

**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 204

Held at :

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

Tuesday, March 4 2008

Tenue à:

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

Mardi, le 4 mars 2008

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Janie Larocque	Commission Counsel
Mr. John E. Callaghan Mr. Mark Crane Mr. Peter Manderville	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. Dallas Lee	Victims Group
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 9:33 a.m./

2 L'audience débute à 9h33

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.

10 Good morning, all. Good morning, Mr.
11 Derochie, how are you doing today?

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

13 **MR. DEROCHIE:** I am well, thank you.

14 **THE COMMISSIONER:** Great. You understand
15 you're still under oath?

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

17 **THE COMMISSIONER:** Thank you.

18 Mr. Engelmann?

19 --- **EXAMINATION IN CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.**
20 **ENGELMANN (Continued/suite):**

21 **MR. ENGELMANN:** Good morning, Mr.
22 Commissioner.

23 **THE COMMISSIONER:** Right. At the outset, I
24 understand there's a storm brewing for tonight and tomorrow
25 morning, so we should keep in touch, everyone, to make sure

1 everybody gets here and what time we'll start if there is a
2 slow down or anything like that.

3 All right. Thank you.

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

5 Good morning, Mr. Derochie.

6 **MR. DEROCHIE:** Good morning, Mr. Engelmann.

7 **MR. ENGELMANN:** Sir, when we left off
8 yesterday, we were at a point-in-time, and this is later on
9 in the '90s now, where you're tasked to look into certain
10 issues that arise with Constable Dunlop?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** And would it be fair to say
13 that this would have happened on several occasions?

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** All right. And the first
16 one I'd like to start with is Constable Dunlop's
17 participation in a CBC radio broadcast.

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** And my understanding is that
20 you were assigned to conduct an internal investigation into
21 possible allegations of misconduct on his part for having
22 participated in this CBC radio program?

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

24 **MR. ENGELMANN:** And I'd like to take you to
25 -- it's Document Number 729936.

1 Mr. Commissioner, the document is entitled
2 "Internal Correspondence". It's a memo from Staff Sergeant
3 Garry Derochie to then Chief Anthony Repa.

4 If that might be the next exhibit, please?

5 **THE COMMISSIONER:** Exhibit 1315. Thank you.

6 **---EXHIBIT NO./PIÈCE NO. P-1315:**

7 (729936) Internal Correspondence from Staff
8 Sgt. Garry Derochie to Chief A. Repa - March
9 9, 1999

10 **MR. DEROCHIE:** Yes, sir.

11 **MR. ENGELMANN:** Now, Staff Sergeant
12 Derochie, at this point-in-time you are the Professional
13 Standards officer?

14 **MR. DEROCHIE:** Yes, I am.

15 **MR. ENGELMANN:** Is that why you're assigned
16 to this or do you recall?

17 **MR. DEROCHIE:** I would have been assigned
18 because of my involvement with professional standards.
19 Inspector Trew was the liaison officer between the OPP and
20 ourselves with regards to Project Truth investigations, so
21 he had occasions also to deal with Constable Dunlop.

22 **MR. ENGELMANN:** All right. And there were
23 issues -- there were prosecutions ongoing at this time?

24 **MR. DEROCHIE:** There was.

25 **MR. ENGELMANN:** As a result of the

1 investigations by OPP Project Truth officers?

2 MR. DEROCHIE: That's correct.

3 MR. ENGELMANN: And you said Inspector Trew
4 was a liaison ---

5 MR. DEROCHIE: He was.

6 MR. ENGELMANN: --- between the CPS and the
7 OPP?

8 MR. DEROCHIE: That's correct.

9 MR. ENGELMANN: And was Constable Dunlop
10 involved in some of those cases?

11 MR. DEROCHIE: Yes, he was. He had contact
12 with certain victims involved in those cases.

13 MR. ENGELMANN: And so from time-to-time, he
14 was appearing at either a preliminary inquiry or a trial as
15 a witness?

16 MR. DEROCHIE: I don't know if exactly at
17 this time -- he would have been at the preliminary
18 hearings, yes, there would have been preliminary hearings
19 by this time.

20 MR. ENGELMANN: Okay. And this particular
21 issue that you're being assigned to here though, it says in
22 the caption "Possible Breach of Directive Number 59". Do
23 you see that?

24 MR. DEROCHIE: Yes.

25 MR. ENGELMANN: Can you just give us a sense

1 as to what Directive Number 59 was?

2 MR. DEROCHIE: Directive 59 is the in-house
3 policy that deals with our relationship with the media and
4 how media releases and information is passed on to the
5 media.

6 MR. ENGELMANN: All right. And who is
7 subject to this directive?

8 MR. DEROCHIE: All members of the Cornwall
9 Police Service.

10 MR. ENGELMANN: And are there certain
11 designated members that are entitled to talk to the press?

12 MR. DEROCHIE: Yes, there are. We have a
13 media relations person who, during the normal course of
14 things, would actually do the media releases.

15 MR. ENGELMANN: All right. And if other
16 officers are going to talk to the press, is there a
17 protocol that one has to follow?

18 MR. DEROCHIE: Yes, it would have to be
19 prearranged.

20 MR. ENGELMANN: All right. In this
21 particular case, were you aware if anything had been
22 prearranged by Constable Dunlop with the CPS?

23 MR. DEROCHIE: No.

24 MR. ENGELMANN: All right.

25 MR. DEROCHIE: To the contrary, he had been

1 issued an order prior to this not to ---

2 MR. ENGELMANN: All right.

3 MR. DEROCHIE: --- communicate.

4 MR. ENGELMANN: And this was an order over
5 and above Directive 59?

6 MR. DEROCHIE: That's correct.

7 MR. ENGELMANN: And why was the specific
8 order given to Constable Dunlop?

9 MR. DEROCHIE: There was concerns previously
10 that he had been making comments to the media with regards
11 to the ongoing investigations.

12 I would not have known about those instances
13 at the time but became aware of them subsequently.

14 MR. ENGELMANN: I'm wondering if the witness
15 could be shown Document Number 727867.

16 THE COMMISSIONER: Thank you.

17 Exhibit Number 1316, are what? This
18 officer's notes with respect to this matter?

19 MR. ENGELMANN: They are.

20 MR. DEROCHIE: Yes, my notes.

21 THE COMMISSIONER: All right. Thank you.

22 ---EXHIBIT NO./PIÈCE NO. P-1316:

23 (727867) Notes of Garry Derochie - January
24 19, 1999 to March 10, 1999

25 MR. ENGELMANN: I'll be just one moment,

1 sir.

2 (SHORT PAUSE/COURTE PAUSE)

3 MR. ENGELMANN: Sir, in the -- just in the
4 directive, the memo from Chief Repa, he sets out some
5 background on the first page?

6 MR. DEROCHIE: Are we talking about 1315?

7 MR. ENGELMANN: That's correct.

8 MR. DEROCHIE: This is my memo to Chief
9 Repa.

10 MR. ENGELMANN: Oh, I'm sorry. I'm sorry.
11 This is your report?

12 MR. DEROCHIE: This is my report ---

13 MR. ENGELMANN: Yes.

14 MR. DEROCHIE: --- to Chief Repa.

15 MR. ENGELMANN: Yes. In the report, you set
16 up some background in the second paragraph.

17 MR. DEROCHIE: Yes, I do.

18 MR. ENGELMANN: All right. And you talk
19 about some previous contact with the media by Constable
20 Dunlop?

21 MR. DEROCHIE: That's correct.

22 MR. ENGELMANN: And at the bottom of the
23 page, you set out what you're tasked to do?

24 MR. DEROCHIE: Yes.

25 MR. ENGELMANN: Can you explain for us what

1 a chief's complaint form is?

2 **MR. DEROCHIE:** A Chief's ---

3 **MR. ENGELMANN:** It is saying you're asking
4 whether there is sufficient evidence to require one.

5 **MR. DEROCHIE:** Yes, sir. There are a number
6 of ways that we can become involved in an investigation
7 involving misconduct by the police. One is obviously
8 through a public complaint; a complaint made by a member of
9 the public.

10 And there is provision in the Act that the
11 chief can also make a complaint about the conduct of a
12 police officer if he becomes aware of misconduct or the
13 possibility of misconduct. Independent of a complainant,
14 he is free to cause an investigation to be done and, if
15 warranted, a chief's complaint signed under the *Police*
16 *Services Act*.

17 When I'm doing an internal review for the
18 Chief of Police, it's normally to give him the facts in
19 order for him to determine whether or not there should be a
20 chief's complaint filed.

21 **MR. ENGELMANN:** All right. So that's a
22 complaint that would then be initiated by the chief if
23 there was sufficient evidence?

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

25 **MR. ENGELMANN:** And my understanding with

1 respect to the previous order that you referenced, this is
2 an order specific to Constable Dunlop ---

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** --- that this arose in or
5 around 1997.

6 **MR. DEROCHIE:** That was my understanding,
7 yes.

8 **MR. ENGELMANN:** And in the second paragraph
9 of your report, the first page ---

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** --- you say:

12 "In August of 1997 the OPP contacted
13 the Service and complained that
14 Constable Dunlop's practice of
15 informing the media of some particulars
16 of their investigation had the
17 potential of doing harm to their case."

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

19 **MR. ENGELMANN:** And were you personally
20 involved, sir, in those communications?

21 **MR. DEROCHIE:** No, I don't recall any of
22 that.

23 **MR. ENGELMANN:** Who was involved?

24 **MR. DEROCHIE:** It would have been Inspector
25 Trew on our side and Detective Inspector Pat Hall or Tim

1 Smith. Pat Hall would have been a Detective Staff Sergeant
2 at that particular time I believe. Tim Smith was a lead
3 investigator. He was a Detective Inspector for the OPP.

4 **MR. ENGELMANN:** So as a result of those
5 concerns being expressed by the OPP your service issued a
6 written order or directive to Constable Dunlop in the
7 summer of 1997?

8 **MR. DEROCHIE:** That's correct. And that
9 written order was a follow-up to a verbal order or
10 instructions that had been issued to Mr. Dunlop prior to
11 that.

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

13 Now, the issue and what was allegedly said
14 by Constable Dunlop on this radio show -- if you want to
15 just take a look at your notes, sir -- that's 1316 -- and
16 in particular the bottom of the first page or the bottom of
17 the second page. What is it that was allegedly said that
18 was of concern?

19 **MR. DEROCHIE:** He indicated that -- if
20 you're referring to what's alleged on the second page, is
21 with regards to the gag order and the fact that he was not
22 receiving backup. Is that what you're referring to?

23 **MR. ENGELMANN:** Yes.

24 **MR. DEROCHIE:** Yeah, he made two allegations
25 in the -- well, he stated two facts, as he saw them, in the

1 interview. One was that he was subject to a gag order. I
2 guess which would be -- I speculate, which would have been
3 a combination of the order issued by Inspector Trew and the
4 policy in place at the time. And that he wasn't getting
5 backup or other officers were slow to respond when he asked
6 for backup in his duties as a patrol officer.

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

8 Would you agree that in effect he was
9 subject to a form of a gag order?

10 **MR. DEROCHIE:** In as much as we all were,
11 yes.

12 **MR. ENGELMANN:** Okay. And this concern
13 about not getting backup, was that a concern of yours, sir?

14 **MR. DEROCHIE:** Oh, yes, it was. That's a
15 legitimate -- that would be a very serious concern that I
16 would have, because it not only affects him, obviously it
17 affects his ability to do his duties, which affects the
18 quality of policing that we provide on that specific shift,
19 as it were.

20 **MR. ENGELMANN:** Do you know if that concern
21 had been raised internally before it had been raised on the
22 radio?

23 **MR. DEROCHIE:** No, this is the first we
24 heard of it.

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

1 Now, there's some people described on the
2 first page of your notes, a fellow by the name of Paquin.

3 **MR. DEROCHIE:** Mr. Blake Paquin.

4 **MR. ENGELMANN:** Yeah.

5 **MR. DEROCHIE:** Yes, he's our media relations
6 officer.

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

8 And the meeting that is referenced on
9 January 19th, '99 of your notes, can you tell us what
10 prompted that meeting?

11 **MR. DEROCHIE:** The meeting ---

12 **MR. ENGELMANN:** This is the meeting with
13 Paquin, yourself and Trew.

14 **MR. DEROCHIE:** Well Mr. MacEachern, who was
15 a reporter for the Standard Freeholder had approached Mr.
16 Paquin with a tape recording of the radio program, CBC
17 radio program "Whistleblowers" and had wanted comment with
18 regards to the statements made by Mr. Dunlop. He had
19 started playing this tape and subsequently the tape had
20 malfunctioned. But I believe he had a transcript of the
21 tape with him or of the story with him and ---

22 **MR. ENGELMANN:** So this reporter from the
23 Freeholder would have provided you with a transcript of
24 that interview?

25 **MR. DEROCHIE:** I believe he did, yes.

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

2 And did you either listen to the radio
3 broadcast and/or read the transcript of the radio show?

4 **MR. DEROCHIE:** I read the transcript and
5 subsequently I ordered a copy of the tape from the CBC and
6 in fact read that transcript that they provided.

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

8 And after reading the transcript did you
9 have some impression about what Mr. Dunlop had said?

10 **MR. DEROCHIE:** Yes, I thought there was
11 reasons to be concerned, that he had made comments that
12 certainly were in contravention or appeared to be in
13 contravention of the policy and the order issued by
14 Inspector Trew.

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

16 And are those set out at the bottom of the
17 second page of your notes?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** Under the reference to
20 January 25th, 1999? It says page 2 at the top right, sir.
21 And this is --I'm in Exhibit 1316.

22 **MR. DEROCHIE:** Yes, okay. Yes, there were a
23 couple of portions that spoke directly to the criminal
24 cases that I believed or I thought at the time were before
25 the courts.

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

2 So what was the actual concern?

3 **MR. DEROCHIE:** He was commenting on the
4 statement of the victim and was giving his opinion with
5 regards to the statement's credibility and content.

6 **MR. ENGELMANN:** And was this victim's case
7 before the criminal courts at that time?

8 **MR. DEROCHIE:** I believe it was.

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

10 And ---

11 **THE COMMISSIONER:** I'm sorry; the fact that
12 he said he was under a gag order and he was lacking backup,
13 that isn't a breach of that order, is it?

14 **MR. DEROCHIE:** It is technically a breach.
15 He shouldn't be commenting to the media with regards to his
16 duties as a police officer. The policy directs that that
17 should be done in a very specific way.

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

19 **MR. DEROCHIE:** That wouldn't have been the
20 greatest of our concerns, as it were.

21 **THE COMMISSIONER:** Okay. So basically the
22 greatest of your concern was that he mentioned the victim's
23 statement ---

24 **MR. DEROCHIE:** Yes.

25 **THE COMMISSIONER:** --- which in all

1 likelihood would be evidence in the criminal proceedings?

2 **MR. DEROCHIE:** Yes.

3 **THE COMMISSIONER:** Okay.

