 to be my next question; if you were in any way involved.
17 But you were not?

18 **MR. DEROCHIE:** I was not.

19 **MR. ENGELMANN:** Were you involved in any
20 other press releases at or about that time?

21 **MR. DEROCHIE:** No, not that I recall, any --
22 I wasn't actively involved in their preparation or anything
23 at all.

24 **MR. ENGELMANN:** Are you at all familiar with
25 how they would typically be generated or is that something

1 that you were never involved in?

2 **MR. DEROCHIE:** That's -- that was something
3 we wouldn't -- I would never be involved at my level where
4 I worked in the organization. That was done at a different
5 level.

6 I had, during my career when I was in
7 Community Services, been the press liaison officer, but
8 typically back then we didn't make press releases. It
9 would be a morning report, and these would be made when
10 there was something of significance to communicate to the
11 community.

12 **MR. ENGELMANN:** Okay, but back in around
13 1994 ---

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

15 **MR. ENGELMANN:** --- if the Police Service
16 was issuing a news release, and this is entitled "News
17 Release" ---

18 **MR. DEROCHIE:** Yes?

19 **MR. ENGELMANN:** --- would it at least be run
20 by some senior officers of the Service?

21 **MR. DEROCHIE:** The information -- the
22 preparation of it you mean?

23 **MR. ENGELMANN:** Well, just before it goes
24 out, would senior officers or at least one or two senior
25 officers have a look at it?

1 **MR. DEROCHIE:** Well, I would suspect
2 somebody would sign off on it saying it's okay, this is
3 what we want to release.

4 **MR. ENGELMANN:** I'm just looking at the
5 distribution list.

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** There appears to be several
8 senior officers who would at least get a copy of it?

9 **MR. DEROCHIE:** That's correct, including
10 staff sergeants.

11 **MR. ENGELMANN:** All right. And you would
12 have been in that role at that time?

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

14 **MR. ENGELMANN:** And it lists a number of
15 media outlets?

16 **MR. DEROCHIE:** Yes. Local and in Ottawa
17 mostly.

18 **MR. ENGELMANN:** All right. And do you know
19 why this was being released at or about this time?

20 **MR. DEROCHIE:** Oh, yes. There was quite a
21 bit of information in the local media at this time. There
22 was -- it was quite a hot media item.

23 **MR. ENGELMANN:** And thinking back, you have
24 some specific recollection of what was going on?

25 **MR. DEROCHIE:** Well, I knew there was a lot

1 of stories. There was a lot of concern about the apparent
2 payoff of the victim. There was some suggestion with
3 regards to police misconduct that there was something -- we
4 had done something improper during the investigation.

5 MR. ENGELMANN: Okay.

6 MR. DEROCHIE: So there was -- the community
7 was abuzz with speculation and media releases.

8 MR. ENGELMANN: And this was at first a new
9 story on a television network and then it was followed up
10 with a number of stories in the local media?

11 MR. DEROCHIE: Yeah, I would suspect that it
12 was probably broken by -- the story itself was first
13 published by CJOH Television, but I'm not positive of that.

14 MR. ENGELMANN: And part of the story was --
15 or the story that was broken at least contained Mr.
16 Silmsers's statement?

17 MR. DEROCHIE: On television, yes, and I
18 recall now, and I believe it's mentioned in here, that the
19 local radio station got a copy of that statement.

20 MR. ENGELMANN: And you became aware, I
21 believe, that he was upset about that?

22 MR. DEROCHIE: Mr. Silmsers was upset about
23 that?

24 MR. ENGELMANN: Yes.

25 MR. DEROCHIE: Yes. I became aware of that.

1 **MR. ENGELMANN:** And you in fact met, I
2 believe he said, with both him and his lawyer?

3 **MR. DEROCHIE:** Yes, I was introduced to Mr.
4 Silmser and his lawyer when they came in to lodge the
5 formal complaint against Constable Sebalj.

6 **MR. ENGELMANN:** All right. And were you the
7 taker of the information at that time?

8 **MR. DEROCHIE:** No, no.

9 **MR. ENGELMANN:** Or was it someone else?

10 **MR. DEROCHIE:** No, I was -- again, my role
11 was to provide a copy of the statement. Mr. Silmser's
12 lawyer had requested a copy of the statement and I
13 facilitated that.

14 **MR. ENGELMANN:** All right. So you would
15 have seen this document at or about that time?

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** And you would have seen it
18 subsequently?

19 **MR. DEROCHIE:** Yes.

20 **MR. ENGELMANN:** Presumably fairly recently
21 but ---

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** --- in between, as well?

24 **MR. DEROCHIE:** Yeah, periodically in the
25 last four or five years of preparing, I would have run

1 across it. I wouldn't have paid it much mind. I -- I was
2 familiar with its contents. I wouldn't have ---

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

4 **MR. DEROCHIE:** I would have recognized it
5 for what it was and ---

6 **MR. ENGELMANN:** So it sets out some
7 background facts and some of the facts it sets out deal
8 specifically with the release of the statement to the CAS?

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** For example, at paragraph 9?
11 Paragraph 10?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** Paragraph 11?

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** Those really all talk about
16 things that Constable Dunlop did?

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** And again then on
19 paragraph 14, there's a reference to the fact that an
20 investigation was commenced regarding the propriety of the
21 actions taken by the uninvolved officer?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And those references to the
24 "uninvolved officer" in those paragraphs, that's all a
25 reference to Constable Dunlop; correct?

1 **MR. DEROCHIE:** They are.

2 **MR. ENGELMANN:** And the investigation that's
3 referred to in paragraph 14 is the investigation that you
4 were asked to do?

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

6 **MR. ENGELMANN:** All right. Now, is there
7 any reference to the conclusions of your investigation?

8 **MR. DEROCHIE:** No, there's not. Not that I
9 can ---

10 **MR. ENGELMANN:** All right. So there's
11 nothing in there that sets out what it was that you had
12 recommended and what the Acting Chief had agreed to with
13 respect to the disposition of that -- that investigation?

14 **MR. DEROCHIE:** No, there's no indication of
15 that.

16 **MR. ENGELMANN:** All right. And I'm just --
17 I'm concerned about paragraph 17, so I just want to be sure
18 I understand it.

19 "On or about January 7th, '94, a local
20 Cornwall radio station received what
21 was reported to be a complete copy of
22 the complaint filed by the complainant
23 with the Cornwall Police Service on
24 February 16th, '93."

25 So that would be -- that would be Mr.

1 Silmser's statement?

2 MR. DEROCHIE: That's what I would take it
3 to be, yes.

4 MR. ENGELMANN: And were you aware of this,
5 sir, at the time?

6 MR. DEROCHIE: I -- believe I -- I recall
7 hearing that a local radio station had a copy of the
8 statement. I don't know when I heard that, but it would
9 have been on January the 7th or some time thereabouts.

10 I thought that the first indication of the
11 statement being disclosed to some place other than CAS was,
12 I recall, myself watching that news show and seeing it on
13 T.V.

14 MR. ENGELMANN: On the local CTV station?

15 MR. DEROCHIE: Yes.

16 MR. ENGELMANN: Yes. I remember that as
17 well. This is somewhat different.

18 MR. DEROCHIE: Yeah.

19 MR. ENGELMANN: And it doesn't refer to that
20 at all, the CJOH story -- oh, sorry, it does in the
21 concluding paragraph on the final page.

22 (SHORT PAUSE/COURTE PAUSE)

23 MR. ENGELMANN: So, Staff Sergeant Derochie,
24 if we could stay with paragraph 17 for a minute.

25 MR. DEROCHIE: M'hm, yes.

1 **MR. ENGELMANN:** It says:
2 "The senior management of the Cornwall
3 Police Service had absolutely no
4 knowledge of the transmittal of the
5 document and accordingly has ordered an
6 investigation into that matter."

7 So is that the release of the document to
8 the local radio station or do you know?

9 **MR. DEROCHIE:** I -- I really don't know.

10 **MR. ENGELMANN:** All right. You weren't
11 involved in that?

12 **MR. DEROCHIE:** I was not involved.

13 **MR. ENGELMANN:** Fair enough. And then it
14 says:

15 "As well as a complete review of the
16 alleged sexual assault investigation,
17 these matters will be examined by
18 personnel of the City of Ottawa Police
19 Service."

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** So that's the
22 reinvestigation of the investigation, something you that
23 you had done at least in part?

24 **MR. DEROCHIE:** Yes.

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

1 **MR. ENGELMANN:** Now, in the bottom in the
2 summary, it says:

3 "The Board invites the complainant in
4 this matter to pursue any further
5 concerns that he may have at this time
6 with the Cornwall Police Service or any
7 other police agency that is
8 appropriate."

9 Do you see that?

10 **MR. DEROCHIE:** Yes, I do.