4 **MR. DEROCHIE:** I think it's a general
5 feeling in our policing, in our system, the Canadian
6 policing, is that we don't discuss any aspects of the case
7 in the media, or at least we're very, very guarded in doing
8 that. Unlike maybe the American system where you get -- an
9 awful lot of times you'll get anonymous sources commenting
10 about the quality and the amount of evidence. We tend to
11 frown on that.

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

13 What are some of the concerns if the case is
14 ongoing, sir?

15 **MR. DEROCHIE:** Well, you don't want the case
16 tried in public. You want the finder of facts to be the
17 first to hear the evidence. And it should be
18 uncontaminated at that time.

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

20 And you make a reference, sir, to -- and I
21 believe it's the written order that Constable Dunlop had
22 received back in August 7th on the third page of your notes,
23 right at the top.

24 **MR. DEROCHIE:** Yes.

25 **MR. ENGELMANN:** And, again, the concern

1 appears to be there about possibly jeopardizing a criminal
2 investigation.

3 **MR. DEROCHIE:** That's correct. The OPP had
4 advanced those concerns to us and we agreed that they were
5 legitimate concerns and that Perry should not do this.

6 **MR. ENGELMANN:** And just getting back to the
7 question a moment ago then, so the issue about a gag order
8 or improper backup that's not going to jeopardize or affect
9 the case ---

10 **MR. DEROCHIE:** No.

11 **MR. ENGELMANN:** --- it's the concern about
12 commenting on the victim's statement?

13 **MR. DEROCHIE:** No, certainly the comments
14 about not getting backup had ramifications that we couldn't
15 ignore and that had to be investigated or looked at.

16 **MR. ENGELMANN:** And, sir, you come to some
17 conclusions or findings that you set out in your notes on
18 page 4. Is that correct?

19 **MR. DEROCHIE:** Yes.

20 **MR. ENGELMANN:** Can you tell us what those
21 were?

22 **MR. DEROCHIE:** Yes, that he may well have
23 breached the order given to him on August the 7th; that he
24 most likely may have breached the direction provided in our
25 Directive Number 59, and he may have harmed the criminal

1 prosecutions and in fact he may be -- he may well be in
2 contempt of court. I stand to be corrected on that but
3 that was my thoughts at the time.

4 **MR. ENGELMANN:** What was the issue about
5 contempt of court?

6 **MR. DEROCHIE:** Well the whole idea that he
7 would comment on stuff that was before the courts. I
8 didn't think the courts would look favourably on that and
9 they might take offence to that.

10 **MR. ENGELMANN:** Did you make some
11 recommendations to the Chief as a result of those findings?

12 **MR. DEROCHIE:** At the end of the day?

13 **MR. ENGELMANN:** Yes.

14 **MR. DEROCHIE:** Yes, I did.

15 **MR. ENGELMANN:** And do we see those set out
16 at the bottom of page 4 and the top of page 5 of your
17 notes?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** And can you give us a sense
20 as to what those recommendations were?

21 **MR. DEROCHIE:** Well, we had to do a little
22 bit more digging on this, and that I recommended that
23 Inspector Trew and myself meet with the OPP and discuss
24 what impact this may have had on their investigation, and
25 that I should obtain a copy of the tape in question or at

1 least a transcript of the tape from the source in order to
2 determine the facts, and that we interview Dunlop with
3 regards to his allegations concerning the lack of proper
4 backup.

5 **MR. ENGELMANN:** All right. Did the Chief at
6 the time agree with those recommendations?

7 **MR. DEROCHIE:** Yes, he did.

8 **MR. ENGELMANN:** And did you end up meeting
9 with Inspectors Smith and Hall from the OPP?

10 **MR. DEROCHIE:** Yes, we did subsequently on
11 January the 28th.

12 **MR. ENGELMANN:** And is that what is
13 referenced at the bottom of page 5 of your notes and onto
14 page 6?

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

16 **MR. ENGELMANN:** Can you give us a sense as
17 to what was discussed at that time?

18 **MR. DEROCHIE:** Yes. I was concerned that
19 there may have been something in the transcript of the CBC
20 program that may have affected their investigation or may
21 have impacted their investigation.

22 Subsequently, they indicated that they
23 didn't have those concerns, that there was nothing said in
24 the transcript that would have, in their view, harmed the
25 investigation.

1 **MR. ENGELMANN:** Did they say anything else
2 to you at that time concerning this issue?

3 **MR. DEROCHIE:** They also -- Inspector -- or
4 Staff Sergeant Hall rather -- provided me with a notice of
5 a meeting that was going to be held in Smiths Falls, or had
6 been held in Smiths Falls, on January the 21st of 1999, and
7 he also provided some notes from a -- I believe at the same
8 time, of a police officer who had actually been at that
9 meeting.

10 That particular information meeting, Perry
11 did not address the audience. Helen Dunlop addressed the
12 audience and just mentioned that he was subject to a gag
13 order and couldn't talk.

14 **MR. ENGELMANN:** Now, you referenced in your
15 report at Exhibit 1315, it's page 3 of 5, right at the top
16 of the page; Bates page 7118677.

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** And while you were looking
19 into this matter, you came across two new possible
20 breaches?

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** What were you referring to
23 there, sir?

24 **MR. DEROCHIE:** I was referring to a feature
25 article in the March '99 issue of Maclean's Magazine and

1 the title of that article, "Would You Blow a Whistle on Sex
2 Abuse?"

3 MR. ENGELMANN: Right. That was in
4 Chatelaine Magazine?

5 MR. DEROCHIE: That's correct.

6 MR. ENGELMANN: All right.

7 MR. DEROCHIE: And the other one was a
8 television interview that aired on Tuesday, February the
9 9th, 1999 on the CBC Newsworld where Mr. Morris, who was
10 representing Mr. Dunlop at that time, and Perry and Helen
11 appeared on the Pamela Wallin show.

12 MR. ENGELMANN: How did you become aware of
13 these two new issues?

14 MR. DEROCHIE: One of them was brought to my
15 attention, I believe, by the Chief of Police who called me
16 at home and said that he had been -- he had received
17 information that I should watch this particular program.

18 And the Chatelaine Magazine issue, I don't
19 recall offhand, unless it's in my notes how I came to know
20 of them, but they are around the same time.

21 MR. ENGELMANN: All right. The reference to
22 the CBC interview and a call from the Chief, that's at page
23 8 of your notes I believe, 7111649?

24 MR. DEROCHIE: That's correct. Yes.

25 MR. ENGELMANN: Now, were you tasked to

1 investigate whether or not those two interviews in any way
2 breached Directive 59 or the order from August of '97?

3 **MR. DEROCHIE:** It's my sense that I would
4 include it in the investigation I was doing of the radio
5 broadcast. I don't know if that was formally detailed to
6 me, but I recognized it as something that was similar to
7 what I was dealing with and should be dealt with.

8 **MR. ENGELMANN:** And, in fact, sir, if you
9 look at your report, there's a reference to these two
10 issues, as we've been looking at, at the third page of your
11 report and then you again make some reference in your
12 recommendations at the bottom of page 4?

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

14 **MR. ENGELMANN:** Can you just give us a sense
15 as what your recommendation with regards to the discipline
16 issue was in respect of these three media interviews?

17 **MR. DEROCHIE:** My thoughts on it were that
18 we should -- we should speak to Perry one more time and
19 reinforce both the order issued to him by Inspector Trew
20 and the provisions in Directive Number 59 and that we
21 should reinforce once again how important it was that he
22 should abide by these directions.

23 **MR. ENGELMANN:** All right. So just with
24 respect to your final findings, the report is dated March
25 9th, 1999. What did you find with respect to whether or not

1 Constable Dunlop had breached the order of August 7th, '97
2 and Directive 59?

3 **MR. DEROCHIE:** I thought that he had
4 breached both of those -- technically had breached both of
5 those directions.

6 **MR. ENGELMANN:** And what conclusion, if any,
7 did you come to with respect to Constable Dunlop's concerns
8 on the security-safety issue, the proper backup?

9 **MR. DEROCHIE:** As it resulted -- the results
10 of this report was that Inspector Trew was to call Perry
11 into his office and do as I had recommended.

12 The Chief agreed with this course of action
13 and that Perry was to be reminded with regards to the
14 orders and, secondly, we were to canvas him for examples so
15 that we might investigate his allegations that he wasn't
16 receiving proper backup.

17 **MR. ENGELMANN:** Now, you came to the
18 conclusion that there was a breach, but that these matters
19 should not form part of a Chief's Complaint Form?

20 **MR. DEROCHIE:** That was my recommendation to
21 the Chief.

22 **MR. ENGELMANN:** And did the Chief accept
23 that?

24 **MR. DEROCHIE:** He did.

25 **MR. ENGELMANN:** All right. So there was no

1 charge under the *Police Services Act* that arose?

2 **MR. DEROCHIE:** There was none.

3 **MR. ENGELMANN:** All right. And do you
4 discuss why that was your decision in your recommendations
5 in your report?

6 **MR. DEROCHIE:** Yes, I speculate on what may
7 be motivating Mr. Dunlop to -- that we have this rash of
8 media activity at this particular juncture in time.

9 **MR. ENGELMANN:** All right. And did you
10 evaluate the damage, if any, done by these breaches to your
11 service and to cases and keep that in mind in deciding?

12 **MR. DEROCHIE:** Exactly; hat there was no
13 real damage done to the OPP investigation. They were
14 content with that. That although it was a technical breach
15 of the -- our policies and our orders, that there could be
16 consequences to proceeding against Perry Dunlop at this
17 time that would aggravate the situation more so than had
18 been done to date.

19 **MR. ENGELMANN:** Was it also, sir, part of
20 your thinking that standards were changing, they were
21 evolving over time with respect to being able to comment on
22 matters which may be public? I'm referring to -- it's at
23 page 13 of your notes, sir. That's in Exhibit 1316, right
24 in the middle of the page. I just want you to comment on
25 that notation.

1 **MR. DEROCHIE:** On the ---

2 **MR. ENGELMANN:** "He is commenting on matters
3 which are presently before the courts.
4 In the past, this was considered
5 clearly a forbidden area for police
6 officers. By today's standards..."

7 Et cetera.

8 **MR. DEROCHIE:** Yes. I'm sorry, I'm not
9 locating it here. Oh, I'm sorry, yes, I have it now. Yes.
10 "He is commenting on matters which are
11 presently before the courts. In the
12 past, this was considered clearly a
13 forbidden area for police officers. By
14 today's standards, I'm not sure if that
15 he can be held as accountable, or if so
16 is the damage done by proceeding
17 greater than the damage that's actually
18 been done."

19 **MR. ENGELMANN:** All right. I'm not asking
20 you about the advice you received, but did you and/or the
21 Service get some legal advice on these issues at that time?

22 **MR. DEROCHIE:** Yes, we did.

23 **MR. ENGELMANN:** And that's why we see some
24 blacked out areas in these notes, sir?

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

1 **MR. ENGELMANN:** Now, in your report at page
2 4 of Exhibit 1315, I just want to ask you to comment on the
3 paragraph under "Recommendations-Breach of Discipline".

4 It starts:

5 "I have also considered that any actual
6 or apparent disciplinary action..."

7 **MR. DEROCHIE:** Yes. That's what I was
8 referring to in that the fallout from taking action against
9 Dunlop would well, may well, would likely become the focus
10 of national media attention which would, again, deflect the
11 whole -- from what actually was -- was transpiring, what
12 was going on with the Project Truth investigation; it was a
13 distraction that we weren't anxious to get involved in.

14 **MR. ENGELMANN:** So commenting on his
15 commenting in the media would escalate into more media
16 attention?

17 **MR. DEROCHIE:** Exactly, which would -- which
18 is counterproductive to what we were trying to achieve in
19 the meantime -- in the first place. We didn't want this to
20 be dealt with by the media, we wanted it to be dealt with
21 by the courts.

22 **THE COMMISSIONER:** So but it wasn't -- you
23 said "commenting on Mr. Dunlop's comment;" I think the real
24 issue is laying a charge against Constable Dunlop as
25 opposed to ---

1 **MR. ENGELMANN:** Yes.

2 **THE COMMISSIONER:** --- dealing with the
3 media?

4 **MR. DEROCHIE:** Yes, exactly. Had we
5 proceeded with the charge, we would have been -- that would
6 have been the focus of the media attention as opposed to
7 what was going on with the investigations.

8 **MR. ENGELMANN:** Sir, I wanted to ask you
9 about a couple of comments on page 9 of your notes,
10 Exhibit 1316.

11 I just want to ask you a question about a
12 couple of comments you make; one is, "We also discussed" --
13 and I think this is you and the Chief:

14 "We also discussed the possibility that
15 the Dunlops are pushing to get a
16 reaction out of us. We must consider
17 that he/they may actually want us to
18 take action."

19 **MR. DEROCHIE:** Yes, that was -- we discussed
20 that for sure.

21 **MR. ENGELMANN:** And then you say:

22 "The recurring theme of these
23 interviews and talks is that they are
24 physically, emotionally and financially
25 exhausted."

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: And why do you say that?

3 MR. DEROCHIE: Well, we knew that -- we knew
4 that there had been a fundraising done some time previously
5 to raise funds to -- to accomplish whatever it was they
6 were -- what they were trying to accomplish.

7 They continuously made reference to the fact
8 that financially they're strapped and we speculated that
9 this may be a strategy for them to reactivate the campaign,
10 the fundraising campaign.

11 MR. ENGELMANN: This was a fundraising
12 campaign that had started some time ago to cover some of
13 his legal expenses?

14 MR. DEROCHIE: That's what my understanding
15 is. I really -- I really don't know very much about it.

16 MR. ENGELMANN: All right. Well you're
17 saying, though, "physically, emotionally and financially
18 exhausted."

19 MR. DEROCHIE: M'hm.

20 MR. ENGELMANN: Were there some concerns at
21 that time about Mr. Dunlop's state of health?

22 MR. DEROCHIE: In 1999?

23 MR. ENGELMANN: Yes.

24 MR. DEROCHIE: I -- I didn't know about any
25 concerns that he had, other than what he was saying in the

1 media, but he had been on, as you -- as we've indicated, he
2 had been on a prolonged leave of absence because of
3 sickness, so I'm sure he was still feeling the effects of
4 whatever that was, yeah.

5 **MR. ENGELMANN:** I'm just wondering, these
6 are your words and I think they're words about you're
7 describing the Dunlops or you're describing ---

8 **MR. DEROCHIE:** Well, I'm describing -- I'm
9 describing what they were -- that they were saying in the
10 media releases that they were physically, emotionally,
11 financially exhausted.

12 **MR. ENGELMANN:** All right. Now, I'm
13 wondering what you're saying at the bottom of page 9, you
14 write:

15 "The Chief is firm, and I support him
16 completely on this matter, that he will
17 not -- he will..."

18 **THE COMMISSIONER:** "Do what must."

19 **MR. ENGELMANN:** "...do what must be done and
20 will not be intimidated by the Dunlops
21 et al."

22 Do you see that?

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

24 **MR. ENGELMANN:** What did you understand the
25 Chief to mean by that?

1 **MR. DEROCHIE:** Well, the Chief was -- was
2 cautioning me that, you know, "Listen, we can't be pushed
3 around by these people. If we -- you know, if things have
4 to be done, they will be done. We won't do it unless
5 absolutely have to but if push comes to shove, we will
6 certainly not back down from laying charges." I think that
7 was the intent of what he was saying there.

8 **MR. ENGELMANN:** Well, did you get the sense
9 that the Chief actually felt intimidated?

10 **MR. DEROCHIE:** No, I don't think he felt
11 intimidated.

12 We were very conscious of the fact that we
13 were the defendants in a multimillion dollar civil action.
14 We were very aware of the fact that there was, within the
15 community, a -- at least some people that were suggesting
16 that we were persecuting Perry Dunlop. There was all kinds
17 of things that were maybe clouding our -- our mind if not
18 our judgment, but we were certainly alive to the fact that
19 whatever we did in relation to Perry Dunlop would be under
20 a fantastic amount of scrutiny and we just didn't want to
21 contribute to that -- to that atmosphere.

22 **MR. ENGELMANN:** But by this time, though,
23 sir, this multimillion dollar legal action had been greatly
24 changed, had it not?

25 **MR. DEROCHIE:** Yes, it had been changed.

1 **MR. ENGELMANN:** We're talking February of
2 '99; there's a new lawyer ---

3 **MR. DEROCHIE:** Yeah.

4 **MR. ENGELMANN:** --- involved, a fellow by
5 the name of John Morris?

6 **MR. DEROCHIE:** Yes.

7 **THE COMMISSIONER:** But, sir, I would have --
8 did anyone consider, for lack of a better term, farming
9 this out to an external police force so that they can come
10 up with an independent, you know, result and see if their
11 consideration was different, because, as you said, your
12 minds were clouded with a lot of things going around; not
13 your judgment, but your mind had a lot of facts in it?

14 **MR. DEROCHIE:** M'hm. Yeah, and in -- in --
15 in hindsight, Mr. Commissioner, you're probably right.

16 I know that there was -- we were always
17 concerned with that whole issue that we were pestering
18 other police forces to manage our business; we were
19 conscious of that, as well. We had -- and it may well have
20 been the -- the proper thing to do, in hindsight, to have
21 farmed all issues involving Dunlop out.

22 Certainly we were -- when it came to any
23 kind of serious criminal matters involving Mr. Dunlop
24 subsequently, we certainly were given that advice by -- by
25 people whose advice we respected and -- and we followed

1 that advice.

2 But with regards to internal discipline
3 matters, you know, you may well be right, we should have
4 considered that.

5 **MR. ENGELMANN:** Now, sir, in your -- in your
6 report, at page 3, Bates page 7118677, the bottom
7 paragraph.

8 **MR. DEROCHIE:** I'm sorry, would you
9 reference me again, just on the page number?

10 **MR. ENGELMANN:** Sorry, page 3 of your
11 report.

12 **MR. DEROCHIE:** Okay.

13 **MR. ENGELMANN:** The bottom paragraph, under
14 the caption "Security Safety Issue."

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** You say:

17 "He insinuates that he is being
18 ostracized and placed in this situation
19 by his fellow officers..."

20 This is the lack of backup.

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** "...because of his
23 involvement with the Project Truth
24 investigation and his ongoing civil
25 actions against the Service and

1 individual managers of the Service."

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: Do you see that?

4 MR. DEROCHIE: Yes, I do.

5 MR. ENGELMANN: Now, was that his word, that
6 he was being ostracized?

7 MR. DEROCHIE: Yes, I believe it was.

8 MR. ENGELMANN: All right. And did you know
9 that he was feeling that way at this time?

10 MR. DEROCHIE: Certainly as a result of what
11 he said in the media, yes.

12 MR. ENGELMANN: Well, did you know through
13 other means, as well?

14 MR. DEROCHIE: No.

15 MR. ENGELMANN: All right. Looking back at
16 the time, were you aware of any signs that he was being
17 ostracized by fellow officers?

18 MR. DEROCHIE: No. No, to -- to the
19 contrary, really.

20 MR. ENGELMANN: Well, did you have much
21 contact with him, then, sir, to make that comment?

22 MR. DEROCHIE: With -- with -- with Perry?

23 MR. ENGELMANN: Yes.

24 MR. DEROCHIE: No. No, I didn't.

25 I was basing my -- I was basing these --

1 these thoughts on what he had said to the media, in
2 general.

3 **MR. ENGELMANN:** No, no, fair enough.

4 But you just said you -- to the contrary,
5 you didn't think he was being ostracized, if I understood
6 your evidence just now.

7 **MR. DEROCHIE:** That's right, yeah.

8 **MR. ENGELMANN:** And what I'm saying is, were
9 you actually in a position to make that comment? I mean,
10 were you working directly with him?

11 **MR. DEROCHIE:** No. No, but from what I
12 heard of his work, he was -- he was enjoying a normal
13 relationship with the organization.

14 **MR. ENGELMANN:** Okay, but he wasn't on your
15 team?

16 **MR. DEROCHIE:** Oh, no. Oh, no.

17 **MR. ENGELMANN:** So you wouldn't have seen
18 him interacting with his colleagues?

19 **MR. DEROCHIE:** No, you're quite right.

20 **THE COMMISSIONER:** No, but it is a small
21 police force?

22 **MR. DEROCHIE:** It is a small police force.

23 I didn't hear anything that would have
24 indicated or would have caused me concern; I didn't, you
25 know, hear rumblings that -- that people were suspicious of

1 him or anything like that.

2 MR. ENGELMANN: "Ostracize" usually means
3 isolated or people aren't friendly to ---

4 MR. DEROCHIE: Yes, yes.

5 MR. ENGELMANN: --- things of that nature.

6 MR. DEROCHIE: I understand, yes.

7 MR. ENGELMANN: All right. And you didn't?

8 MR. DEROCHIE: I didn't -- I didn't notice
9 that, if -- if that's what you're asking me: No, I didn't
10 notice that.

11 THE COMMISSIONER: Well, I want to go one
12 step further, though; whether you noticed it is one
13 question.

14 Generally, what was the general atmosphere
15 in the police force at this time, vis-à-vis Perry? Just
16 that like general -- no, not general.

17 I'm trying to get to the concept of what was
18 the gossip or the general talk around the police station?

19 MR. DEROCHIE: I don't know -- I don't know
20 what it would have been.

21 I know that I wouldn't have -- I wouldn't
22 have heard that gossip. People were very careful around me
23 when they ---

24 THE COMMISSIONER: Okay.

25 MR. DEROCHIE: I don't -- I don't suffer

1 gossip. I normally like to look for ---

2 MR. ENGELMANN: Is that because you were the
3 Professional Standards officer at the time?

4 MR. DEROCHIE: Yeah.

5 MR. ENGELMANN: Or were there other reasons?

6 MR. DEROCHIE: I -- I -- I normally have a
7 tendency to take action when I hear that there's a problem.

8 MR. ENGELMANN: All right.

9 MR. DEROCHIE: A lot of people don't like
10 the fact that there's a consequence to saying something,
11 you know.

12 MR. ENGELMANN: Okay. So, sir, let's go
13 back then to the other issue; what about recommendations in
14 respect to Dunlop's assertion that he was not provided with
15 proper backup.

16 MR. DEROCHIE: Subsequently, it was
17 determined that Inspector Trew would -- would meet with him
18 and discuss that with him, to be given specific examples so
19 that probably I would investigate to see if there was that;
20 that would be a breach of discipline.

21 MR. ENGELMANN: And that's set out, sir, at
22 the fifth page of your report in those first two
23 paragraphs.

24 MR. DEROCHIE: That's correct.

25 MR. ENGELMANN: And if the witness could be

1 shown Document Number 729937. It's an internal
2 correspondence from Chief Repa to Staff Sergeant Derochie
3 on March 10th, '99.

4 **THE COMMISSIONER:** Thank you. Exhibit
5 number 1317.

6 --- **EXHIBIT NO./PIÈCE NO. P-1317:**

7 (729937) Internal Correspondence from Chief
8 A. Repa to Garry Derochie - 10 Mar 99

9 **MR. ENGELMANN:** So this is the Chief's
10 response to your recommendations ---

11 **MR. DEROCHIE:** That ---

12 **MR. ENGELMANN:** --- in the report.

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

14 **MR. ENGELMANN:** And did he concur with the
15 recommendation that Inspector Trew remind Constable Dunlop
16 that he must abide by CPS directives?

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** And did he also agree that
19 the Service should inquire as to the allegations of lack of
20 support or backup that had been made by Constable Dunlop?

21 **MR. DEROCHIE:** He did.

22 **MR. ENGELMANN:** To your knowledge, sir, did
23 Inspector Trew counsel Constable Dunlop?

24 **MR. DEROCHIE:** There is a document by which
25 Inspector Trew summonses Constable Dunlop to his office for

1 that purpose.

2 **MR. ENGELMANN:** If the witness could be
3 shown Document Number 728200.

4 **THE COMMISSIONER:** Thank you. Exhibit 1318
5 is a memo addressed to Constable Dunlop and signed by --
6 well, not signed, but typed in, G. Derochie, Staff
7 Sergeant.

8 --- **EXHIBIT NO./PIÈCE NO. P-1318:**

9 (728200) Draft letter from Garry Derochie to
10 Perry Dunlop

11 **MR. ENGELMANN:** Sir, this would appear to be
12 a draft counselling ---

13 **MR. DEROCHIE:** This was -- this was a draft
14 document that was not used. This is not the document that
15 I'm referring to.

16 **MR. ENGELMANN:** All right, so this document
17 was not used.

18 **MR. DEROCHIE:** It was not used.

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

20 **THE COMMISSIONER:** Why not?

21 **MR. DEROCHIE:** I don't recall specifically.
22 It was -- it was -- obviously, I was to do -- I was to do
23 the intervention, but my recommendation subsequently became
24 something other, that ---

25 **MR. ENGELMANN:** What was different than what

1 we see here, sir?

2 MR. DEROCHIE: Nothing really. The -- the
3 issues are -- issues are what they are. Those are the
4 issues that we were dealing with.

5 MR. ENGELMANN: All right ---

6 MR. DEROCHIE: But ---

7 MR. ENGELMANN: --- so it would have been
8 something similar to this that he would have been
9 counselled with?

10 MR. DEROCHIE: Yes, I take it we don't have
11 that document, Mr. Engelmann?

12 MR. ENGELMANN: Not handy.

13 MR. DEROCHIE: Oh, okay.

14 THE COMMISSIONER: But in the end, did you
15 do the counseling? Did the counselling take place?

16 MR. DEROCHIE: No, it did not. In the end -
17 - did you want me to continue?

18 THE COMMISSIONER: Yes, just a second. Hold
19 that thought.

20 MR. ENGELMANN: If you could pull up 716331,
21 Madam Clerk? Yes, it's an internal correspondence from
22 Inspector Trew to Constable Dunlop dated April 7, 1999.

23 THE COMMISSIONER: Exhibit 1319.

24 --- EXHIBIT NO./PIÈCE NO. P-1319:

25 (716331) Internal Correspondence from Insp.

1 R.W. Trew to Perry Dunlop - 07 Apr 99

2 MR. ENGELMANN: Is this the document ---

3 MR. DEROCHIE: This is the ---

4 MR. ENGELMANN: --- you were referring to,
5 sir?

6 MR. DEROCHIE: I'm sorry, yes, this is the
7 document I was referring to.

8 MR. ENGELMANN: All right and you weren't
9 present at that time; that's fair?

10 MR. DEROCHIE: No.

11 MR. ENGELMANN: All right, but it's your
12 understanding that Inspector True met with Constable
13 Dunlop?

14 MR. DEROCHIE: It's my understanding that
15 they didn't meet.

16 MR. ENGELMANN: That they did not meet.

17 MR. DEROCHIE: No, they did not meet.

18 MR. ENGELMANN: All right. And do you know
19 if this document would have been give to -- to Constable
20 Dunlop?

21 MR. DEROCHIE: I have every reason to
22 believe that he received this document, yes. He -- and --
23 and in as far as the counselling goes with regards to the
24 policy, that's -- this could be considered a counselling
25 document; it's referenced on the bottom paragraph. More of

1 -- more of a concern is the whole issue of -- the
2 outstanding issue of -- of the lack of support ---

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

4 **MR. DEROCHIE:** --- that -- that we were
5 discussing.

6 **MR. ENGELMANN:** What -- what happened with
7 respect to that issue?

8 **MR. DEROCHIE:** Finally, I -- I approached
9 Perry in the -- the OIC's office and asked him, give me
10 some specific examples of -- of what happened to make you
11 make these comments and he informed me that he couldn't
12 provide examples, that it was just a feeling he had; that
13 he was being ostracized, that he was being -- he wasn't
14 being backed up.

15 **MR. ENGELMANN:** Was there any -- sorry ---

16 **THE COMMISSIONER:** Backed up, do you mean as
17 in, "I'm going into a dangerous situation; I want somebody
18 to cover me"?

19 **MR. DEROCHIE:** Exactly. That would be, as
20 you can well imagine, Mr. Commissioner, a great concern of
21 -- of any police officer and equally most -- the strongest
22 form of insult you could apply to a police officer is that
23 you would not back up a fellow officer and I would suspect
24 that if this was known that his fellow officers would not
25 have been happy about that.

1 **MR. ENGELMANN:** Do you know when this
2 conversation happened when you met with Constable Dunlop?

3 **MR. DEROCHIE:** It's in my notes somewhere,
4 Mr. Engelmann. I ---

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

6 **MR. DEROCHIE:** --- I can't recall ---

7 **MR. ENGELMANN:** And do you know if there was
8 any further follow-up after that?

9 **MR. DEROCHIE:** There was none.

10 **THE COMMISSIONER:** So can you talk to me a
11 little bit about Mr. Dunlop's state of mind or how he
12 reacted to you when you asked that; was it -- did he just
13 slough you off or what was his attitude towards you?

14 **MR. DEROCHIE:** He was never -- he was never
15 rude or disrespectful, but he -- he just, you know, was
16 noncommittal; he wouldn't -- he wouldn't -- he wouldn't
17 back up anything he would say with regards to that issue.
18 He just told me, "No, it's just a sense, a feeling that I
19 got when I'm working that I'm all alone out there," you
20 know.

21 **THE COMMISSIONER:** Right. And did -- did
22 you ask him?

23 **MR. DEROCHIE:** Give me some examples of
24 that; let me know. "No," he says, "I can't give you
25 examples; it's just that -- that type of a feeling I have."

1 **THE COMMISSIONER:** All right. Did you offer
2 him any counseling? And I don't mean counselling as in
3 discipline; did you offer him and say, well, maybe you
4 should go talk to somebody or ---

5 **MR. DEROCHIE:** No, I did not.

6 **THE COMMISSIONER:** I would -- I would think
7 that regardless of whether or not it was true, the fact
8 that he believed that would be a cause for concern.

9 **MR. DEROCHIE:** I guess it was a question of
10 whether or not I thought he believed that.