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

12 "In order to give full confidence to
13 the complainant that any and all
14 concerns he may still have will be
15 actively and impartially investigated,
16 the Board shall seek assistance from
17 other police agencies. The Board also
18 invites the complainant to avail
19 himself of the police complaint
20 procedures available to any citizen
21 under the *Police Services Act of*
22 *Ontario.*"

23 **MR. DEROCHIE:** Yes. Yes, I see that.

24 **MR. ENGELMANN:** All right. So it would
25 appear reading that, that the Board is almost soliciting a

1 complaint from the complainant. Would you agree?

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: All right. And the Board as
4 well in this press release in at least four paragraphs, has
5 talked about an uninvolved officer doing something and that
6 uninvolved officer is Constable Dunlop?

7 MR. DEROCHIE: Yes.

8 MR. ENGELMANN: All right. So, sir, was it
9 a surprise to you that a few days after this press release,
10 Mr. Silmsler files a complaint and among other things is
11 complaining about the release to the CAS of information?

12 MR. DEROCHIE: Okay, my understanding is
13 this press release was made on January the 11th, '94?

14 MR. ENGELMANN: Yes.

15 MR. DEROCHIE: And when did you say Mr.
16 Geoffrey sent the letter, was it?

17 MR. ENGELMANN: I think he sent a letter
18 right around then, but then he came in and they filed a
19 complaint ---

20 MR. DEROCHIE: Yes.

21 MR. ENGELMANN: --- on or around the 21st.

22 The first letter didn't refer to the release
23 to the CAS, but the letter and/or complaint filed after
24 this press release certainly does?

25 MR. DEROCHIE: Yes. And what was your

1 question again, I'm sorry?

2 **MR. ENGELMANN:** Well, it not only appears
3 that a complaint is being solicited but that a complaint is
4 being solicited about this uninvolved officer?

5 **MR. DEROCHIE:** Yes, I guess you could
6 surmise that, yes.

7 **MR. ENGELMANN:** Now, there is a reference in
8 the very last paragraph on the final page. I just wanted
9 to ask you what it means if you know.

10 It says:

11 "In conclusion, an Ottawa television
12 source reported on January 6th, '94,
13 that the President of the Cornwall
14 Police Association..."

15 Who was that, at that time?

16 **MR. DEROCHIE:** I believe it was Mr. John
17 Parisien.

18 **MR. ENGELMANN:** Okay.

19 "...said the internal investigation
20 into the matter is consistent with rank
21 and file concerns which last year led
22 to the Solicitor General's Office to
23 investigate the way the police service
24 was being run. Any suggestion that the
25 subject investigation was a part of the

1 overall inspection terms of reference
2 is completely unfounded."

3 Do you know what's being referred to there,
4 sir?

5 **MR. DEROCHIE:** Well, if they're -- I'm
6 assuming they're referring to my internal investigation.

7 **MR. ENGELMANN:** Okay.

8 **MR. DEROCHIE:** And it's consistent with the
9 way the Police Service is -- can I read that again, please?

10 **MR. ENGELMANN:** Yes, absolutely. It's a
11 little awkward and I just want to make sure I have your
12 views on what it means.

13 **MR. DEROCHIE:** Well, I could -- I would
14 speculate that -- that this would be a reference to what
15 concerns I had. Remember, I had previously testified with
16 regards to the optics of dealing with Dunlop too quickly as
17 opposed ---

18 **MR. ENGELMANN:** Yes.

19 **MR. DEROCHIE:** --- to let's, you know, slow
20 this down, have a look at the whole thing before we -- and
21 I would assume that that's what they're talking about, but
22 they wouldn't have had -- well, they may well have an idea
23 which way I was leaning with regards to Dunlop, so I don't
24 understand their statement.

25 It would seem to me the investigation as I

1 was -- or the opinions that I had with regards to Mr.
2 Dunlop which were consistent with what the Chief was
3 telling me was okay, was contrary to what he's saying, if -
4 - if what I read in here is that there's some -- for some
5 reason we're going after Constable Dunlop.

6 MR. ENGELMANN: Okay. I read this ---

7 MR. DEROCHIE: Really, it's awkward and I
8 don't ---

9 MR. ENGELMANN: I read this a bit
10 differently and maybe I'm wrong, but wasn't there some kind
11 of audit done by the Solicitor General's Office earlier in
12 '93?

13 MR. DEROCHIE: Yes, there was a ---

14 MR. ENGELMANN: All right.

15 MR. DEROCHIE: There was an audit, yes.

16 MR. ENGELMANN: And when they're talking
17 about the "subject investigation", if they're talking about
18 your investigation, they're saying that your investigation
19 wasn't a part of that overall inspection terms of
20 reference?

21 MR. DEROCHIE: Maybe they're not even
22 talking about my investigation here.

23 MR. ENGELMANN: Okay.

24 Well, you know what? I'll ask this of
25 someone else, sir. I just ---

1 **MR. DEROCHIE:** Yes, I ---

2 **MR. ENGELMANN:** I'm trying to get it cleared
3 it up, but I can ask that of someone else. I know you
4 didn't write it and had no input into this -- into these --
5 -

6 **MR. DEROCHIE:** No, I read -- when I was
7 reading this, I was reading they were talking about the
8 internal investigation I had done. If they're referring to
9 the investigation by Policing Services as being an internal
10 investigation, I think that's where the confusion may be.

11 **MR. ENGELMANN:** All right.

12 **MR. DEROCHIE:** I don't know what they're
13 talking about.

14 **MR. ENGELMANN:** All right. Well, let's
15 leave that document then.

16 Sir, I understand that in February of 1994
17 you received a call from Ken Seguin's sister-in-law, a
18 woman by the name of Nancy Seguin?

19 **MR. DEROCHIE:** I believe she came in.

20 **MR. ENGELMANN:** Okay.

21 **MR. DEROCHIE:** And I spoke to her in person.

22 **MR. ENGELMANN:** All right. Document Number
23 727859; you're right, Staff Sergeant Derochie refers to
24 "came in to see me." I apologize.

25 **MR. DEROCHIE:** No.

1 **MR. ENGELMANN:** I thought it was a phone
2 call.

3 **MR. DEROCHIE:** Not a big deal.

4 **THE COMMISSIONER:** Thank you.

5 Exhibit Number 1306 is a note dated February
6 14th, 1994 re: Silmser.

7 **---EXHIBIT NO/PIECE No. P-1306:**

8 (727859) Notes of Garry Derochie, 14 Feb 94

9 **MR. ENGELMANN:** So do you recall having a
10 meeting with Nancy Seguin?

11 **MR. DEROCHIE:** Yes, somewhat. I recall it,
12 yes.

13 **MR. ENGELMANN:** All right. And this is your
14 note, sir?

15 **MR. DEROCHIE:** Yes, they are my notes.

16 **MR. ENGELMANN:** And taken on that day?

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

18 **MR. ENGELMANN:** And you've identified her as
19 Ken Seguin's sister-in-law?

20 **MR. DEROCHIE:** Yes, that was my
21 understanding.

22 **MR. ENGELMANN:** And do you know if she was
23 married to Doug Seguin?

24 **MR. DEROCHIE:** I believe that -- that's
25 correct.

1 **MR. ENGELMANN:** All right. And do you know
2 why it was that she came to see you?

3 **MR. DEROCHIE:** She was looking for some
4 information on whether or not the rumours she was hearing
5 about Ken Seguin -- and she never specified what those
6 rumours were, to my recollection -- were true. And I was
7 reluctant to talk to her about it and I didn't
8 subsequently.

9 **MR. ENGELMANN:** I'm sorry, you didn't?

10 **MR. DEROCHIE:** I didn't. I didn't give her
11 any information about what I knew.

12 **MR. ENGELMANN:** All right. Did she just
13 come in and ask to see someone about this or were you ---

14 **MR. DEROCHIE:** I don't recall those
15 circumstances, but I recall I was on duty. At this time,
16 February 14th, I would -- I believe I would have been
17 involved in another internal investigation.

18 **MR. ENGELMANN:** Okay.

19 **MR. DEROCHIE:** Yes, so I may well have been
20 working straight days and she just popped in and luckily I
21 was there and we had a conversation. I don't know if she
22 would have asked for me or just somebody who knew something
23 about it.

24 **MR. ENGELMANN:** All right, and all you would
25 have told her then, sir, could be summarized by what we see

1 here in this note?

2 MR. DEROCHIE: Exactly, I -- we're not
3 investigating Ken Seguin, that's been turned over to the
4 OPP. They're doing something with it, so ---

5 MR. ENGELMANN: I'm just curious. In this
6 second paragraph you say:

7 "I told her we were no longer
8 investigating the Silmsers matter."

9 MR. DEROCHIE: M'hm.

10 MR. ENGELMANN: "She should talk to the
11 OPP."

12 MR. DEROCHIE: Yes.

13 MR. ENGELMANN: Do you know if you would
14 have given her a contact person there?

15 MR. DEROCHIE: I don't recall if I did.

16 MR. ENGELMANN: All right. In any event,
17 you told her that "we had not investigated Seguin."

18 MR. DEROCHIE: That's correct.

19 MR. ENGELMANN: All right. Did you go into
20 who you had investigated or did you just not go into it?

21 MR. DEROCHIE: I wouldn't have told her very
22 much, honestly.

23 MR. ENGELMANN: All right. There would have
24 been no discussion of the statement from Mr. Silmsers and
25 what might have been said?

1 **MR. DEROCHIE:** No. I got the distinct
2 impression that she wanted to know if I knew whether or not
3 Ken was homosexual. That's the impression I got from her.
4 And I told her I didn't know one way or the other.

5 **MR. ENGELMANN:** Yes, you say that at the end
6 of your note:

7 "I believe she was referring to the
8 suspicions that Ken was a homosexual.
9 I was equally vague."

10 So were there any specific questions about
11 criminal investigations ---

12 **MR. DEROCHIE:** No.

13 **MR. ENGELMANN:** --- of sexual abuse or
14 sexual assault that she would have put that you can recall?

15 **MR. DEROCHIE:** She -- no, if she would have
16 put questions to me, I would not have answered them.

17 **MR. ENGELMANN:** All right, fair enough. I
18 forgot to ask you about a call that I believe you had with
19 David Silmsner in December of 1993. You met him for the
20 first time in January ---

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** --- '94 with his lawyer, but
23 I understand that you actually had a phone conversation
24 with him?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** And that was your first
2 direct contact with him?

3 **MR. DEROCHIE:** I believe so. I believe it
4 was.

5 **MR. ENGELMANN:** And it's Exhibit 1302. I
6 hope that's in your binder, sir.

7 **THE COMMISSIONER:** 1302, you said? Yes, it
8 is.

9 **MR. DEROCHIE:** Yes, it is.

10 **MR. ENGELMANN:** And I believe, just to
11 refresh your memory, the reference is on Bates page
12 7167718; are you able to tell us how it is that you came to
13 speak to Mr. Silmser?

14 **MR. DEROCHIE:** Yes, I was on duty. I was on
15 the -- on my shift. This would have been on the night
16 shift. And he called in to Headquarters through the -- in
17 to the communications unit looking for somebody to talk to
18 about his involvements with the Cornwall Police Service.

19 It was passed on to me and I had a telephone
20 conversation and he wanted to know if I was -- had anything
21 to do with his investigation and quite frankly, at the
22 time, I really didn't know which investigation he was
23 talking to. I was conducting an internal. The OPP were
24 conducting investigations into Ken Seguin's death and into
25 the possible extortion. There was a number of

1 investigations going on.

2 So I told him I was somewhat familiar with
3 it and he made a comment to me that he wanted to speak to
4 Sebalj, Sebalj wasn't available. He was quite upset and he
5 told me he was not impressed with the Cornwall Police
6 Service and inferred that the Ottawa citizens now knew
7 about his story.

8 **MR. ENGELMANN:** Okay, it says:

9 "Now the Citizen knows about it."

10 You interpreted that to mean to mean the
11 Ottawa Citizen?

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

13 **MR. ENGELMANN:** All right. And at the very
14 top of this it says 15:49 and it's easier actually to read
15 on the screen, at least for me. It says:

16 "Received a telephone call from David
17 Silmser re: Sexual assault involving
18 Father C. MacDonald and Ken Seguin,
19 deceased."

20 Now, do you know if that's how your
21 conversation started? Did he start by saying, "I'm calling
22 regarding sexual assault involving...?"

23 **MR. DEROCHIE:** His -- he started his
24 conversation with words to the effect "I don't want to talk
25 to you. Are you investigating my complaint?" That's how it

1 started, so ---

2 **MR. ENGELMANN:** All right, so the "re:
3 Sexual assault involving Father C. MacDonald..." that could
4 have just been your description of it?

5 **MR. DEROCHIE:** That was my description of
6 it. I see that this note is made at 15:49 which means I
7 was working the -- actually working the day shift as
8 opposed to night shift. I thought the note started on the
9 previous page, but they don't.

10 **MR. ENGELMANN:** Okay, if we could just
11 scroll down just a little, Madam Clerk?

12 So he's looking for, as you said, the
13 investigating officer?

14 **MR. DEROCHIE:** Yes, he's looking for
15 somebody that's involved in his investigation, if not
16 Heidi, then at least somebody else that's involved that
17 knows what's going on.

18 **MR. ENGELMANN:** And it appears you may be
19 talking at cross-purposes.

20 **MR. DEROCHIE:** Exactly. He didn't know who
21 I was. He wouldn't have known that I was conducting an
22 internal review of this thing, so ---

23 **MR. ENGELMANN:** And you ---

24 **MR. DEROCHIE:** --- I didn't know what he was
25 referring to and ---

1 **MR. ENGELMANN:** So you say "yes" thinking --

2 -

3 **MR. DEROCHIE:** Thinking, yes, I know what
4 you're talking about. I'm doing the internal, but ---

5 **MR. ENGELMANN:** And then if we could scroll
6 down a bit further?

7 And this is your description about his
8 comment about the Force?

9 **MR. DEROCHIE:** Yeah. Yes, it is.

10 **MR. ENGELMANN:** And then you ask him about
11 which investigation?

12 **MR. DEROCHIE:** Yes, he became quite irate at
13 that point, understandably, you know.

14 **MR. ENGELMANN:** All right, but it was not an
15 intentional -- it was a misunderstanding?

16 **MR. DEROCHIE:** Yeah, it was a
17 miscommunication. I wasn't trying to be cute with him and
18 he just -- I think he just misread what I was saying.

19 **MR. ENGELMANN:** And this is a note to
20 yourself again that he's subject to several ongoing
21 investigations?

22 **MR. DEROCHIE:** Yes, yes.

23 **MR. ENGELMANN:** And he then says to you, you
24 know what investigation, or words to that effect?

25 **MR. DEROCHIE:** Yeah, yes, sorry.

1 **MR. ENGELMANN:** And can we scroll a bit
2 further:

3 "Ten months and nothing has been done
4 by the Cornwall Police."

5 Those were his words to you?

6 **MR. DEROCHIE:** Those were his words to me.

7 **MR. ENGELMANN:** All right. And how did you
8 leave things with him?

9 **MR. DEROCHIE:** I left things with him, I
10 told him that I would tell Heidi that he had called and
11 that she would get back to him.

12 **MR. ENGELMANN:** And did you confirm with
13 him, sir, that Cornwall Police Service was not
14 investigating this complaint? I mean because at this point
15 you're clearly not.

16 **MR. DEROCHIE:** No, and clearly he knows we
17 know, you know, at this point.

18 **MR. ENGELMANN:** All right, does he say that
19 to you?

20 **MR. DEROCHIE:** Well, no, but I think it is
21 something that goes unsaid between us. I didn't have to
22 tell him. I didn't want to aggravate the situation further
23 by saying, well David, you stopped this investigation in
24 September.

25 **MR. ENGELMANN:** All right, did you get a

1 sense as to why he wanted to speak to Constable Sebalj?

2 MR. DEROCHIE: I thought he had been
3 contacted by the Ottawa Citizen and he was concerned about
4 that and wanted to find out from Sebalj how that occurred.
5 This would have been the first indication that someone else
6 got that statement or at least someone else was aware of
7 the situation.

8 MR. ENGELMANN: All right, someone in the
9 sense of a media outlet?

10 MR. DEROCHIE: The media.

11 MR. ENGELMANN: Yes, CAS had it but it's the
12 first indication you have that a media outlet has it?

13 MR. DEROCHIE: This is the first indication.
14 It came out of the blue.

15 MR. ENGELMANN: All right, and you thought
16 that part of his agitation or concern was that the media
17 had it?

18 MR. DEROCHIE: The media had it and he may
19 well have interpreted that I was giving him the run around
20 by saying well yes, or I don't know what you're talking
21 about, you know whatever it was we were miscommunicating
22 about. But certainly he was not pleased.

23 MR. ENGELMANN: All right. Do you know if
24 Constable Sebalj and/or Staff Sergeant Brunet would have
25 followed up with him the following day?

1 **MR. DEROCHIE:** I don't know. I followed up
2 with them and told them that I had received this call.

3 **MR. ENGELMANN:** All right, so you left it
4 with them to act at that point?

5 **MR. DEROCHIE:** I left it with them, yes.

6 **MR. ENGELMANN:** Fair enough. Then, sir,
7 jumping ahead in time, I understand that -- after you give
8 your statement to Brendon Wells ---

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** --- Constable Dunlop is off
11 on sick leave for some time?

12 **MR. DEROCHIE:** He's gone for three years.

13 **MR. ENGELMANN:** Yeah, he comes back in the
14 spring of '97?