11 **THE COMMISSIONER:** Okay, and did you?

12 **MR. DEROCHIE:** I had no reason to believe
13 that.

14 **THE COMMISSIONER:** You had no reason to
15 believe ---

16 **MR. DEROCHIE:** That he -- that he was not
17 getting backup and -- and quite frankly, I wouldn't have --
18 I would -- I would be suspicious of his motivations for
19 making those -- those types of comments. Did he actually
20 really believe that himself? That's, you know -- I don't
21 know if I would have accepted that.

22 **MR. ENGELMANN:** Why was that, sir, at that
23 time?

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

25 **MR. ENGELMANN:** Why did you feel that way at

1 that time?

2 **MR. DEROCHIE:** I didn't see any evidence of
3 it. There was -- there was no -- there was no evidence of
4 it. There was -- it was just out of -- out of thin air,
5 this came, in the -- in the -- in the context of a media
6 interview where he's outlining his personal experience with
7 regards to this whole thing. Now, I don't have any doubt
8 that -- that this affected Perry Dunlop very, very deeply;
9 this whole issue, that that had a personal or very severe
10 impact on his whole life. I just -- I just had difficulty
11 separating fact from fiction, as it were.

12 **MR. ENGELMANN:** Right.

13 **THE COMMISSIONER:** Again I just want to be
14 very precise, I'm not talking about fact or fiction, I'm
15 talking about what if an officer has an honest belief,
16 however erroneous, but his honest belief that his police
17 force and individual police officers aren't backing him up
18 in those dangerous situations?

19 Do you not think that, regardless of facts,
20 that you would want to help that officer come to grips with
21 that and determine in his mind whether or not it's true or
22 not?

23 **MR. DEROCHIE:** Your point is well made, Mr.
24 Commissioner. I recognize -- I'd never had a similar
25 experience in my career. I've never had this kind of an

1 allegation, which is the stuff of movies.

2 So I, you know, in hindsight, should I have
3 offered him counselling to ease his mind? Yes, if it
4 happened tomorrow, I would do that.

5 **MR. ENGELMANN:** Sir, I understand also in
6 the spring of 1999, you had a complaint filed against
7 yourself?

8 **MR. DEROCHIE:** Yes, I did.

9 **MR. ENGELMANN:** And that it arose out of the
10 Silmsers investigation in these matters.

11 **MR. DEROCHIE:** Yes. Mr. Silmsers made a
12 police complaint against me.

13 **MR. ENGELMANN:** All right. And can you sort
14 of, in general terms, describe for us the nature of the
15 complaint?

16 **MR. DEROCHIE:** Yes. There was an article
17 that appeared in the media -- and I don't know which media
18 it was at this time, I don't recall. And I was quoted in
19 the media as having said something and Mr. -- which, in
20 fact, was a quotation from my notes, and Mr. ---

21 **MR. ENGELMANN:** Oh ---

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

23 **MR. ENGELMANN:** Sorry, no go ahead.

24 **MR. DEROCHIE:** And Mr. Silmsers had believed
25 that I had granted an interview to the press and had made

1 those comments live to a reporter.

2 MR. ENGELMANN: So perhaps we could have a
3 look at -- it's Document Number 740393.

4 THE COMMISSIONER: Exhibit 1320 is a public
5 complaint form with the complainant being David Silmser.

6 ---EXHIBIT NO./PIÈCE NO P-1320:

7 (740393) Public Complaint Form - David
8 Silmser - 07 Apr 99

9 MR. DEROCHIE: Yes, I recognize this as the
10 complaint form that I was provided with.

11 MR. ENGELMANN: All right. And the
12 allegation that's contained therein is that you gave an
13 interview to an Ottawa Sun reporter?

14 MR. DEROCHIE: That's correct.

15 MR. ENGELMANN: And in it blamed Mr. Silmser
16 for Mr. Seguin's suicide?

17 MR. DEROCHIE: Yes.

18 MR. ENGELMANN: That's what he is alleging?

19 MR. DEROCHIE: That's what he is alleging,
20 yes.

21 MR. ENGELMANN: Yeah. And you had written a
22 note about, and I think we talked about it yesterday, ---

23 MR. DEROCHIE: Yes.

24 MR. ENGELMANN: --- about your thoughts as
25 to why he might have killed himself.

1 **MR. DEROCHIE:** That's correct, those were in
2 my notes.

3 **MR. ENGELMANN:** And they found -- those
4 thoughts then, found their way into an Ottawa Sun article?

5 **MR. DEROCHIE:** That right. My notes had
6 been disclosed during the Police Act charges involving --
7 that were laid against Mr. Dunlop and, of course,
8 disclosure would have been made of those notes.

9 And the reporter in question I believe was
10 Jacki Leroux and she was one of the -- she was the reporter
11 that was very close to the Dunlops, so I can only speculate
12 how she got a copy of my notes.

13 **MR. ENGELMANN:** All right. So she was
14 covering issues from Cornwall dealing with sex abuse cases
15 ---

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** --- the Dunlops, et cetera?

18 **MR. DEROCHIE:** She was. She was personally
19 involved with the Dunlops.

20 **MR. ENGELMANN:** In what sense?

21 **MR. DEROCHIE:** Well, she was very close to
22 them. She was covering it from their perspective.

23 **THE COMMISSIONER:** How do you know she was
24 very close to them?

25 **MR. DEROCHIE:** Well, it's my sense that she

1 was very close to them.

2 **THE COMMISSIONER:** And were the documents
3 filed in this proceeding?

4 **MR. DEROCHIE:** Yes.

5 **THE COMMISSIONER:** And are they opened to
6 the public, the documents?

7 **MR. DEROCHIE:** I don't -- I don't know.

8 **MR. CALLAGHAN:** If I can assist, Mr.
9 Commissioner. You recall when I cross-examined Mr.
10 Bourgeois, there were a couple of large binders ---

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

12 **MR. CALLAGHAN:** --- that were a part of the
13 disclosure. And in that disclosure package which was given
14 to Mr. Dunlop for the purpose of the public inquiry -- or
15 the board of inquiry, those notes -- Mr. Derochie's notes
16 were there.

17 **THE COMMISSIONER:** No, I understand ---

18 **MR. CALLAGHAN:** Oh, I'm sorry.

19 **THE COMMISSIONER:** I understand that. But
20 what this gentleman is intimating is that "Well, she
21 probably got the notes from Dunlop" and I'm saying well,
22 wait a minute, that's a conclusion and you know we can't be
23 too hasty about these things in sense that if, at the
24 hearing, they were filed and I just want -- if it's a
25 public place, maybe the reporter got them from -- quite

1 legitimately.

2 **MR. CALLAGHAN:** It may be. I don't know
3 whether they're public. I can't recall whether they are
4 public or not.

5 **THE COMMISSIONER:** I just want to be careful
6 about jumping to conclusions about who's who and what's
7 going on and that kind of thing.

8 **MR. DEROCHIE:** You're quite right. I was
9 too casual with that comment. I'm sorry. I shouldn't have
10 made that comment.

11 **THE COMMISSIONER:** Well, yes and no, in the
12 sense that I need to know what's going on in your mind as
13 well. I mean, you're sitting there; you're doing all of
14 the investigations for -- not quality control, but ---

15 **MR. DEROCHIE:** Professional.

16 **THE COMMISSIONER:** --- Professional
17 Standards. So I need to know what's colouring your mind as
18 to how you're feeling. And, of course, this is a complaint
19 against you.

20 **MR. DEROCHIE:** Yes.

21 **THE COMMISSIONER:** So there you go.

22 **MR. DEROCHIE:** How dare they?

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

24 **MR. DEROCHIE:** How dare they?

25 **(LAUGHTER/RIRES)**

1 **MR. ENGELMANN:** And I don't know if you're
2 aware of this, Staff Sergeant Derochie, but these binders
3 were given by Mr. Dunlop to a number of agencies as well.

4 **MR. DEROCHIE:** Yes, I am quite aware of
5 that, yes.

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

7 **MR. DEROCHIE:** Yeah.

8 **MR. ENGELMANN:** And that would have happened
9 in late 1996 and then in the spring of 1997, so quite some
10 time before the spring of 1999.

11 **MR. CALLAGHAN:** Just for clarity. I'm not
12 sure his notes were in those binders that were given,
13 certainly not to the Fantino binder and it may not have
14 been to the Solicitor General's binder that came in the
15 following year. Just for clarity, I'm not sure.

16 **MR. ENGELMANN:** They're definitely in the
17 April '97 materials; there were four binders. There are
18 two binders from the *Police Services Act* charges.

19 **THE COMMISSIONER:** Okay, in any event.

20 **MR. ENGELMANN:** My friend may be right.
21 There may not have been in the original package to -- I
22 believe they weren't in the original package to Chief
23 Fantino.

24 **THE COMMISSIONER:** All right.

25 **MR. ENGELMANN:** Now the complaint that's

1 filed -- and we've had a look at the complaint form itself
2 -- was that investigated by the Cornwall Police Service or
3 by another police service?

4 **MR. DEROCHIE:** No, that was investigated by
5 the Kingston Police Service.

6 **MR. ENGELMANN:** And I understand, sir, you
7 gave a statement to the Kingston Police Service as part of
8 their investigation of the complaint?

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

10 **MR. ENGELMANN:** If the witness could be
11 shown Document 740399?

12 **THE COMMISSIONER:** Merci. Exhibit 1321 is a
13 letter dated -- well, it's a statement dated April 28th,
14 1999 signed by Staff Sergeant Derochie.

15 **---EXHIBIT NO./PIÈCE NO P-1321:**

16 (740399) Statement from Garry Derochie - 28
17 Apr 99

18 **MR. DEROCHIE:** That was my statement:

19 "I have never granted an interview nor
20 have I communicated in any way with
21 Mrs. Jacki Leroux or with Ms. Jacki
22 Leroux or any other reporter from the
23 Ottawa Sun or any other newspaper or
24 media agency with regards to Mr.
25 Silmsler or matters relating to him."

1 **MR. ENGELMANN:** Now, sir, to your knowledge,
2 was your statement shared with the complainant, Mr.
3 Silmser?

4 **MR. DEROCHIE:** It was and my notes were
5 shared with him as well. When he saw the notes ---

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

7 **MR. DEROCHIE:** --- he abandoned his
8 complaint against me.

9 **MR. ENGELMANN:** So he accepted your
10 explanation for that and withdrew his complaint?

11 **MR. DEROCHIE:** That's my understanding.

12 **MR. ENGELMANN:** Just to confirm your
13 understanding, if you could look at -- it's Document Number
14 740395.

15 We've got you giving a statement at the end
16 of April to Inspector Murphy.

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** And I believe we have a
19 record of Withdrawal of Complaint dated May 19th ---

20 **THE COMMISSIONER:** Thank you.

21 **MR. ENGELMANN:** --- of that same year.

22 **THE COMMISSIONER:** Exhibit 1322 is a record
23 of Withdrawal of Complaint.

24 --- **EXHIBIT NO./PIÈCE NO. P-1322:**

25 (740395) Record of Withdrawal of Complaint

1 from David Silmser - 19 May 99

2 **MR. DEROCHIE:** Yes, I recall this document
3 now.

4 **MR. ENGELMANN:** So Mr. Silmser says:
5 "Finding out from Inspector Murphy that
6 Staff Sergeant Derochie never gave an
7 interview and the Sun Newspaper got
8 this information from old notes, I have
9 decided to drop the complaint. I thank
10 Inspector Murphy for this investigation
11 and straightening out this situation."

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** All right.

14 So the matter was resolved after this brief
15 investigation by Inspector Murphy?

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

17 **MR. ENGELMANN:** Now, somewhat later, just
18 shortly thereafter, in April of 1999 were you instructed to
19 undertake a review of documentation that Inspector Pat Hall
20 from Project Truth may have received from Perry Dunlop?

21 **MR. DEROCHIE:** That's correct. There was a
22 newspaper article to that effect that Perry Dunlop had
23 turned over documents, and I believe the comment was that
24 the OPP hadn't previously received these documents.

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

1 And this was an article that appeared in a
2 Cornwall newspaper, do you recall?

3 **MR. DEROCHIE:** I thought it was an Ottawa
4 newspaper ---

5 **MR. ENGELMANN:** Okay. Fair enough.

6 **MR. DEROCHIE:** --- but it may well have been
7 ---

8 **MR. ENGELMANN:** I may be mistaken.

9 **MR. DEROCHIE:** No, it may well have been
10 covered in Cornwall as well. I don't recall now.

11 **MR. ENGELMANN:** No, I think you're right on.

12 **MR. DEROCHIE:** Oh.

13 **MR. ENGELMANN:** The Ottawa Sun.

14 Let's look at Document Number 731857.

15 **THE COMMISSIONER:** It's already an exhibit,
16 is it not? It is an exhibit.

17 **MR. ENGELMANN:** The actual article or ---

18 **THE COMMISSIONER:** The article, yeah.

19 **MR. ENGELMANN:** No, I'm -- oh, I think it
20 is, sir.

21 **THE COMMISSIONER:** Oh, I know it is.

22 **MR. ENGELMANN:** Yeah.

23 **THE COMMISSIONER:** Okay. Sorry. Okay, is
24 that what you're looking for?

25 **MR. ENGELMANN:** No. No, I didn't want to

1 refer to the article.

2 **THE COMMISSIONER:** Okay.

3 **MR. ENGELMANN:** Yes, I recall the article I
4 just can't remember with which witness it came up. But
5 what I was wanting to refer to is an internal
6 correspondence about this.

7 **THE COMMISSIONER:** All right.

8 **MR. ENGELMANN:** It's dated April 13th, '99.
9 And this is a note from Chief Repa to Staff Sergeant
10 Derochie about the article and this issue.

11 **THE COMMISSIONER:** Okay. Thank you.
12 Exhibit number 1323, internal correspondence to Staff
13 Sergeant Derochie from Chief Repa dated April 13th, 1999.

14 **--- EXHIBIT NO./PIÈCE NO. P-1323:**

15 (731857) Internal Correspondence from Chief
16 A. Repa to Garry Derochie - 13 Apr 99

17 **MR. DEROCHIE:** Yes, I recall this document.

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

19 So can you give us a sense as to what the
20 issue is and why the Chief is asking you to look into this?

21 **MR. DEROCHIE:** He was wondering how -- what
22 this document was exactly and was it work product for the
23 Cornwall Police Service and was it compiled while Perry was
24 on or off duty.

25 I determined quite quickly that it was

1 documents that had already been delivered in various forms,
2 the Fantino briefs, for want of a better -- that was my
3 understanding of what those documents were. And I'm
4 confident I consulted with Inspector Hall to that regard,
5 and I informed the Chief that it was a non-issue. It became
6 a non-issue very quickly.

7 **THE COMMISSIONER:** Okay. But let me
8 understand the issue again. What was the issue?

9 **MR. DEROCHIE:** The issue, what exactly was
10 this information that was being turned over from Mr. Dunlop
11 to Inspector Hall with regards to Project Truth. Was this
12 information that was new and had been accumulated by Mr.
13 Dunlop relatively recently or was this part of what -- of
14 the disclosures that had been made?