15 **MR. DEROCHIE:** Correct.

16 **MR. ENGELMANN:** And when he comes back is he
17 assigned to your team?

18 **MR. DEROCHIE:** No.

19 **MR. ENGELMANN:** All right, so from then
20 until approximately late '99, early 2000, you're not in a
21 supervisory relationship with him?

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

23 **MR. ENGELMANN:** All right. And subsequent
24 to that, the statement you give to Brendon Wells, do you
25 have any further work on the Silmsler matter?

1 **MR. DEROCHIE:** Do I have any further work on
2 the Silmsler matter? No, I do not.

3 **MR. ENGELMANN:** All right. Do you recall
4 getting a phone call or at least an inquiry by one of his
5 relatives?

6 **MR. DEROCHIE:** Yes, Brian Simser, but
7 spelled differently than he spells his, S-i-m-s-e-r; no
8 'l'.

9 **MR. ENGELMANN:** And how did that come about,
10 sir? I understand it came about in approximately May of
11 1995?

12 **MR. DEROCHIE:** Yes, I recall I was -- and I
13 should have notes.

14 **MR. ENGELMANN:** Let me just find them for
15 you. It'll just be a second. It's Document Number 738462.
16 I understand there's another version that -- I'll just be a
17 moment. I'm sorry, I've got the wrong number.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MR. ENGELMANN:** I believe this may be an
20 exhibit, 1307. Oh, next number. 713996 is the document
21 number. I find it very hot in the room this afternoon;
22 maybe it's my wool suit. I don't know if there is any way
23 we can have the heat turned down a little.

24 We have that document, 713996.

25 **THE COMMISSIONER:** All in the fullness of

1 time.

2 MR. ENGELMANN: Thank you.

3 THE COMMISSIONER: Exhibit 1307 are notes of
4 Staff Sergeant Derochie, notebook 00833 dated May 5, 1995.

5 --- EXHIBIT NO./PIÈCE No. P-1307:

6 (716996) Notebook 000833 of Garry Derochie -
7 09 May, 95

8 THE COMMISSIONER: Not his brother, his
9 cousin.

10 MR. ENGELMANN: Yes, cousin.

11 MR. DEROCHIE: Cousin, yes.

12 MR. ENGELMANN: Does this refresh your
13 memory about this call you received?

14 MR. DEROCHIE: It does. He ---

15 MR. ENGELMANN: Just to start, can you tell
16 us, did this individual ask for you specifically?

17 MR. DEROCHIE: No, no. He wouldn't have
18 known who I was.

19 MR. ENGELMANN: He would not have known?

20 MR. DEROCHIE: He would not have known.

21 MR. ENGELMANN: All right, so how is it you
22 came to take this call?

23 MR. DEROCHIE: I just happened to be on
24 duty. Again this is the afternoon shift at 7:15 in the
25 evening and a call comes in from this person to the central

1 communications. Everybody in the organization, especially
2 those on my team, know that I'd been involved in this
3 investigation; therefore those types of calls, if I was
4 working, would come to me. So I just happened to be there
5 when he called this particular night.

6 **MR. ENGELMANN:** And he had spoken to one of
7 your colleagues a couple ---

8 **MR. DEROCHIE:** Yes, he had told me ---

9 **MR. ENGELMANN:** --- of weeks before?

10 **MR. DEROCHIE:** I'm sorry. He had told me
11 that he had spoken to Staff Sergeant Dupuis a couple of
12 weeks earlier.

13 **MR. ENGELMANN:** All right. And he was
14 identifying himself as David Silmsers' cousin?

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

16 **MR. ENGELMANN:** And he was suggesting that
17 Mr. Silmsers had fabricated allegations?

18 **MR. DEROCHIE:** Well, he told me the story
19 that he had told Darcie Dupuis the two weeks previous, but
20 the reason he was calling tonight, yes. To answer your
21 question, yes, he had said that he had information that
22 David had confided in him and another person that he had
23 made up the stories to get money, as I recall.

24 **MR. ENGELMANN:** All right, and did -- do you
25 know if the Cornwall Police Service took any action to

1 investigate whether or not his statements were true?

2 **MR. DEROCHIE:** No. By this time the OPP are
3 involved and we're not touching anything involving Mr.
4 Silmser.

5 **MR. ENGELMANN:** And would you have referred
6 Mr. Brian Simser then to the OPP?

7 **MR. DEROCHIE:** Mr. Brian Simser wanted to be
8 -- he wanted the contact information for the OPP so that he
9 could communicate this new information. There was new
10 information he was providing this night.

11 I should say that -- sorry I lost my train
12 of thought. It just disappeared. But he was ---

13 **MR. ENGELMANN:** He had new information?

14 **MR. DEROCHIE:** Yes, he was calling to tell
15 me that he had told Darcie Dupuis about this -- David
16 having made up the story and that the OPP had subsequently
17 interviewed him with that regards.

18 He was now calling to say that David had --
19 Mr. Silmser had learnt of that meeting with the OPP and had
20 called and threatened him. So he wanted the OPP to be
21 advised, or the investigating officer that he had told the
22 story to, to be advised of this threat.

23 **MR. ENGELMANN:** All right, do you know why
24 he was calling back the Cornwall Police Service about that?

25 **MR. DEROCHIE:** I took it to mean that he did

1 not have the contact information for the OPP and had spoken
2 to us previously on it and knew that we'd be able to get it
3 -- be able to get it to him or get that information to him.

4 MR. ENGELMANN: Okay, so you referred him
5 there once and ---

6 MR. DEROCHIE: Yeah, it's ---

7 MR. ENGELMANN: --- now he wanted a referral
8 back.

9 MR. DEROCHIE: I guess he only had our
10 number, I guess, I don't know.

11 MR. ENGELMANN: He had your number but not
12 theirs?

13 MR. DEROCHIE: Not theirs, no.

14 MR. ENGELMANN: All right. So you didn't
15 investigate whether either of his allegations were true?

16 MR. DEROCHIE: No, I passed this information
17 on to Staff Sergeant Brunet who passed it on to, I believe
18 it was Tim Smith at the time who was doing this
19 investigation.

20 MR. ENGELMANN: All right.

21 MR. DEROCHIE: Inspector Tim Smith of the
22 OPP.

23 MR. ENGELMANN: And did you have any further
24 follow up with this individual?

25 MR. DEROCHIE: No, I did not.

1 **MR. ENGELMANN:** And he never came into the
2 station; he just called?

3 **MR. DEROCHIE:** Just called, yes. He was
4 calling from out of town.

5 **MR. ENGELMANN:** I want to ask you about a
6 meeting you may have had again at the Cornwall Police
7 Service station with a John MacDonald and a Carson
8 Chisholm.

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** Do you remember in the fall
11 of 1995 meeting these two individuals?

12 **MR. DEROCHIE:** I remember an incident when
13 they came into the station, yes.

14 **MR. ENGELMANN:** All right. Staff Sergeant
15 Derochie, I would like you to look at Document 737677.
16 These are again your notes.

17 **THE COMMISSIONER:** Exhibit 1308 is Notes of
18 G. Derochie date of -- the first entry is 29th of June '95;
19 date of last entry is 13th of December '95.

20 **--- EXHIBIT NO./PIÈCE No. P-1308:**

21 (737677) Notes of Garry Derochie - 29 Jun 95
22 to 13 Dec 95

23 **MR. ENGELMANN:** We've just taken an excerpt,
24 Mr. Commissioner, from those notes ---

25 **THE COMMISSIONER:** Yes.

1 **MR. ENGELMANN:** --- dealing with the
2 relevant passage and you'll note, Staff Sergeant Derochie,
3 the date is September 12th, 1995.

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

5 **MR. ENGELMANN:** And you have a reference to:
6 "1530 - Carson Chisholm came into
7 Headquarters demanding to see the Chief
8 or Deputy Chief."

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** Do you see that?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** Was Mr. Chisholm someone
13 that was known to you?

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** And how is that?

16 **MR. DEROCHIE:** I just know him from seeing
17 him around.

18 **MR. ENGELMANN:** From the community?

19 **MR. DEROCHIE:** Yes.

20 **MR. ENGELMANN:** All right. And did he, in
21 fact, get to see the Chief or Deputy Chief that day?

22 **MR. DEROCHIE:** No. Again, it's a situation
23 where I was working as the officer in charge of the uniform
24 patrol team, and I would have been the officer in charge of
25 the station on that day. And I heard him having a loud

1 discussion with our receptionist, making demands. So I
2 just went out to see if I could assist him, had him and Mr.
3 Johnson -- or Mr. MacDonald, rather, accompany me to my
4 office and tried to find out what their problem was or what
5 they wanted done.

6 MR. ENGELMANN: All right, so you met with
7 both of these gentlemen?

8 MR. DEROCHIE: I did.

9 MR. ENGELMANN: All right. Can you give us
10 a sense as to what happened at the meeting?

11 MR. DEROCHIE: Yes, Mr. Chisholm was
12 demanding that I lay a charge against Father Charlie
13 MacDonald for sexually abusing Mr. MacDonald.

14 MR. ENGELMANN: Right.

15 MR. DEROCHIE: That's Mr. John MacDonald.

16 MR. ENGELMANN: And if we can just look at
17 your notes for a second, on the next page, you reference a
18 Constable Bough or Bough?

19 MR. DEROCHIE: Constable Bough, David Bough.
20 I found out that he was doing the investigation or he had
21 carriage of that information. So I went looking for him or
22 I tried to get a hold of him and was informed that he was
23 interviewing a victim and wasn't available. And I
24 indicated to them that they should allow or pass the
25 message on to Bough and that they should allow him to do

1 the investigation.

2 **MR. ENGELMANN:** And did that satisfy either
3 Mr. Chisholm or Mr. MacDonald?

4 **MR. DEROCHIE:** Mr. MacDonald didn't say very
5 much. Mr. Chisholm did all of the talking. No, it didn't
6 -- it certainly didn't satisfy Mr. Chisholm. He was quite
7 vocal, quite loud and wouldn't accept the fact that I would
8 not be prepared to march over and sign a criminal
9 Information charging Father MacDonald with sexual assault
10 and wanted that done immediately.

11 I told him it couldn't be done; that it
12 would have to be investigated, and Sergeant Bough would
13 deal with it.

14 **MR. ENGELMANN:** All right, and your notes
15 indicate that Mr. Chisholm was quite loud.

16 **MR. DEROCHIE:** He was quite loud to the
17 point where I had to caution him that he was causing a
18 disturbance.

19 **MR. ENGELMANN:** And that you could lay a
20 criminal charge to that effect?

21 **MR. DEROCHIE:** That I could arrest him and
22 charge him if he didn't cease and desist.

23 **MR. ENGELMANN:** But he continued to assert
24 that something should be done right away?

25 **MR. DEROCHIE:** Yes, he was quite insistent

1 that something should be done immediately.

2 MR. ENGELMANN: And you make the note that
3 it was obvious that Mr. Chisholm came into the office --
4 I'm not sure if I can read it -- it's Bates page 7158556.

5 MR. DEROCHIE: He was looking for a
6 confrontation; that's what my opinion is.

7 MR. ENGELMANN: Oh, okay, sorry.

8 MR. DEROCHIE: He came in looking ---

9 MR. ENGELMANN: Why do you say that sir?

10 MR. DEROCHIE: Well, just his mannerism.
11 He, you know, he wasn't going to let it deal. He wasn't
12 going to let it sit. He wanted it done right away and he
13 had to have known or at least Mr. MacDonald knew that we
14 were involved in this. So he was coming in to make a point
15 with us.

16 MR. ENGELMANN: All right. Well, both Mr.
17 Chisholm and Mr. MacDonald have testified here at this
18 Inquiry.

19 MR. DEROCHIE: Yes.

20 MR. ENGELMANN: And I just -- I don't know
21 if you were there when they did.

22 MR. DEROCHIE: I remember; I believe I was.
23 I remember that testimony.

24 MR. ENGELMANN: All right. And if you'd
25 like, Volume 147 is Mr. Chisholm's evidence, and I just

1 want to refer you to page 50 for a moment.

2 **THE REGISTRAR:** One forty-seven (147)?

3 **MR. ENGELMANN:** I'm sorry. Yes. Volume
4 147.

5 **THE COMMISSIONER:** Volume 147.

6 What page again, 50?

7 **MR. ENGELMANN:** It's 50 through 52.

8 **THE COMMISSIONER:** I don't know if we have
9 the hard copy. We have it on the -- no, we don't have a
10 hard copy. All right, so it will have to go on the screen.

11 **MR. DEROCHIE:** It's fine.

12 **MR. ENGELMANN:** I can give the witness an
13 excerpt if ---

14 **THE COMMISSIONER:** Oh, yes. Sure if you
15 want, but we can -- I think we are right where we should
16 be.

17 **MR. ENGELMANN:** All right. So at page 50,
18 and I believe that's what we are looking at now, Mr.
19 Chisholm is asked about attending at the station.

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** And it says:

22 "I believe it was the acting Sergeant
23 Derochie I believe we spoke to."

24 **MR. DEROCHIE:** Yes.

25 **MR. ENGELMANN:** All right and then if we

1 scroll down right to the bottom, again he is referring to
2 the fact that he thinks it's you.

3 If we could just turn over to the next page,
4 it says:

5 "Like I said, he wouldn't have anything
6 to do with it. He would not take the
7 statement. He wouldn't touch it.

8 We'll get back to you."

9 "Did he -- in your presence, did he try
10 to do anything, that is try to talk to
11 some other officer to take your
12 statement?"

13 "No, no, no."

14 "Arrange for a future visit or anything
15 like that?"

16 "No, no, no."

17 "Did you physically, you or Mr.
18 MacDonald, physically show him the
19 pieces of paper that we've got here?"

20 This is a statement that he said he was
21 trying to give to you.

22 "Yes. I tried to give it to him but he
23 wouldn't take it."

24 "Okay. Did he say why he wouldn't take
25 it?"

1 "I don't recall him saying why."
2 "Okay. Think again; Staff Sergeant
3 Derochie, as he is now, will probably
4 say that you and Mr. MacDonald did come
5 to the station, but that you, Mr.
6 Chisholm, were quite loud and abusive
7 to him."

8 "I wasn't when I went in. I was when I
9 went out. I'll admit to that and I
10 apologize to anybody's feelings I hurt
11 along the way, but I thought it was
12 just terrible the way they handled it
13 and had handled it."

14 Et cetera. So he is apparently saying that
15 he tried to give you a copy of a statement and that you
16 didn't take it. Do you have any recollection of that, sir?

17 **MR. DEROCHIE:** I don't have any recollection
18 of it.

19 Did he have something? He may well have had
20 something in his hands. Would I have refused to take it?
21 My understanding was we had already had that statement, so
22 I didn't see any point.

23 I wouldn't become involved in this
24 investigation once another officer is doing it; there's a
25 whole issue of continuity. If he has evidence, he can turn

1 it over.

2 I had been told that Sergeant Bough had --
3 was working on this thing; had at least had -- had it as
4 part of his case assignment, so there was no need for me to
5 get involved in this.

6 **THE COMMISSIONER:** Yeah, I know, but what
7 about just saying, "Hey, if there was a statement -- you
8 have a statement, I'll get an envelope. You'll see I'll
9 put it in, I'll seal it and I'll put Sergeant whoever it
10 was on and take it away"?

11 **MR. DEROCHIE:** Yeah. I don't know why I
12 wouldn't have done that had he offered it to me.

13 **THE COMMISSIONER:** But that's something you
14 -- okay ---

15 **MR. DEROCHIE:** That's something I would do,
16 yes, but I wouldn't get involved in ---

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

18 **MR. DEROCHIE:** And it wasn't -- it wasn't to
19 turn over a statement to me, it was for me to go out and
20 lay a criminal information; "I want him charged now".

21 **THE COMMISSIONER:** All right.

22 **MR. DEROCHIE:** So it wasn't -- it wasn't --
23 it wasn't -- that's not my recollection of that.

24 **MR. ENGELMANN:** Let's just have a look at
25 what John MacDonald says as well.

1 **MR. DEROCHIE:** Okay.

2 **MR. ENGELMANN:** And I think you have the
3 transcript. I can't remember what the reference was.
4 Staff Sergeant Derochie, it will say on the cover page what
5 volume it was. Volume 78 at pages 122 to 124.

6 **MR. DEROCHIE:** Page 123?

7 **MR. ENGELMANN:** You should have the three
8 pages in question there, sir, and excerpts from the
9 transcript. We're just going to have it pulled up on the
10 screen.

11 **(SHORT PAUSE/COURTE PAUSE)**

12 **MR. ENGELMANN:** All right. So this is Mr.
13 Dumais at line 7?

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

15 **MR. ENGELMANN:** "So you get to the police
16 detachment. Tell me what you remember
17 happening on that day?"

18 First of all it says:

19 "I can't remember a thing about that
20 day."

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** That's the first thing.

23 And then it says:

24 "All right. So you could not ---"

25 "Well, really nothing."