15 **THE COMMISSIONER:** All right.
16 So did you review the documentation?

17 **MR. DEROCHIE:** No, I don't believe I did. I
18 believe I just got that information from Pat Hall.

19 **MR. ENGELMANN:** All right.
20 So you were aware that while he was off on
21 extended leave ---

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** --- Mr. Dunlop had done a
24 form of an investigation and compiled some materials?

25 **MR. DEROCHIE:** By this time I would have

1 been aware of that, yes.

2 **MR. ENGELMANN:** And you were also aware that
3 he would have turned materials over to Chief Fantino of the
4 London police in late '96 and then turned over more
5 material to a number of government ministries in the spring
6 of '97?

7 **MR. DEROCHIE:** Yes.

8 **MR. ENGELMANN:** And in your discussions with
9 Officer Hall he made you aware that these materials that
10 were turned over and that are referred to in the article
11 were materials that had been turned over previously?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** And, again, just so I'm
14 clear, the Chief wanted you to investigate this to
15 determine what -- when these documents were prepared or
16 what they were?

17 **MR. DEROCHIE:** Yes, my understanding was
18 simply that he wanted to know was this new disclosure, was
19 this something that Perry was working on during business
20 hours, during off business hours; where did they come from?

21 **MR. ENGELMANN:** So in effect whether this
22 was work product of the Cornwall Police Service while
23 Constable Dunlop was an active officer or not?

24 **MR. DEROCHIE:** Yes, and also was he
25 continuing with his investigating of these things as a

1 private -- what he perceived to be his role as a private
2 citizen.

3 **MR. ENGELMANN:** I'll just be a moment, sir.
4 If the witness could be shown Document
5 Number 728066?

6 **THE COMMISSIONER:** Thank you.
7 Exhibit 1324, I take it, are notes --
8 blacked out in any event -- dated April 14th, 1999.

9 **--- EXHIBIT NO./PIÈCE NO. P-1324:**

10 (728066) Notes of Garry Derochie - 14 Mar 99

11 **MR. ENGELMANN:** Sir, these are your notes?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** And these are some brief
14 notes you had with respect to this issue?

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** And it appears, looking at
17 about midway down the page, you say:

18 "The Chief has instructed me to review
19 the documents in question in order to
20 determine if they were prepared by
21 Dunlop in the course of his police
22 duties with the Service."

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** "The Chief wants to know
25 whether or not the Service was in any

1 way involved or had knowledge of the
2 preparation of the documents in
3 question."

4 **MR. DEROCHIE:** Yes.

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

6 I think you've just told us you didn't
7 actually review the documents?

8 **MR. DEROCHIE:** No, I did not.

9 **MR. ENGELMANN:** You just asked Detective
10 Sergeant or Detective Inspector Hall?

11 **MR. DEROCHIE:** Yes, I recall speaking to him
12 about it and him saying it's nothing, it was a big to do
13 about nothing, we already had this stuff. There was some
14 confusion about the documents not having been passed on
15 from one ministry to the OPP or something at the time they
16 were dealing with that -- that whole issue.

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

18 And were you receiving some form of legal
19 advice about this at the time?

20 **MR. DEROCHIE:** I don't recall what's on
21 these. Obviously I had -- I would suspect that the
22 sentence would be that I was having a -- arranged to have a
23 meeting with our lawyer of the day, Lynda Bordeleau.

24 **MR. ENGELMANN:** You appear to be asking the
25 question at the bottom of the page whether Dunlop was

1 acting in his capacity as a Cornwall Police Service police
2 officer or not.

3 Do you know if you sought some legal advice
4 on that?

5 **MR. DEROCHIE:** Yes, I did. Now that you
6 mention that, I did want to know if my impression was
7 correct with regards to the status of Mr. Dunlop and other
8 police officers with regards to these types of matters;
9 that could you distance yourself or could you separate
10 yourself, as it were, from your duties as a police officer,
11 vis-à-vis a private citizen, and could you conduct work
12 that would normally be the subject of your police duties as
13 a private citizen.

14 My opinion was you could not make that
15 distinction that you're a police officer 24/7. So long as
16 you -- you were a sworn police officer, those duties
17 extended to your off-hours as well as your on-hours and I
18 didn't -- I didn't believe that a police officer could
19 conduct inquiries into what would otherwise be criminal
20 matters, as a private citizen.

21 **MR. ENGELMANN:** Well, given what the Chief
22 had instructed you to do in your conversations with Pat
23 Hall from the OPP, I assume then you formed the opinion
24 that these documents were not prepared, well, when he was
25 on active duty with the Service?

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

2 **MR. ENGELMANN:** And that the Service was not
3 involved or had knowledge of the preparation ---

4 **MR. DEROCHIE:** We had -- no -- no, we had no
5 knowledge of the preparation.

6 Subsequently, it became our position that
7 everything he had that involved anything to do with
8 criminal activity was work product and belonged to us.
9 That's the position we ultimately took on that.

10 **MR. ENGELMANN:** All right. And all of that
11 material was subject to disclosure in criminal proceedings?

12 **MR. DEROCHIE:** It was.

13 **MR. ENGELMANN:** Or became subject to
14 disclosure?

15 **MR. DEROCHIE:** It became subject and was
16 made as disclosure.

17 **MR. ENGELMANN:** All right. So the next area
18 that I would like to turn to deals with that and that's
19 some of the disclosure issues that arise in the late '90s.

20 You're still in the Professional Standards
21 Branch at that time?

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

23 **MR. ENGELMANN:** And there are disclosure and
24 related issues that arise in a number of criminal
25 prosecutions coming out of the Project Truth investigation?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** And several of those cases
3 involve some involvement of Constable Dunlop?

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** And as a result, I
6 understand that you were responsible for dealing with some
7 of the disclosure and related issues that were arising with
8 respect to Constable Dunlop in some of these prosecutions?

9 **MR. DEROCHIE:** Yes, I -- I replaced
10 Inspector Trew in late September of 1999 as the liaison
11 with the OPP with regards to these issues.

12 **MR. ENGELMANN:** All right. So did that --
13 was that an extra duty that you had in addition to
14 Professional Standards or was that your task alone?

15 **MR. DEROCHIE:** That became one of my tasks
16 in Professional Standards.

17 No, there was -- I was responsible for a
18 great many things -- or not a great many things, but
19 several other things in Professional Standards.

20 **MR. ENGELMANN:** All right. And how long did
21 you retain that role of liaison with Project Truth?

22 **MR. DEROCHIE:** Right to the present day. If
23 there were something to do with Project Truth, I would
24 still be their contact person.

25 **MR. ENGELMANN:** And the reason why you were

1 assigned to these disclosure and related issues was that
2 because you were in the Professional Standards Branch or
3 was it for other reasons?

4 **MR. DEROCHIE:** Well, that, and the fact that
5 I had had involvement pretty much all along with -- with
6 Perry or issues surrounding Perry.

7 **MR. ENGELMANN:** Sir, I understand then that
8 in the fall of 1999, you would have been advised of issues,
9 in particular disclosure issues, arising in the prosecution
10 of -- of Marcel Lalonde?

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

12 **MR. ENGELMANN:** And I'm wondering, Madam
13 Clerk, if the witness could be shown -- it's Document
14 Number 109487. These are Staff Sergeant Derochie's notes
15 from September 30th, '99, to June 30th, 2000.

16 Sir, there are names in these notes that are
17 subject to a publication ban.

18 **THE COMMISSIONER:** Right. Thank you.

19 Thank you. Exhibit Number 1325 is officer's
20 notes of Staff Sergeant Derochie. Date of first entry, 30th
21 of September, '99; date of last entry, 30th of June, 2000.

22 --- **EXHIBIT NO./PIÈCE NO. P-1325:**

23 (109487) Notes of Staff Sgt. Garry Derochie
24 - September 30, 1999 to June 30, 2000

25 **MR. ENGELMANN:** And just before we look at

1 these notes, sir, can you give us a sense as to whether
2 these are dedicated notes or whether these are just your
3 normal note from working your shift, but what are we
4 looking at here?

5 **MR. DEROCHIE:** Okay. At this point-in-time,
6 I'm the Professional Standards officer. I'm working a
7 straight 8 to 4, Monday to Friday shift. I don't -- I'm
8 not working shift work any longer.

9 It became obvious to me that I was going to
10 have multiple dealings with Mr. Dunlop and I was dealing
11 with multiple issues in my capacity as Professional
12 Standards officer and so I began dedicating notebooks
13 specifically to issues surrounding Mr. Dunlop.

14 So I would keep a regular notebook and when
15 I made a notation into these other notebooks, my regular
16 continuous history of my involvement with the Cornwall
17 Police Service would make reference to the fact that I'm
18 making notes into this particular notebook.

19 **MR. ENGELMANN:** All right. And the
20 notebook, was it a "Dunlop" notebook or would it have been
21 broader to be sort of a "Project Truth" notebook?

22 **MR. DEROCHIE:** It -- it was all issues
23 surrounding Mr. Dunlop, which was synonymous with Project
24 Truth as far as I was concerned.

25 And you'll see that this is Book Number 1

1 and I'm referencing Dunlop as the subject of this notebook.

2 **MR. ENGELMANN:** Yes, I noticed that on the
3 front, yeah. Okay.

4 So it appears right at the first page of
5 your notes -- and it's Bates page 1043300 -- that you're
6 being advised of some disclosure issues arising in the
7 Marcel Lalonde prosecution?

8 **MR. DEROCHIE:** Yes. That prosecution was to
9 commence on -- in early October, amongst the first couple
10 of days in October, and on September the 29th, I believe,
11 the Crown attorney that was prosecuting that case received
12 a request for disclosure from the defence.

13 **MR. ENGELMANN:** All right. So just so we're
14 clear, the trial was take place in October of ---

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

16 **MR. ENGELMANN:** There had been a preliminary
17 inquiry?

18 **MR. DEROCHIE:** Yes, there had.

19 **MR. ENGELMANN:** And this was a prosecution
20 that had been investigated, in the main, by the Cornwall
21 Police Service?

22 **MR. DEROCHIE:** It was a joint investigation
23 between Cornwall and OPP.

24 **MR. ENGELMANN:** All right. And there were a
25 number of alleged victims?

1 **MR. DEROCHIE:** There were.

2 **MR. ENGELMANN:** And this was an historical
3 sexual abuse case?

4 **MR. DEROCHIE:** It was.

5 **MR. ENGELMANN:** And the alleged perpetrator,
6 who was later found guilty, was a school teacher?

7 **MR. DEROCHIE:** He was a school teacher, yes.

8 **MR. ENGELMANN:** And how did you become aware
9 of the disclosure request that was being made very close to
10 the date of this trial?

11 **MR. DEROCHIE:** I was approached by Constable
12 Desrosiers, who was our lead investigator, and he asked me
13 to meet with himself and Staff Sergeant Brunet with regards
14 to the letter he had received requesting disclosure.

15 **MR. ENGELMANN:** And why was he engaging you,
16 sir, in this process?

17 **MR. DEROCHIE:** It would have been well-known
18 that I was involved in -- in issues surrounding Mr. Dunlop.
19 I was in Professional Standards and that would have been
20 why they came to me. I had -- I had the corporate
21 knowledge involving Mr. Dunlop, for want I guess of a
22 better term.

23 **MR. ENGELMANN:** And at this point, were you
24 also the liaison person; had that happened?

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

1 **MR. ENGELMANN:** At this point, had you been
2 dedicated as the liaison person replacing Inspector Trew?

3 **MR. DEROCHIE:** That's correct. That's
4 correct.

5 **MR. ENGELMANN:** All right. And this was a
6 joint ---

7 **MR. DEROCHIE:** Yeah.

8 **MR. ENGELMANN:** --- OPP/CPS ---

9 **MR. DEROCHIE:** That happened, actually, just
10 shortly before this. I think it was early or just a week
11 or so before this particular issue came up.

12 **MR. ENGELMANN:** All right. So you're aware
13 that the defence counsel's making a disclosure request ---

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** --- shortly before the
16 criminal trial?

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

18 **MR. ENGELMANN:** And what, if anything, had
19 you been told about prior disclosure issues in the Lalonde
20 matter?

21 **MR. DEROCHIE:** That all disclosure had been
22 made; they had everything there was.

23 **MR. ENGELMANN:** Sir, were you aware if
24 disclosure requests had been outstanding for some time?

25 **MR. DEROCHIE:** This particular disclosure

1 request?

2 **MR. ENGELMANN:** No, disclosure requests
3 generally, since on or about January of 1998?

4 **MR. DEROCHIE:** I don't know if I knew
5 specifically at this time, but I came to know that, that
6 there were some issues. I may have -- they may have
7 briefed me at that time that they had previously asked for
8 everything from Mr. Dunlop; I don't recall. It's not in my
9 notes.

10 **MR. ENGELMANN:** All right. Well was -- had
11 there been actually a disclosure request put on the OMPPAC
12 system sometime earlier that you can recall, sir?

13 **MR. DEROCHIE:** I subsequently learned that,
14 that there had been a task created.

15 **MR. ENGELMANN:** And the reason why the Crown
16 attorney was discussing disclosure issues in September, was
17 that as a result of a request by defence counsel at that
18 time?

19 **MR. DEROCHIE:** Yes, that's right.

20 **MR. ENGELMANN:** There's a reference at --
21 it's -- sorry, it's Bates page 1043301.

22 **THE COMMISSIONER:** Zero-one (01)?

23 **MR. ENGELMANN:** About a letter from -- on
24 behalf of lawyer William Markle, who's representing
25 Lalonde?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** And what's being sought is
3 some disclosure dealing with notes that Mr. Dunlop may have
4 had from two meetings with C-8; is that correct?

5 **MR. DEROCHIE:** Yes. Yes, that's right.

6 **MR. ENGELMANN:** It was a specific
7 disclosure.

8 **MR. DEROCHIE:** Yes, surprisingly specific.

9 **MR. ENGELMANN:** Yeah. So this is defence
10 counsel asking for very specific disclosure?

11 **MR. DEROCHIE:** Yeah, notes made on September
12 11th and December 12th, 1996.

13 **MR. ENGELMANN:** All right. Did you give
14 some instructions to either police officers Desrosiers or
15 Brunet with respect to this issue?

16 **MR. DEROCHIE:** Yes, I instructed them to
17 follow the chain of command and get disclosure from Mr.
18 Dunlop.

19 **MR. ENGELMANN:** And what was the chain of
20 command to do that at that time?

21 **MR. DEROCHIE:** Well, it would have been from
22 the Divisional OIC to the officer's immediate supervisor,
23 and that would have been, you know, to do that through
24 OMPPAC; create a task NICHE or I don't recall if it was
25 OMPPAC or NICHE we were using at the time but one of those

1 mediums.

2 **MR. ENGELMANN:** And was this considered an
3 urgent or timely matter at that time?

4 **MR. DEROCHIE:** At this point, yes, it was.
5 Obviously, the trial was going to start very early in the
6 following week. I -- it's my recollection that we got this
7 on a Friday and the trial was to start on Monday, if that's
8 ---

9 **MR. ENGELMANN:** Well, if you look at Bates
10 page 3302, the following page, you note:

11 "Desrosiers told me that his case is
12 going to trial on Monday, October 4th.
13 The Crown is concerned that Dunlop may
14 not have made full disclosure and also
15 involved..."

16 **THE COMMISSIONER:** "Charges laid by OPP."

17 **MR. ENGELMANN:** Is that "all charges"?

18 **THE COMMISSIONER:** "All charges" yes. Well

19 ---

20 **MR. DEROCHIE:** "And are"

21 **THE COMMISSIONER:** "And are"?

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

23 "...also involved all charges laid by
24 the OPP."

25 **MR. ENGELMANN:** Yes, I think it says:

1 "...and also involved our charges laid
2 by the OPP."

3 **MR. DEROCHIE:** "Our" yes.

4 **THE COMMISSIONER:** It's your handwriting,
5 sir.

6 **MR. DEROCHIE:** My handwriting is very poor.
7 It appears to be "our" O-U-R.

8 **MR. ENGELMANN:** Anyways.

9 **THE COMMISSIONER:** Well, I was going to say
10 the folks at the back of the room are saying ---

11 **MR. ENGELMANN:** They're participating.

12 **THE COMMISSIONER:** They're participating.

13 So does it really matter?

14 **MR. DEROCHIE:** No.

15 **THE COMMISSIONER:** "...also involved our
16 charges laid by the OPP."

17 All charges; okay, anyways.

18 **MR. ENGELMANN:** All right. Sir, are you
19 aware of what happens as a result of this matter? Do you
20 actually go to court on the Monday, October 4th?

21 **MR. DEROCHIE:** Yes, I do. I attended court
22 on Monday and heard defence address the Court.

23 **MR. ENGELMANN:** Is this what we see at the
24 bottom of Bates page 1043303?

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

1 **MR. ENGELMANN:** And on to the following
2 page?

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** What is being argued or
5 stated by defence counsel as a result of this disclosure
6 issue?

7 **MR. DEROCHIE:** They're saying that they
8 believe, they have reason to believe that we have
9 disclosure that hasn't been made yet or at least Constable
10 Dunlop have, and that that disclosure will impact the case
11 before the court and also companion cases that were -- that
12 I would -- I took to mean Project Truth cases.

13 **THE COMMISSIONER:** Just so I'm in line here
14 with you. The disclosure on October 4th has not been done
15 of the September 11th and December 12th? You weren't able to
16 get that going before then or had they received those two
17 letters, those two notes?

18 **MR. DEROCHIE:** I don't believe we have
19 actually physically received it by that time.

20 **THE COMMISSIONER:** Okay.

21 **MR. DEROCHIE:** I don't recall. It will
22 certainly be documented when I received that disclosure.

23 **MR. ENGELMANN:** Well, apparently both the
24 defence counsel and the Crown, you are making some notes at
25 the top of this page 3304, tell the Court that Officer

1 Dunlop has been asked for disclosure on several occasions?

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: And were you aware, sir, if
4 these two interview notes from these dates, if they had
5 been disclosed in another matter and that's why defence
6 counsel was aware of them?

7 MR. DEROCHIE: I certainly wasn't aware of
8 that at that time.

9 MR. ENGELMANN: Did you become aware of
10 that?

11 MR. DEROCHIE: Well, it became obvious that
12 that may have been where -- there was some very specific
13 knowledge out there with regards to these notes existing,
14 so I guess I made that assumption. When I came to know
15 that for a fact, I don't recall.

16 MR. ENGELMANN: All right. Did you know why
17 they were disclosed in one case and not in another?

18 MR. DEROCHIE: No, I have no idea.

19 MR. ENGELMANN: Now, what was the
20 consequence that day of not being able to make the timely
21 disclosure?

22 MR. DEROCHIE: The matter was put off for
23 almost a year.

24 MR. ENGELMANN: It indicates at Bates page
25 3305 that the defence counsel's adjournment was granted and

1 that the new trial date was set for September 11th, 2000.

2 Do you see that on Bates page 3305, 1043305?

3 **MR. DEROCHIE:** Yes, September 11th, 2000.

4 **MR. ENGELMANN:** You are right. It's almost
5 a year later.

6 **MR. DEROCHIE:** Yeah.

7 **MR. ENGELMANN:** And are delays of that
8 nature a concern to you as a police officer?

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

10 **MR. ENGELMANN:** Why is that, sir?

11 **MR. DEROCHIE:** Well because the whole idea,
12 the whole issue of the right to a speedy trial, and this is
13 an unnecessary delay. It would be argued; it certainly
14 lines up for a Charter argument.

15 **MR. ENGELMANN:** Now you had instructed --
16 just to follow the chain of command -- Sergeant Desrosiers
17 to send a memo to Staff Sergeant Brunet with a copy of the
18 prosecutor's request, so that Brunet could forward it to
19 Dunlop's supervisor?

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

21 **MR. ENGELMANN:** And who was Constable
22 Dunlop's supervisor at that time?

23 **MR. DEROCHIE:** I believe it was Sergeant
24 Garry Lefebvre.

25 **MR. ENGELMANN:** All right. And were you

1 satisfied that that process that you devised was adequate
2 to meet the disclosure demands?

3 **MR. DEROCHIE:** Yes, I believed it was. I
4 wanted a paper trail to it.

5 **MR. ENGELMANN:** I referred you to this
6 matter being put on your OMPPAC system, and I would like
7 you to take a look at Bates page 1043328.

8 **MR. DEROCHIE:** Three, three, eight (338)?

9 **THE COMMISSIONER:** Three, three, two, eight
10 (3328), I think he said.

11 **MR. ENGELMANN:** And right at the bottom of
12 the page, sir, and continuing on to 1043329.

13 **MR. DEROCHIE:** This is a previous ---

14 **MR. ENGELMANN:** Yes. Tell us what you're
15 being told by Officer Desrosiers.

16 **MR. DEROCHIE:** He says that he created an
17 OMPPAC incident assignment asking for whatever disclosure
18 Dunlop had or might have had, and the due date for that
19 would have been November the 10th, and I would assume that
20 was November the 10th of 1998.

21 **MR. ENGELMANN:** This had been outstanding
22 for some time?

23 **MR. DEROCHIE:** Yeah. Yes, it was, yeah.

24 **MR. ENGELMANN:** And he notes that Dunlop has
25 not complied. And what follows from that?

1 **MR. DEROCHIE:** I would just like to go back
2 and read this.

3 **MR. ENGELMANN:** Sure. Absolutely.

4 **(SHORT PAUSE/COURTE PAUSE)**

5 **MR. DEROCHIE:** I'm sorry for holding you up.
6 I'm just reading, trying to put this into context, and it
7 starts on actually 327 where I'm getting this -- I'm
8 getting information from Staff Sergeant Carter.

9 **THE COMMISSIONER:** Well, it's -- it's break
10 time in any event. Maybe ---

11 **MR. DEROCHIE:** Oh.

12 **THE COMMISSIONER:** --- you could take a few
13 moments and review it during the break.

14 **MR. DEROCHIE:** Thank you.

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

17 This hearing will resume at 11:20.

18 --- Upon recessing at 11:03/L'audience est suspendu à 11h03

19 --- Upon resuming at 11:25/L'audience est reprise à 11h25

20 **THE REGISTRAR:** This hearing is now resumed.
21 Please be seated. Veuillez vous asseoir.

22 **THE COMMISSIONER:** Mr. Engelmann?

23 ---GARRY DEROCHIE, Resumed/Sous le meme serment

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

25 **PETER ENGELMANN:** (Continued/Suite)

1 **MR. ENGELMANN:** Thank you, sir. Just before
2 the break, Staff Sergeant Derochie, we were -- we were
3 looking at your notes from November of 1999 and trying to
4 clear up the issue about an OMPPAC request and whether that
5 was related to this particular issue involving a specific
6 disclosure of -- of -- involving the prosecution of Marcel
7 Lalonde and, in particular, a couple of statements of C-8;
8 do you recall that?

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** And you were looking at
11 Bates pages 1043327, 28 and 29 ---

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** --- with respect to this
14 issue. Have you had a chance to look at them now, sir, and
15 give us your thoughts on that?

16 **MR. DEROCHIE:** I have and I believe that
17 these are in -- in reference to an incident other than the
18 one we were -- we were discussing. It -- it talks of
19 something of a different investigation.

20 **MR. ENGELMANN:** All right. Would it have
21 still been involved with the Marcel Lalonde prosecution or
22 something completely ---

23 **MR. DEROCHIE:** I believe it was a different
24 prosecution.

25 **MR. ENGELMANN:** All right. So are you

1 aware, sir, if there had been previous requests for
2 disclosure on this particular file put on the OMPPAC
3 system?

4 **MR. DEROCHIE:** On the Marcel Lalonde ---

5 **MR. ENGELMANN:** Yes.

6 **MR. DEROCHIE:** --- investigation? Yes,
7 there -- there had been originally when the officer was
8 preparing his -- his -- his original brief, he had asked
9 for disclosure.

10 **MR. ENGELMANN:** All right. And the officer
11 in question from your force, would that have been Rene
12 Desrosiers?

13 **MR. DEROCHIE:** It was, yes.

14 **MR. ENGELMANN:** All right. So we can ask
15 him some further questions about prior disclosure on this
16 issue.

17 **MR. DEROCHIE:** Yes, he should be well aware
18 of that, yes.

19 **MR. ENGELMANN:** But, in any event, documents
20 had been received by the Cornwall Police Service and that
21 had been disclosed, documents from Constable Dunlop.

22 **MR. DEROCHIE:** Yes, I would -- I would
23 suggest that Detective Desrosiers had, in fact, asked for
24 disclosure; had gotten disclosure and what he believed to
25 be a complete disclosure and, subsequently, passed that on

1 to the Crown for disclosure.

2 **MR. ENGELMANN:** All right, so when the
3 disclosure request was made in late September of 1999, were
4 you and your colleagues expecting that full disclosure had
5 not been made at that time?

6 **MR. DEROCHIE:** No, we had no reason to
7 believe that it had not.

8 **MR. ENGELMANN:** And you talked to us about
9 some of the steps that you took to ensure that the
10 disclosure -- the specific disclosure that was requested
11 would be met as soon as possible.

12 **MR. DEROCHIE:** Yes, and my notes indicate
13 that I actually saw what that disclosure was on November
14 the 4th just prior to going to court to hear what was going
15 to happen.

16 **MR. ENGELMANN:** All right. And was the
17 disclosure in fact made then, sir?

18 **MR. DEROCHIE:** It was, but I don't know if
19 it was made at that -- that court that day.

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

21 **MR. DEROCHIE:** But it was certainly -- it
22 was certainly communicated to the Crown on that date.

23 **MR. ENGELMANN:** Would that have been October
24 4th, I'm sorry?

25 **MR. DEROCHIE:** That's my understanding;

1 October 4th.

2 **MR. ENGELMANN:** All right. Now, you talked
3 about a chain of command and I -- I can't remember how it
4 worked, but one officer to another to another and then
5 finally, to Dunlop's supervisor and to him.

6 **MR. DEROCHIE:** Yes, the -- the divisional
7 commander at the time with uniformed patrol was Staff
8 Sergeant, excuse me, Luc Brunet.

9 **MR. ENGELMANN:** Yes.

10 **MR. DEROCHIE:** He's ultimately responsible
11 for all of the teams; the teams were headed, at this
12 particular time in our history, by a sergeant -- Dunlop's
13 sergeant -- immediate supervisor was Garry Lefebvre on this
14 particular day.

15 **MR. ENGELMANN:** So he was on a uniformed
16 team at that time.

17 **MR. DEROCHIE:** He was on a uniformed patrol
18 team, yes.

19 **MR. ENGELMANN:** Was there any consideration
20 given by you or others just to -- going directly to
21 Constable Dunlop, in your role and saying, "Look, we've got
22 this disclosure problem; let's deal with it"?

23 **MR. DEROCHIE:** Specifically for this
24 request, no. I -- I advised that it should be done through
25 the chain of command. I wanted a -- I wanted a trail to --

1 to -- for subsequent use; I had, by this time, made up my
2 mind that I was waiting for the opportunity to -- to deal
3 with this issue in its -- its -- in its entirety and this
4 was the catalyst for that.

5 **MR. ENGELMANN:** And this issue's what, sir?

6 **MR. DEROCHIE:** The whole -- all of the
7 questions surrounding disclosure that had plagued us with
8 regards to this whole matter for a number of -- for awhile
9 now.

10 **MR. ENGELMANN:** All right. Well, aside from
11 the Lalonde prosecution and these -- this particular
12 incident where there are two notes that are missing that --
13 -

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

15 **MR. ENGELMANN:** --- presumably had been
16 given out in another prosecution so their specific request
17 is known to defence counsel, had there been other
18 disclosure issues dealing with OPP prosecutions by this
19 time; this is the spring of '99?

20 **MR. DEROCHIE:** Yes, it's my understanding
21 that there were.

22 **MR. ENGELMANN:** Okay, ones that you were
23 directly involved with, sir?

24 **MR. DEROCHIE:** I don't recall having been
25 directly involved prior to this particular incident. That

1 would have been dealt with by Inspector Trew.

2 MR. ENGELMANN: All right, so -- because you
3 had said by this time -- I got the sense that you're --
4 you're saying, enough is enough; you're going to take some
5 action.

6 MR. DEROCHIE: Basically, that's -- that's
7 were I was, yes.

8 MR. ENGELMANN: All right. And I'm
9 wondering, you know, you obviously based that on more than
10 this -- this one incident with ---

11 MR. DEROCHIE: On my ---

12 MR. ENGELMANN: --- Marcel Lalonde.

13 MR. DEROCHIE: --- on my knowledge that
14 disclosure had been a continuous problem and -- and, at the
15 end of the day, I wasn't confident that we had or we knew
16 all of what Perry had; he, from time to time, mentioned
17 that he had a wall of documents or boxes of documents at
18 home and I thought it was -- it was well now the time to
19 find out exactly ---

20 MR. ENGELMANN: All right.

21 MR. DEROCHIE: --- what he had in these
22 boxes.

23 MR. ENGELMANN: So were you aware, at this
24 point in time, if -- if less than full disclosure had led
25 to other delays in court proceedings? Because you told us

1 about in this one it led to a delay of almost a year.