1 "So you can't tell us who you spoke to
2 or what was said?"
3 "I remember it. No, I can't recall
4 what was said. I remember going in,
5 that's about it. That's -- and nothing
6 else, really."
7 "All right. Do you remember -- could
8 you tell me whether or not you or Mr.
9 Chisholm had made a scene on that day?"
10 "MR. MacDONALD: It's almost a
11 guarantee that I did not make a scene."
12 And I think that's consistent with your ---
13 **MR. DEROCHIE:** No, Mr. MacDonald didn't say
14 very much at all.
15 **MR. ENGELMANN:** All right. So Mr. Dumais:
16 "All right."
17 **MR. ENGELMANN:** "Do you recall Mr. Chisholm
18 raising his voice or getting mad?"
19 "MR. MacDONALD: Carson may be a little
20 abrasive, I'll leave it at that."
21 "Okay, do you recall whether or not the
22 statement of September 12th was actually
23 left there with someone?"
24 "MR. MacDONALD: Nobody would touch it.
25 I remember having it in my hand and

1 offering it and nobody would touch it."

2 "And do you recall the reason why they
3 would not touch it?"

4 "No."

5 "And then do you recall any -- any
6 either subsequent telephone
7 conversations or telephone
8 conversations that occurred prior to
9 that date about whether or not Cornwall
10 Police Service would investigate this
11 matter?"

12 "David Bough always gave me the --
13 David Bough always gave me -- I was
14 under the understanding that Dave Bough
15 wanted to deal with this at its proper
16 time, proper place, whatever that's
17 supposed to mean. I have it mentioned
18 in my notes a few times he wants to
19 take his time. I found him a nice guy
20 to talk to, easy, et cetera." (As
21 read)

22 So, again, although he seems to have some
23 trouble recalling at the beginning, he also seems to
24 suggest that he had a statement?

25 **MR. DEROCHIE:** Yes. And I -- I don't -- I

1 don't recall that.

2 MR. ENGELMANN: All right. But if they did,
3 I'm assuming you would agree with the exchange you had with
4 the Commissioner ---

5 MR. DEROCHIE: Yeah.

6 MR. ENGELMANN: --- that it's something you
7 could have taken and ---

8 MR. DEROCHIE: Certainly. And I -- I don't
9 know why I wouldn't have taken it just to diffuse the --
10 the whole situation, but that was not my understanding of
11 why they came in there that day.

12 MR. ENGELMANN: Okay. It was your
13 understanding that Mr. Chisholm wanted a charge laid that
14 day?

15 MR. DEROCHIE: Even though this -- this
16 incident had been assigned to someone else to investigate,
17 he was demanding that a charge be laid that day.

18 MR. ENGELMANN: And how did you know that it
19 had already been the subject matter of an open file with
20 Constable Bough?

21 MR. DEROCHIE: When I made inquiries as to
22 who was managing this thing, I found out it was Bough. I
23 must have called back to CID and said, "Did you know who's
24 involved with John MacDonald?" I'm assuming that that's
25 what I did because I don't recall having -- I don't recall

1 having prior knowledge, although Mr. -- Mr. Chisholm was
2 involved with several different victims and was featured in
3 some media articles promoting the causes of different -- of
4 different victims, but this is pretty early on in the -- in
5 the investigation. This is in 1995.

6 **MR. ENGELMANN:** Yes.

7 **MR. DEROCHIE:** And so I don't ---

8 **MR. ENGELMANN:** This is shortly after John
9 MacDonald's return from out west.

10 **MR. DEROCHIE:** From out west, yes.

11 **MR. ENGELMANN:** Yeah.

12 **MR. DEROCHIE:** And then there was a -- the
13 OPP were doing their investigation at that time, as I
14 recall.

15 **MR. ENGELMANN:** All right. But would there
16 have been any reason for you to know before Mr. Chisholm
17 and Mr. MacDonald came in, that your colleague, Mr. Bough,
18 was actually investigating this?

19 **MR. DEROCHIE:** Was there any reason I should
20 know? Not that I recall. It must have been information
21 that I received that day when they came in.

22 **MR. ENGELMANN:** That's what I'm a little
23 confused about. If you're saying, "I wouldn't have taken a
24 statement because someone else was investigating it", you
25 wouldn't have known that someone else was investigating ---

1 **MR. DEROCHIE:** No, but I would have ---

2 **MR. ENGELMANN:** --- until the time of;
3 right?

4 **MR. DEROCHIE:** Well, when they came in, I
5 would have made inquiries as to who's dealing with this
6 file.

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

8 **MR. DEROCHIE:** Somebody obviously told me
9 that it was -- it was David Bough.

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

11 **MR. DEROCHIE:** And that he wasn't available
12 because he was taking a statement.

13 **MR. ENGELMANN:** He wasn't available right
14 then?

15 **THE COMMISSIONER:** Because he was taking a
16 statement from a victim?

17 **MR. DEROCHIE:** From a different victim.

18 **MR. ENGELMANN:** Yeah, okay.

19 **MR. DEROCHIE:** He was in the station but he
20 wasn't available to come and see them right away.

21 **THE COMMISSIONER:** No, I think I read in one
22 of your notes that he was speaking to a victim?

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** All right. So he wasn't
25 available right when they came in?

1 **MR. DEROCHIE:** Right this very minute, no.

2 **MR. ENGELMANN:** All right.

3 **MR. DEROCHIE:** You know, and I don't recall
4 -- I don't recall John MacDonald having a problem with this
5 when we were -- when we were talking. You know, he seemed
6 to be going along with whatever it was Carson was doing --
7 or saying, rather.

8 **MR. ENGELMANN:** He was quiet during ---

9 **MR. DEROCHIE:** He was very quiet, yes.

10 **MR. ENGELMANN:** And you just, right now,
11 can't remember whether a statement was offered or not but
12 you remember that they wanted a charge laid?

13 **MR. DEROCHIE:** They wanted the charge laid
14 now.

15 I'm not going to -- I'm not going to say
16 definitely that there was no statement. I just -- if there
17 was a statement, I don't know why I wouldn't have just
18 taken it. I would have, you know.

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

20 I want to ask you then about another contact
21 you may have had, this time with a fellow who identified
22 himself as Mr. Bourgeois?

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

24 **MR. ENGELMANN:** Do you remember getting a
25 call from him?

1 **MR. DEROCHIE:** Most definitely.

2 **MR. ENGELMANN:** Okay. And I'm just going to
3 find your notes, Staff Sergeant Derochie, about this call.
4 Document Number 727855.

5 **THE COMMISSIONER:** Thank you.

6 Exhibit Number 1309 is a typed document
7 dated the 17th of October, 1996 and signed by Mr. Derochie.

8 **MR. ENGELMANN:** I'm sorry, sir, that was 13

9 ---

10 **MR. DEROCHIE:** Zero-nine (09).

11 **THE COMMISSIONER:** Thirteen-o-nine (1309),
12 sorry.

13 --- **EXHIBIT NO./PIÈCE NO. P-1309:**

14 (727855) Notes of Garry Derochie - October
15 17, 1996

16 **MR. ENGELMANN:** There's also a handwritten
17 note ---

18 **MR. DEROCHIE:** There will be a -- there is a
19 handwritten version of this.

20 **MR. ENGELMANN:** Document 727856.

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

22 **THE COMMISSIONER:** Sorry, this is
23 Exhibit 1310, allegations made by Constable P. Dunlop.

24 **MR. ENGELMANN:** I'm sorry?

25 **MR. DEROCHIE:** That's not it.

1 **MR. ENGELMANN:** I may not have identified
2 the handwritten note, sir. It's document 727856.

3 **THE COMMISSIONER:** Eight-five-six (856) not
4 866.

5 All right; so we'll put this back.

6 **MR. ENGELMANN:** It's fine; we'll just go
7 with the typewritten version. I don't think I identified
8 the handwritten version. There's a very slight change on
9 it ---

10 **THE COMMISSIONER:** Okay.

11 **MR. ENGELMANN:** --- which is not
12 significant. All right.

13 Mr. Derochie -- Staff Sergeant Derochie, you
14 would have first taken a handwritten note and then it would
15 have been transcribed.

16 **MR. DEROCHIE:** M'hm, that's correct.

17 **MR. ENGELMANN:** --- into typewritten form?

18 **MR. DEROCHIE:** Yes, I did that.

19 **MR. ENGELMANN:** All right. And then you
20 would have signed the typewritten statement?

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** So, give us this -- do you
23 have some independent recollection of this particular phone
24 call?

25 **MR. DEROCHIE:** Yes, I do.

1 **MR. ENGELMANN:** Why is that?

2 **MR. DEROCHIE:** It was rather unusual
3 telephone call.

4 **MR. ENGELMANN:** All right. And why do you
5 say that?

6 **MR. DEROCHIE:** Only because of the subject
7 matter of it. He -- this gentleman called me and indicated
8 that he wanted to talk to me about -- he wanted to depose
9 me, I guess, for want of a better word. He wanted to
10 interview me, with regards to my involvement in the whole -
11 - what had become known as the whole Project Truth matter.
12 And that would have been Perry Dunlop's involvement.

13 And he made some inflammatory comments about
14 the fact that members of the Service had participated in a
15 cover-up. And he wanted to interview me and I indicated to
16 him that I'd be willing to do that, but I wanted to consult
17 my supervisors, plus I would be looking to go and speak
18 with him, with a lawyer present.

19 **MR. ENGELMANN:** All right. Did he indicate
20 to you -- I think this is just -- I think there's a bit
21 before Project Truth, now.

22 **MR. DEROCHIE:** Yes, and ---

23 **MR. ENGELMANN:** This is the following six --
24 -

25 **MR. DEROCHIE:** Yes, I apologize. I have a

1 way of lumping everything that started from 1992 as Project
2 Truth but you're quite right.

3 MR. ENGELMANN: All right.

4 MR. DEROCHIE: It was before the actual
5 project was started, and named.

6 MR. ENGELMANN: But -- sorry. It ---

7 MR. DEROCHIE: And -- I'm sorry.

8 MR. ENGELMANN: No. Yeah, go ahead.

9 MR. DEROCHIE: I had finished. You ---

10 MR. ENGELMANN: All right. It's at a time
11 when Mr. Dunlop's off on leave?

12 MR. DEROCHIE: Yes.

13 MR. ENGELMANN: And does the fellow who
14 calls identify himself as Mr. Dunlop's lawyer?

15 MR. DEROCHIE: That's right; he does.

16 MR. ENGELMANN: All right. And you said
17 that you thought he wanted to depose you?

18 MR. DEROCHIE: Yes.

19 MR. ENGELMANN: Did he indicate to you that
20 he had filed, or was about to file a lawsuit against the
21 service?

22 MR. DEROCHIE: I believe I would have known
23 that at the time; but ---

24 MR. ENGELMANN: I think there was a notice
25 of action, or a notice of intended action that had been

1 filed in June of that year.

2 MR. DEROCHIE: Yeah, so I would have had
3 knowledge of that, I think.

4 MR. ENGELMANN: Okay. Corrected; it may
5 have been a statement of claim? I wasn't intimately
6 involved in that action; I'm sure some of my colleagues
7 were.

8 But in any event, he's calling you in the
9 fall?

10 MR. DEROCHIE: Yes.

11 MR. ENGELMANN: And he's wanting to
12 interview you.

13 MR. DEROCHIE: He wanted -- yeah, he wanted
14 the statement from me.

15 MR. ENGELMANN: All right. And the call was
16 unusual for what reasons?

17 MR. DEROCHIE: Well, when I told him that I
18 wasn't prepared to meet him until I consulted with others,
19 he became quite hostile. I mean, he really just blew up at
20 me and started making allegations; telling me that I don't
21 work for Chief Shaver, I work for the people, and if Chief
22 Shaver covered this up, I'm duty-bound to help him uncover
23 this thing.

24 And I just didn't -- honestly, I didn't
25 believe I was talking to a lawyer. I thought Carson was

1 playing with me, as it were.

2 And -- my apologies to Mr. Carson.

3 **THE COMMISSIONER:** He's right there.

4 **MR. DEROCHIE:** I'm sorry? Oh, my apologies
5 to Mr. Carson.

6 **MR. ENGELMANN:** Well, you do say in the
7 note:

8 "I don't believe I was talking to a
9 lawyer; tone and mannerism was not too
10 professional. He was way too
11 confrontational and emotional to be a
12 lawyer."

13 **MR. DEROCHIE:** Yes, that's what my opinion
14 was.

15 **MR. ENGELMANN:** And as I understand it,
16 after you indicated that you would be getting counsel, or
17 words to that effect, he finished the conversation by
18 telling you that you would be subpoenaed.

19 **MR. DEROCHIE:** And that we'd have some fun.

20 **MR. ENGELMANN:** And you hung up on him ---

21 **MR. DEROCHIE:** I hung up on him.

22 **MR. ENGELMANN:** --- at that point.

23 All right. Did you have any other contact
24 with an individual who identified himself as Charlie
25 Bourgeois or Mr. Bourgeois, after that?

1 **MR. DEROCHIE:** No.

2 **MR. ENGELMANN:** Now, I understand that in
3 the fall of 1997, you were asked by Deputy Chief Joe St-
4 Denis to look into an investigation of allegations of
5 misconduct against Constable Dunlop. Do you recall this,
6 sir?

7 **MR. DEROCHIE:** Which one would that be, I'm
8 sorry? Fall of '97?

9 **MR. ENGELMANN:** Document number 728658.

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **THE COMMISSIONER:** Thank you. This is
12 Exhibit 1310, which is internal correspondence to Staff
13 Sergeant Derochie from Deputy Chief St-Denis.

14 **--- EXHIBIT NO./PIÈCE No. P-1310:**

15 (728658) Internal Correspondence from
16 Deputy Chief St-Denis to Staff Sergeant
17 Garry Derochie - 12 Nov 97

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **THE COMMISSIONER:** Okay.

20 **MR. ENGELMANN:** Staff Sergeant Derochie,
21 maybe I'll show you a couple of other documents as well,
22 before I ---

23 **MR. DEROCHIE:** Please do.

24 **MR. ENGELMANN:** --- ask you anything
25 further, if that will help refresh you memory.

1 Document 728659.

2 (SHORT PAUSE/COURTE PAUSE)

3 THE COMMISSIONER: Thank you.

4 Exhibit 1311 is internal correspondence to
5 Deputy Chief St-Denis from Chief A. Repa dated November
6 11th, 1997.

7 --- EXHIBIT NO./PIÈCE No. P-1311:

8 (728659) Internal Correspondence from Chief
9 A. Repa to Deputy Chief St-Denis - 11 Nov 97

10 MR. ENGELMANN: And again, sir -- to help
11 refresh your memory, Document 728660. It's a letter dated
12 October 29th 1997, which I think starts this investigation
13 into an allegation of misconduct.

14 THE COMMISSIONER: Thank you.

15 Exhibit Number 1312, a letter from the
16 Cornwall Police Services Board from Ronald Wilson to Chief
17 Anthony Repa, dated October 29th 1997.

18 --- EXHIBIT NO./PIÈCE No. P-1312:

19 (728660) Letter from Ronald Wilson to Chief
20 A. Repa - 29 Oct 97

21 (SHORT PAUSE/COURTE PAUSE)

22 MR. ENGELMANN: Sir, are these related to
23 the same incident as far as you know?

24 MR. DEROCHIE: I believe they are.

25 MR. ENGELMANN: Well, you then issue a

1 report and let's just perhaps go to one more document,
2 728657.

3 **THE COMMISSIONER:** Thank you.

4 Exhibit 1313 is internal correspondence to
5 Deputy Chief St-Denis from Staff Sergeant Derochie, dated
6 December 12th, 1997.

7 **---EXHIBIT NO./PIÈCE NO. P-1313:**

8 (728657) Internal Correspondence from Garry
9 Derochie to Deputy Chief St-Denis - December
10 12, 1997

11 **MR. DEROCHIE:** The reason I was a little bit
12 confused was the whole idea of the uniform cruiser and the
13 uniform going up to Ottawa. I didn't -- I don't recall
14 that being an issue.

15 **MR. ENGELMANN:** Yeah, I was surprised by
16 that too but -- is that one and the same?

17 **MR. DEROCHIE:** Well, the -- obviously the
18 second part of it. My response to the incident involving
19 the PA system appears to be mentioned here as well.

20 **MR. ENGELMANN:** So there are two issues,
21 sir, being alleged?

22 **MR. DEROCHIE:** Yes, there certainly appears
23 to be two issues here.

24 **MR. ENGELMANN:** All right. And I understand
25 one of them and perhaps the principal one is an allegation

1 that Constable Dunlop inappropriately used the public --
2 the announcement system, PA system, in the Cornwall Police
3 Service?

4 **MR. DEROCHIE:** That was the allegation, yes.

5 **MR. ENGELMANN:** Right. And that was an
6 allegation made by a member of the Police Services Board?

7 **MR. DEROCHIE:** It would appear to me and as
8 I recall the allegation was passed on to the member of the
9 Police Services Board from someone within the organization,
10 within the service on the -- I would presume, who had
11 either first- or second-hand knowledge of the incident.

12 **MR. ENGELMANN:** All right. And the person
13 who then filed the letter that we looked at ---

14 **MR. DEROCHIE:** It's Ron Wilson who was a
15 member of the Police Services Board.

16 **MR. ENGELMANN:** And that is not the Ron
17 Wilson who is with the OPP?

18 **MR. DEROCHIE:** No, no, it's a different Ron
19 Wilson.

20 **MR. ENGELMANN:** This is the Ron Wilson who
21 runs the funeral home?

22 **MR. DEROCHIE:** That's correct. He had been
23 a member of our police service years ago.

24 **MR. ENGELMANN:** All right. And when he was
25 -- was he a member at the time of this letter? Yes.

1 **MR. DEROCHIE:** He was a member of the Police
2 Services Board.

3 **MR. ENGELMANN:** Right, but he was -- he had
4 been a member of the police service before that?