2 MR. DEROCHIE: Yes, and I -- I can't recall
3 specifically if I would have known of others at that time,
4 but I was certainly alive to the whole issue of disclosure
5 and the -- and the issue that -- that there -- there were --
6 - there were Charter issues here at play so and -- and --
7 I'm sorry, subsequent to this, we did meet with the Crown
8 attorney, I -- I believe it was that same day on October
9 the 4th and ---

10 MR. ENGELMANN: I just wanted to take you
11 there actually, sir ---

12 MR. DEROCHIE: Okay.

13 MR. ENGELMANN: --- if we could, because I
14 believe that discussion is found on Bates page 1043304 ---

15 MR. DEROCHIE: That's correct; it is.

16 MR. ENGELMANN: --- towards the bottom of
17 the page. So can you give us a sense as to what happens?
18 This is October 4th, you're getting -- the trial date's
19 being pushed back almost a year ---

20 MR. DEROCHIE: Yes.

21 MR. ENGELMANN: --- and there appear to be
22 some notes on Bates page 1043304 and 3305 and again 3306.

23 MR. DEROCHIE: Yes, we met, myself and
24 Acting Inspector Carter -- Staff Sergeant Carter now, we
25 met with the Crown attorney at the Project Truth offices

1 and the Crown expressed her frustration to us with regards
2 to the matter of disclosure.

3 **MR. ENGELMANN:** And the Crown would have
4 been Claudette ---

5 **MR. DEROCHIE:** Wilhelm.

6 **MR. ENGELMANN:** --- Wilhelm?

7 **MR. DEROCHIE:** That's correct; Claudette
8 Wilhelm, yes.

9 **MR. ENGELMANN:** And what was she telling
10 you?

11 **MR. DEROCHIE:** She was telling me that she
12 couldn't say with any degree of certainty to defence that
13 she had made full disclosure because she didn't know what
14 else was out there. She had no confidence that we had
15 gotten everything that Perry has.

16 **MR. ENGELMANN:** All right. And did you
17 advise her as to what steps you would take to ensure that
18 she got full disclosure?

19 **MR. DEROCHIE:** Yes, I told her I would make
20 my best effort to ensure that we would see everything that
21 Perry had with regards to all of these matters and that
22 would be -- she was primarily -- had -- had carriage of the
23 Lalonde investigation, but there was the whole issue of
24 disclosure going into the Project Truth files, as well, so
25 I wanted -- I wanted once and for all to deal, as you put -

1 - as you put it to me; yes, I wanted once and for all to
2 deal with all issues surrounding disclosure.

3 **MR. ENGELMANN:** All right. I'm looking at
4 Bates page 1043306; you say:

5 "There is concern by all involved in
6 this particular prosecution, Lalonde,
7 as well as others, that Dunlop's past
8 and continued involvement in these
9 matters may have severe consequences."

10 **MR. DEROCHIE:** That's true, yes. No severe
11 consequences would be the integrity of the -- of the court
12 cases and the -- and how they would be vulnerable to
13 Charter arguments with regards to unreasonable delay, lack
14 of disclosure.

15 **MR. ENGELMANN:** And, in fact, I think you
16 said that later there is concern that his involvement could
17 prove fatal to the prosecutions?

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

19 **MR. ENGELMANN:** So was the concern simply
20 delay arguments or were there other arguments that ---

21 **MR. DEROCHIE:** Well, there was the whole
22 idea that he was interviewing witnesses that he, himself,
23 most likely would be called as a witness at at least some
24 of these trials and that it would -- it was improper for
25 him to be speaking with other witnesses, taking statements,

1 doing that kind of thing.

2 **MR. ENGELMANN:** And what did you tell the
3 Crown prosecutor you were going to do at that time?

4 **MR. DEROCHIE:** I told her that I would issue
5 him very specific orders to comply and that I would -- I
6 assured her that I would do everything I could to make sure
7 that that order was complied with and that -- that we would
8 put this matter to rest once and for all.

9 **MR. ENGELMANN:** All right. I'm just looking
10 at your note, "Issue clear written orders to Dunlop"?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** Was there some issue about
13 whether or not the orders were clear or specific enough, at
14 that time?

15 **MR. DEROCHIE:** Well, I had -- I had concerns
16 that there was what I referred to as "wobble room" in the
17 order, that there was still somewhat of a role for Dunlop
18 to play with regards to his involvement in these matters
19 and I wanted just to tighten those -- those parameters, as
20 it were.

21 **MR. ENGELMANN:** Had there been some issues
22 previously in dealing with his then lawyer about what
23 documents he would turn over and what documents he would
24 not?

25 **MR. DEROCHIE:** Yes. I knew that Inspector

1 Trew had had some discussions with both Perry and Mr.
2 Bourgeois with regards to making disclosure; that Perry had
3 been, at one point, assigned to do exactly that, to go
4 through and -- and do what it was that they had asked at
5 the time. There was -- there was some communication
6 between the Inspector and Mr. Bourgeois to that effect.

7 **MR. ENGELMANN:** And in your notes you also
8 say:

9 "He will be further instructed that
10 Crown alone will determine what
11 materials are relevant, not himself."

12 **MR. DEROCHIE:** That's correct, not ---

13 **MR. ENGELMANN:** Why did you think that was
14 important?

15 **MR. DEROCHIE:** Well, because I thought it
16 was important that we see everything he's got; whether he
17 felt it was relative to a particular investigation or any
18 investigation whatsoever that he -- in my opinion, he
19 should not be making that decision.

20 **MR. ENGELMANN:** Now, aside from disclosure,
21 it appears you're telling her that you're also going to
22 tell him that he must stop investigating privately. I'm
23 looking -- I'm having trouble -- "These criminal
24 allegations"? I'm at the top of Bates page 1043307.

25 **MR. DEROCHIE:** "He will also be told that he

1 must stop investigating privately these
2 criminal allegations and to refer all
3 potential complainants to the OPP."

4 **MR. ENGELMANN:** All right. So did you have
5 a sense that he was not doing that, that he was ---

6 **MR. DEROCHIE:** He was doing it. He was
7 referring people to the OPP after he had interviewed them
8 and taken statements, sometimes video statements, from
9 them.

10 I had -- I had learnt that subsequent to --
11 subsequent to September or thereabouts when I became
12 responsible for ---

13 **MR. ENGELMANN:** All right. So you're saying
14 that as late as the fall of 1999 that Mr. Dunlop was still
15 interviewing and taking video statements?

16 **MR. DEROCHIE:** I -- I believe I have a note
17 somewhere that when I met with Inspector Hall and when I
18 was taking over from Rick, they told me at that time that
19 they had an incidence that had occurred that April,
20 something similar.

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

22 **MR. DEROCHIE:** So -- and -- and I thought
23 that that had stopped, that whole practice, after the
24 discussion he had had with Inspector Trew and obviously now
25 is being told that this is continuing.

1 **MR. ENGELMANN:** That there was one more
2 example?

3 **MR. DEROCHIE:** There's at least one more
4 example.

5 **THE COMMISSIONER:** It's on page, I believe,
6 1043306:

7 "Dunlop interviewed a new victim...",
8 -- right on top?

9 "...and taken an audio or video
10 statement."

11 **MR. DEROCHIE:** Yes, quite right, Mr.
12 Commissioner.

13 **MR. ENGELMANN:** And this was something that
14 was mentioned to you by Constable Genier from the Project
15 Truth team?

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

17 **THE COMMISSIONER:** But by this time, this is
18 '99, he's back at work, Officer Dunlop?

19 **MR. DEROCHIE:** He is, sir, yes.

20 **THE COMMISSIONER:** All right.

21 **MR. ENGELMANN:** In fact, he's been back at
22 work since May of '97?

23 **MR. DEROCHIE:** Yes. Yes, early summer or
24 late spring of '97, yes.

25 **MR. ENGELMANN:** And, sir, were you aware of

1 another alleged victim that he had interviewed in '98 ---

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: --- or not?

4 MR. DEROCHIE: That -- are you referring to
5 that part of my notes that we were discussing just before
6 the break?

7 MR. ENGELMANN: No, I'm not.

8 MR. DEROCHIE: Oh.

9 MR. ENGELMANN: I'm referring to something
10 else, but there may have been a reference in your note.

11 MR. DEROCHIE: I'm sorry, I don't understand
12 where you're coming from then.

13 MR. ENGELMANN: All right.

14 MR. DEROCHIE: I don't know which reference
15 you're ---

16 MR. ENGELMANN: No, but I'm just wondering
17 if you were aware of whether or not there had been another
18 victim that he had met with and interviewed?

19 MR. DEROCHIE: I don't -- I don't -- it
20 doesn't come to mind; there may well have been.

21 MR. ENGELMANN: Fair enough. And I don't
22 want to mention names.

23 Sir, just on that next page, sorry on Bates
24 page 3307?

25 MR. DEROCHIE: Yes.

1 **MR. ENGELMANN:** You make reference to the
2 fact that you're going to call Ms. Bordeleau?

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** And she was one of the
5 lawyers for the Cornwall Police Service at that time?

6 **MR. DEROCHIE:** Yes, she's the lawyer we deal
7 with with regards to discipline matters.

8 **MR. ENGELMANN:** And were you seeking some
9 assistance from her in preparing a written order for
10 Constable Dunlop?

11 **MR. DEROCHIE:** That's correct. I wanted to
12 put her on notice that I'd be drafting something up and I
13 would be forwarding it for her to ---

14 **MR. ENGELMANN:** All right. So you're
15 telling the Crown prosecutor, Claudette Wilhelm, that
16 you're going to be preparing clear written orders?

17 **MR. DEROCHIE:** Yeah.

18 **MR. ENGELMANN:** That's October 4th.

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

20 **MR. ENGELMANN:** My understanding is that on
21 or about January 10th -- and we'll come to it -- of the year
22 2000, you, in fact, meet with Constable Dunlop with a set
23 of orders?

24 **MR. DEROCHIE:** Yes.

25 **MR. ENGELMANN:** Now, do you recall, sir, if

1 you were having discussions with the OPP Project Truth team
2 about some of these disclosure concerns from time-to-time?

3 **MR. DEROCHIE:** Oh yes, from time-to-time,
4 from this point onward, we were -- we communicated quite
5 frequently.

6 **MR. ENGELMANN:** All right. And your
7 concerns about having full disclosure from Constable
8 Dunlop, did they share those concerns?

9 **MR. DEROCHIE:** Oh yes, they did, yes.

10 **MR. ENGELMANN:** All right. And were they
11 concerned about the possible impact that a lack of full
12 disclosure may have on their cases?

13 **MR. DEROCHIE:** Certainly they were, yes.

14 **MR. ENGELMANN:** And did you ever discuss
15 with Officer Hall or other members of his team, the
16 possibility of obtaining a search warrant to obtain all of
17 the information held by Constable Dunlop?

18 **MR. DEROCHIE:** Yes, I did. We were -- we've
19 -- we -- I was discussing all of the options that we would
20 have or we may have at our disposal to eventually get to
21 where we wanted to be with this whole issue and this was
22 certainly one of the options.

23 **MR. ENGELMANN:** All right. And I'm just
24 referring to, it's the bottom of page 1043313, and onto the
25 top of 1043314.

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** Just before we go into it,
3 I'm assuming that the circumstance of having an officer
4 having done an investigation while off duty and the issues
5 that arise with respect to disclosure, is that something
6 that you had ever dealt with before?

7 **MR. DEROCHIE:** No.

8 **MR. ENGELMANN:** All right. So it was a
9 rather unusual circumstance?

10 **MR. DEROCHIE:** Oh, everything about this
11 whole matter has been very unusual.

12 **MR. ENGELMANN:** All right. Well, we've used
13 that term a number of times, so ---

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** And there were issues that
16 you sought legal advice on from time-to-time and/or advice
17 from your colleagues internally or from people on the OPP?

18 **MR. DEROCHIE:** Oh yes, we were -- I was
19 looking for a precedent for this and I couldn't find --
20 I've never -- you know, the whole idea of talking about in
21 terms of executing a search warrant on a police officer's
22 house for the purpose of providing disclosure in a criminal
23 matter sounds ridiculous, but that's to the point we were
24 at this thing that we're at least considering that.

25 **MR. ENGELMANN:** And did you have that

1 discussion with Pat Hall?

2 MR. DEROCHIE: Yes, yes.

3 MR. ENGELMANN: And what conclusion, if any,
4 did you arrive at?

5 MR. DEROCHIE: Well, I guess the conclusion
6 was that the search warrant, as it always is, is a last
7 resort and especially under this -- under this situation.
8 We thought that there were options. We talked about some
9 sort of a judicial order, a judicial review, that Mr.
10 Dunlop might be called before a presiding judge at one of
11 these cases and the law laid down to him in very specific -
12 - so that if he failed to comply, there would be severe
13 consequences.

14 MR. ENGELMANN: I'm assuming before that
15 option was pursued, you were going to pursue this clear
16 written order and ask him to comply?

17 MR. DEROCHIE: Yes, I would -- I would
18 suspect that we would be -- we would be judged that we had
19 to make every possible effort ourselves before we could
20 move on to something more dramatic -- more drastic, rather.

21 MR. ENGELMANN: Now, during the course of
22 these conversations about disclosure issues and particular
23 disclosure and related issues that you would have discussed
24 with officers from the OPP Project Truth team?

25 MR. DEROCHIE: Yes.

1 **MR. ENGELMANN:** Were you ever advised of
2 potential criminal acts that Mr. Dunlop may have committed?

3 **MR. DEROCHIE:** There was hints that there
4 had been misconduct that might be considered criminal. We
5 had discussed those issues, yes.

6 **MR. ENGELMANN:** May I just ask that you look
7 at Bates page 1043312? I'm near the top of the page, sir,
8 and I think it's your note of what you're saying.

9 "I then asked Hall if he had any
10 knowledge with regards to Dunlop having
11 committed any criminal acts with
12 relation to his (Dunlop's) involvement
13 in the issues being dealt with by
14 Project Truth."

15 **MR. DEROCHIE:** I recall that, yes.

16 **MR. ENGELMANN:** What types of criminal acts
17 did you think may have been a concern?

18 **MR. DEROCHIE:** I really don't know what the
19 extent of them were. That hinted to me or suggested to me
20 that there might be misconduct and I wanted to know some
21 specifics now.

22 I was looking at the disclosure made by Mr.
23 Dunlop as a result of Mr. Markle's letter to us with
24 regards to the Marcel Lalonde investigation and had looked
25 at the transcript of the preliminary hearing at which Mr.

1 Dunlop had testified. And clearly, I -- well, clearly -- I
2 saw the possibility of perjury amongst that evidence that
3 was provided at that time.

4 **MR. ENGELMANN:** And this was his testimony
5 at a preliminary inquiry in the Lalonde matter?

6 **MR. DEROCHIE:** That's correct. And so I had
7 heard that there had been some issues and I didn't know
8 clearly what those were with regards to the preliminary
9 involving Father Charlie MacDonald which was held in Ottawa
10 some time around that same period of time. That there had
11 been some -- the Crown of that -- in charge of that -- in
12 prosecution rather, had expressed some concern and I wanted
13 to explore what that might be.

14 **MR. ENGELMANN:** Why would you be exploring
15 possible criminal charges?

16 **MR. DEROCHIE:** Well, I thought there was
17 criminal activity, obviously. There was a lot of concern
18 about what Mr. Dunlop was doing when he was conducting his
19 private investigation.

20 There was some discussion about himself and
21 a witness/victim that had a -- that person had identified
22 himself as a police officer in a bar where Mr. Dunlop was
23 present and I wanted to have a look at that.