5 **THE COMMISSIONER:** Served as a police
6 officer, he was a police officer.

7 **MR. DEROCHIE:** Police officer, he was, yes.

8 **THE COMMISSIONER:** And now he is on the
9 board.

10 **MR. ENGELMANN:** And he is filing a complaint
11 with the then Chief?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** And the Chief tasked you --
14 or tasked the Deputy Chief to have this looked into?

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** And, in fact, asks him to
17 have you investigate this?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** And do you know why you were
20 asked to do this, sir?

21 **MR. DEROCHIE:** I -- well, two possible
22 reasons.

23 I was in professional standards at the time
24 and I'm not sure of that. I'd have to check my diary dates
25 and, secondly, the fact that I had dealt with Perry on

1 other issues. That's the only thing I can ---

2 MR. ENGELMANN: All right.

3 MR. DEROCHIE: It may well have been that I
4 was in professional standards.

5 MR. ENGELMANN: Now, the report that you
6 issue which is dated December 12th, 1997, Exhibit 1313, does
7 it deal with the uniform issue as well or is it ---

8 MR. DEROCHIE: No.

9 MR. ENGELMANN: --- only the PA?

10 MR. DEROCHIE: No, I remember having a
11 conversation with the Deputy Chief and subsequently I
12 believe with Perry, with regards to it wasn't appropriate
13 given that he didn't have a duty belt that he shouldn't go
14 to court in uniform, that he should go in civilian clothes.

15 But I -- clearly, I don't -- I don't recall
16 it being a formal-type complaint. I thought it was just an
17 issue we were dealing with -- that where the Deputy called
18 me and asked my opinion of, you know.

19 MR. ENGELMANN: All right. So you didn't
20 treat that as an allegation of misconduct?

21 MR. DEROCHIE: No, I didn't think Perry did
22 anything terribly wrong.

23 MR. ENGELMANN: All right. On the other
24 matter, the inappropriate -- the allegation of
25 inappropriately using the PA system, did you come to some

1 conclusions about whether or not this happened?

2 MR. DEROCHIE: I concluded that it most
3 likely did happen given the -- given my conversation with
4 Staff Sergeant Lortie.

5 MR. ENGELMANN: Okay.

6 MR. DEROCHIE: And my subsequent
7 conversation with Perry when he wouldn't give me a direct
8 response.

9 MR. ENGELMANN: That's the reference at the
10 top of page 4:

11 "The writer has concluded, based on
12 Constable Dunlop's evasiveness, that an
13 announcement to the effect of Mr.
14 Wilson's allegation was most likely
15 made."

16 MR. DEROCHIE: Yes.

17 MR. ENGELMANN: You didn't have evidence he
18 actually did it, that was what you surmised?

19 MR. DEROCHIE: Yes. My recommendation was
20 we don't investigate this. I don't want to investigate
21 this.

22 MR. ENGELMANN: All right. And what was
23 your -- your recommendation was not to investigate. Was
24 there also a recommendation about what, if any, action to
25 take?

1 **MR. DEROCHIE:** Well, I was -- yes, I was of
2 the opinion that -- I noticed that Sergeant Lortie had
3 dealt with it or said he was going to deal with it at the
4 time.

5 **MR. ENGELMANN:** All right. You set out some
6 recommendations on the fourth page of the report?

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

8 **MR. ENGELMANN:** In particular, that
9 Constable Dunlop should be spoken with; be counselled at
10 the time that the service's internal paging system is for
11 official use only?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** And, secondly, you're making
14 a recommendation that your administrative procedure be
15 changed?

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** And that the paging system's
18 for official use only?

19 **MR. DEROCHIE:** Correct.

20 **MR. ENGELMANN:** And were those
21 recommendations accepted by Chief Repa?

22 **MR. DEROCHIE:** Yes, they were.

23 **MR. ENGELMANN:** And was Mr. -- was Constable
24 Dunlop counselled?

25 **MR. DEROCHIE:** I attempted to, but no, he

1 wasn't counselled.

2 **MR. ENGELMANN:** And, again, is that
3 something that requires consent?

4 **MR. DEROCHIE:** Well, I'm just recalling
5 back. There was -- when I approached him, I offered to him
6 just informal counselling. I didn't want to conduct a
7 Police Act investigation and would he just accept informal
8 counselling and I believe it was his suggestion that I
9 should proceed with the investigation.

10 **MR. ENGELMANN:** Oh, that was Constable
11 Dunlop's suggestion?

12 **MR. DEROCHIE:** Yeah, yeah, I believe that
13 that was it, unless I could give him specific dates and
14 times when this happened and that would have required a
15 full investigation.

16 **MR. ENGELMANN:** All right. Just in closing
17 perhaps ---

18 **MR. DEROCHIE:** I didn't want to deal with
19 this issue. I tell you that right now. It's my honest
20 position on it. I didn't want to investigate and I
21 subsequently talked the Chief into it that it shouldn't be
22 dealt with.

23 **MR. ENGELMANN:** All right. And there were
24 concerns about the effect it might have on families
25 involved, things ---

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

2 **MR. ENGELMANN:** --- to that effect?

3 **MR. DEROCHIE:** The comments that were being
4 -- the allegations that were being made, if true, were
5 hateful and would have been hurtful to family members of
6 police -- former police service members.

7 **MR. ENGELMANN:** And, therefore, you just let
8 it go at that?

9 **MR. DEROCHIE:** Yeah, I didn't ---

10 **MR. ENGELMANN:** That was your
11 recommendation?

12 **MR. DEROCHIE:** That was my recommendation.
13 I didn't think it was worth the -- I didn't think it was
14 worth the pain that it would cause to formally counsel
15 Perry on this.

16 **MR. ENGELMANN:** All right. And just ---

17 **MR. DEROCHIE:** Rightly or wrongly, that was
18 ---

19 **MR. ENGELMANN:** I'm sorry?

20 **MR. DEROCHIE:** Rightly or wrongly, that was
21 my recommendation to the Chief.

22 **MR. ENGELMANN:** And just if I can close this
23 with one last document sir. Document 728655.

24 **THE COMMISSIONER:** Thank you.

25 One three one four (1314) is internal

1 correspondence to Deputy Chief St-Denis from Staff Sergeant
2 Derochie, dated February 24th, 1998.

3 --- EXHIBIT NO./PIÈCE NO P-1314:

4 (728655) Internal Correspondence from Garry
5 Derochie to Deputy Chief St-Denis - 24 Feb
6 98

7 MR. ENGELMANN: It does suggest, at least in
8 this note, Staff Sergeant Derochie, that you did speak to
9 Constable Dunlop.

10 MR. DEROCHIE: I did, and he wouldn't -- he
11 wouldn't accept any counselling or -- you know, I was left
12 with a situation, "Well, don't let it happen again," if you
13 want to call that type of -- that counselling, then that
14 would have been the extent of the counselling.

15 MR. ENGELMANN: So when you say:

16 "Constable Dunlop was spoken to by
17 myself and there remains no outstanding
18 issues."

19 MR. DEROCHIE: That's right.

20 MR. ENGELMANN: That's the kind of speaking
21 to ---

22 MR. DEROCHIE: That's what I'm thinking.
23 That's what I'm -- I'm referring to.

24 MR. ENGELMANN: Sir, unless you have any
25 questions with respect to that, that's ---

1 **THE COMMISSIONER:** Well, basically what
2 you're telling me is that while you may have spoken to him,
3 to him he said, "But go and investigate it."

4 **MR. DEROCHIE:** Yeah, he remained -- he
5 remained defiant.

6 **THE COMMISSIONER:** Proclaiming his
7 innocence?

8 **MR. DEROCHIE:** No, he never proclaimed his
9 innocence to me.

10 **THE COMMISSIONER:** All right. Then "prove
11 it"?

12 **MR. DEROCHIE:** Pretty much, yeah.

13 **THE COMMISSIONER:** All right.

14 So I guess you brought this to some closure
15 and ---

16 **MR. DEROCHIE:** I did, with the -- I did
17 bring it to closure, yes.

18 **THE COMMISSIONER:** Okay.

19 **MR. ENGELMANN:** All right. So just -- just
20 to wrap up, then, on this, essentially he didn't admit to
21 doing it and he said, "If you want to counsel me, you have
22 to prove the charge."

23 **MR. DEROCHIE:** Exactly.

24 **MR. ENGELMANN:** And you decided not to go
25 there?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** And the Chief agreed?

3 **MR. DEROCHIE:** The Chief agreed.

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

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

6 We'll resume tomorrow morning at 9:30.

7 **MR. DEROCHIE:** Thank you.

8 **THE REGISTRAR:** Order; all rise. À l'ordre;

9 veuillez vous lever.

10 --- Upon adjourning at 4:40 p.m./

11 --- L'audience est ajournée à 16h40

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

I, Marc Demers 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, Marc Demers, 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.



Marc Demers, CVR-CM