24 I wanted that information to see exactly
25 what it was that we had here. What was the extent of, if

1 any, of this misconduct that I kept hearing references to.

2 **MR. ENGELMANN:** All right. And what kind of
3 a response did you get from Pat Hall?

4 **MR. DEROCHIE:** He encouraged me. He said
5 that when the time came, he would provide a statement and
6 that he would ask retired Inspector Tim Smith to also
7 provide a statement so that I could further my
8 investigation -- or further the investigation, I don't know
9 that I personally would have conducted it but ---

10 **MR. ENGELMANN:** Again, on that Bates page,
11 he's referring to the fact that -- you're indicating he's
12 saying:

13 "He told me that he did not ..."

14 And I assume that's direct knowledge of
15 criminal activity?

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

17 **MR. ENGELMANN:** "... but that I should talk
18 to Crown attorney Bob Pelletier who'd
19 been involved in the Father Charles
20 MacDonald preliminary."

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** He had no direct knowledge
23 but had heard that there might be something; all right?

24 **MR. DEROCHIE:** Yes.

25 **MR. ENGELMANN:** And did he also tell you

1 that investigating Constable Dunlop was not part of his
2 mandate, his Project Truth mandate?

3 **MR. DEROCHIE:** Yes, he did. He made it
4 abundantly clear to me that he and the OPP considered Perry
5 Dunlop to be our issue, our problem and rightfully so.
6 That was his opinion.

7 **MR. ENGELMANN:** All right. And did you
8 agree with him on that?

9 **MR. DEROCHIE:** Oh, I did, yes.

10 **MR. ENGELMANN:** All right. So in response
11 to that answer given to you by the OPP, did you start
12 looking into this issue?

13 **MR. DEROCHIE:** Yes, I did. I wanted to get
14 the opinion of a Crown on how I should proceed. These
15 were, as we both agreed, unusual circumstances.

16 There had also been some concerns expressed
17 to us that whatever we did, if we decided to go down this
18 route, that it may -- we should not investigate it
19 ourselves, that we should seek a referral to another police
20 department to do that. That it would be viewed -- the
21 optics of it wouldn't be good if we were doing the
22 investigation on Perry Dunlop given our history with him.

23 **MR. ENGELMANN:** All right. And you set out
24 on Bates page 1043313 some of what you were starting to
25 look at ---

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: --- that may be improper
3 conduct?

4 MR. DEROCHIE: That's correct.

5 MR. ENGELMANN: And you're saying, we're not
6 concerned with the *Police Service Act* now, we're concerned
7 with possible criminal charges?

8 MR. DEROCHIE: Yes.

9 MR. ENGELMANN: And you talked about, you
10 say:

11 "I believe that he may have committed
12 perjury and he was obstructing justice
13 by not making full and complete
14 disclosure of notes and other
15 evidence."

16 MR. DEROCHIE: That was my opinion.

17 MR. ENGELMANN: Now, did you then discuss
18 these concerns with a Crown attorney?

19 MR. DEROCHIE: I did, yes.

20 MR. ENGELMANN: And was that a Crown
21 attorney by the name of Marc Garson?

22 MR. DEROCHIE: That's correct.

23 MR. ENGELMANN: And he was a Crown attorney
24 where, sir?

25 MR. DEROCHIE: I believe in the London area;

1 south-western Ontario somewhere.

2 **MR. ENGELMANN:** All right. And why was it
3 that you talked to the Crown attorney from the London area?

4 **MR. DEROCHIE:** That's who I was referred to.
5 That's -- I asked through the Regional Director of Crown.
6 I would venture the guess that all of the other local Crown
7 were heavily involved one way or another in these matters
8 and they would want somebody independent of this area I
9 would think. Again, that's my speculation.

10 But the -- ultimately the -- who decides
11 which Crown does it up to the Regional Director of Crown,
12 which I believe Mr. Garson was actually for that particular
13 ---

14 **MR. ENGELMANN:** For that region.

15 **MR. DEROCHIE:** --- for that region.

16 **MR. ENGELMANN:** Right.

17 **MR. DEROCHIE:** Maybe he was doing a favour
18 for Mr. Stewart, I don't know.

19 **THE COMMISSIONER:** There's some mention in
20 the notes about it.

21 **MR. ENGELMANN:** Yes. So if we look at -- on
22 Bates page 1043318, there are several references to Mr.
23 Garson but that's one.

24 **THE COMMISSIONER:** So his recommendation is
25 that any investigation be done by an outside agency?

1 **MR. DEROCHIE:** That's correct. At the end
2 of the day, that's what he advised me.

3 **MR. ENGELMANN:** And that's -- we see that
4 reference at the top of Bates page 1043318.

5 **THE COMMISSIONER:** There we go.

6 **MR. ENGELMANN:** Is that correct?

7 **MR. DEROCHIE:** Yes.

8 **MR. ENGELMANN:** And you do, in fact, meet
9 with Mr. Garson, it's not just a phone call?

10 **MR. DEROCHIE:** No, I subsequently meet with
11 him. We have a discussion about the facts.

12 **MR. ENGELMANN:** And is that set out to some
13 extent on that page, 3318?

14 **MR. DEROCHIE:** Yes, it is.

15 **MR. ENGELMANN:** And then again, sir, I
16 believe your notes about the actual meeting which takes
17 place, I believe, in Ottawa, start at the bottom of Bates
18 page 1043321, October 29th?

19 **MR. DEROCHIE:** Yes, that's right.

20 **MR. ENGELMANN:** And then carry on for the
21 next couple of pages thereafter?

22 **MR. DEROCHIE:** Yes.

23 **THE COMMISSIONER:** Mr. Engelmann, I'm sorry
24 to interrupt you but ---

25 **MR. ENGELMANN:** Yes?

1 **THE COMMISSIONER:** Can we go back to 1-7 and
2 I just want to get your understanding, sir, of what was
3 going on with Dunlop at -- if you look, you received a call
4 from Detective Inspector Hall.

5 "He told me that he met briefly with
6 Garson on the 13th. His participation
7 in this matter was arranged by Murray
8 MacDonald's office on the advice he
9 believes of Regional Director of Crown,
10 Jim Stewart."

11 Right?

12 **MR. DEROCHIE:** Yes.

13 **THE COMMISSIONER:** So he told Garson that he
14 was not investigating Dunlop nor did he feel that he
15 should. Who's the "he"? Is that Hall?

16 **MR. ENGELMANN:** It's Hall and he; that they
17 should, meaning the OPP, they shouldn't be involved in
18 that.

19 **THE COMMISSIONER:** Okay.

20 "He also told me that he had consulted
21 with his superiors in Orillia and has
22 been told not to follow-up on the
23 assistant Crown attorney Wilhelm's
24 request to speak with Dunlop about his
25 contacting Crown witnesses."

1 MR. DEROCHIE: Yes.

2 THE COMMISSIONER: Okay. And Garson says
3 then "it should be an outside ---"

4 MR. DEROCHIE: Yes.

5 THE COMMISSIONER: Okay, so I've got that.
6 We'll follow up later what happened. Okay. Thank you.

7 MR. ENGELMANN: All right. So you set out
8 some of your discussions with Mr. Garson ---

9 MR. DEROCHIE: Yes.

10 MR. ENGELMANN: --- on those Bates pages
11 we've just looked at?

12 MR. DEROCHIE: Yes.

13 MR. ENGELMANN: And in particular at the top
14 of 1043322:

15 "The reason for meeting is to get his
16 opinion on how the CPS should begin the
17 investigation into Dunlop's involvement
18 with the Lalonde matter and to express
19 our concern about the impact Dunlop is
20 having on Project Truth."

21 MR. DEROCHIE: Yes.

22 MR. ENGELMANN: And again he repeats that if
23 there is an investigation of that nature, it should be done
24 by an outside agency?

25 MR. DEROCHIE: Yes, he was pretty consistent

1 with that opinion.

2 MR. ENGELMANN: When you say at the bottom
3 of the page:

4 "He's somewhat familiar with the
5 issues."

6 MR. DEROCHIE: Yes, I would imagine he would
7 have been briefed.

8 MR. ENGELMANN: And he's saying at the top
9 of the next page:

10 "Doesn't believe CPS should undertake
11 any inquiries other than disclosure
12 issues..."

13 MR. DEROCHIE: Yes.

14 MR. ENGELMANN: "...as they relate to
15 Lalonde."

16 MR. DEROCHIE: Yes. So he's giving me the
17 go ahead for disclosure and I should look for someone else,
18 some other police service to investigate if the Service
19 felt that there was a need to.

20 MR. ENGELMANN: And then he goes on to say -
21 - he gives you a brief opinion that, "He was acting..." he
22 being Dunlop:

23 "...as a private citizen, although it
24 appeared that he would consider that
25 further and there is no doubt that if

1 we, Crown/police, believe that Dunlop
2 was not making full disclosure, that we
3 were required to make full efforts to
4 obtain that disclosure."

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** And that's even if Dunlop
7 was a defence witness?

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

9 **MR. ENGELMANN:** Were you aware, sir, that on
10 occasion he was summonsed by the Crown and, on occasion, he
11 was summonsed by the Defence ---

12 **MR. DEROCHIE:** Yes, I was aware of that,
13 yes.

14 **MR. ENGELMANN:** And he indicated to you that
15 he would provide you with a written opinion?

16 **MR. DEROCHIE:** He did, yes, he eventually --
17 -

18 **MR. ENGELMANN:** And, sir, he did that; did
19 he not?

20 **MR. DEROCHIE:** He did. Yes.

21 **MR. ENGELMANN:** And, in fact, if the witness
22 could be shown, it's Document Number 116912.

23 **THE COMMISSIONER:** Thank you. This is a
24 letter dated November 19th, 1999, addressed to Staff
25 Sergeant Garry Derochie from Mr. Marc Garson.

1 **--- EXHIBIT NO./PIÈCE No. P-1326:**

2 (116912) Letter from Marc A. Garson to Garry
3 Derochie - 19 Nov 99

4 **MR. DEROCHIE:** Yes, I recall receiving this
5 document.

6 **THE COMMISSIONER:** Sorry?
7 Do we have a 25? Yes, we do. All right.

8 **THE REGISTRAR:** Thank you.

9 **MR. ENGELMANN:** Sir, I don't know when you
10 last looked at this document. Do you need a minute?

11 **MR. DEROCHIE:** Yes, I -- I'm familiar with
12 this contents to -- you know, and briefly summarizing them;
13 he gave us an opinion on our duties to disclose, and we had
14 no issues with -- we well recognized our duties to
15 disclose. That was not the issue.

16 **THE COMMISSIONER:** All right. A publication
17 ban should be stamped to put on that.

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

19 Now, sir, in the first part of his opinion,
20 he refers to some background facts?

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** He is then going to use to
23 base his legal opinion upon.

24 **MR. DEROCHIE:** Yes.

25 **MR. ENGELMANN:** And those background facts,

1 were they in the main provided by you in the course of your
2 meeting with him on the 29th?

3 **MR. DEROCHIE:** Yes, I believe they would
4 have been. I briefed him on what had occurred up to date.
5 He may have had other sources. I don't know.

6 **MR. ENGELMANN:** All right. But if we are
7 looking at the facts set out on page 1, for example, that
8 Constable Dunlop was not part of the team responsible for
9 the prosecution of Marcel Lalonde; that he purports to be
10 acting in his personal capacity not as a police officer
11 when he speaks to some of these complainants, et cetera.

12 You would have provided that type of
13 information to Mr. ---

14 **MR. DEROCHIE:** Yes, I would have. Yes.

15 **MR. ENGELMANN:** And the reference to
16 preliminary inquiry transcripts, apparently he had been
17 provided with those transcripts?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** Is that something that you
20 would have given him?

21 **MR. DEROCHIE:** Most likely, I had them.

22 **MR. ENGELMANN:** And he is suggesting in the
23 fourth paragraph on -- is this -- it says "3" on the page,
24 but I think it's the second page. I don't -- oh, I'm
25 missing a page.

1 So he addresses three issues in his opinion
2 to you. Is that fair?

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** In broad strokes. The first
5 one is the requirements that the Cornwall Police Service at
6 law to ensure that full disclosure has been made.

7 **MR. DEROCHIE:** Yes.

8 **MR. ENGELMANN:** And he's suggesting in
9 fairly direct terms in the fourth paragraph on page 3 that
10 someone should take immediate steps ---

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** --- to meet with Constable
13 Dunlop.

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

15 **MR. ENGELMANN:** And again, he's saying:

16 "It may be appropriate to seek out from
17 Dunlop an itemized list of all material
18 in his possession, which is material
19 and relevant to the Lalonde
20 prosecution."

21 **MR. DEROCHIE:** Yes.

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

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** Was that ever done. to your
25 knowledge?

1 **MR. DEROCHIE:** Prior to the January 10th
2 order, is what you're saying?

3 **MR. ENGELMANN:** Yes?

4 **MR. DEROCHIE:** Well, other than the
5 assignment we had given him in early October to, you know,
6 make further disclosure, we were, you know, as much as we
7 could, we were confident that he had been asked for it at
8 least.

9 **MR. ENGELMANN:** Okay. Would this have been
10 part of what he would be doing in the first few months of
11 the year 2000?

12 **MR. DEROCHIE:** Oh, yes. Oh, yes,
13 definitely, he would be -- we would be going through
14 everything.

15 **MR. ENGELMANN:** Okay. So every prosecution
16 where he may have had any contact with the witness?

17 **MR. DEROCHIE:** Exactly. Exactly. I think,
18 as we come to that order, you'll see that it was ---

19 **MR. ENGELMANN:** Yes.

20 **MR. DEROCHIE:** --- it was pretty inclusive;
21 everything, I wanted everything.

22 **MR. ENGELMANN:** And you knew at that point
23 that the Lalonde trial would be taking place in the fall of
24 the year 2000?

25 **MR. DEROCHIE:** That's correct. I had some

1 time to deal with that.

2 **MR. ENGELMANN:** Now, he gives you an answer
3 at the bottom of that portion. So the last full paragraph
4 on page 3, where he says:

5 "You have requested our advice on the
6 action that should be taken by the
7 Police Service in dealing with the
8 conduct of Constable Dunlop."

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** And that was something that
11 you had sought some advice on at the instructions of Chief
12 Repa?

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** And what did Mr. Garson tell
15 you about that request?

16 **MR. DEROCHIE:** That really he doesn't -- he
17 can't really provide an opinion on that. It's --
18 everything is dealt with under the *Police Services Act* and
19 their opinion was limited to legal advice on issues.

20 **MR. ENGELMANN:** So in effect he's throwing
21 that one back to your police force?

22 **MR. DEROCHIE:** Right back into -- yeah.
23 Yes, yeah.

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

25 **MR. DEROCHIE:** I think we were more

1 concerned -- if I can just expand a bit on that. We were
2 more concerned about should we be considering the whole
3 impact on the cases before the courts, if we move on Dunlop
4 with regards to discipline. Does that go back to my whole
5 concern about making the situation worse; aggravating the
6 situation? And clearly it -- you know, in hindsight, it
7 was probably an unfair question to ask of him. That was
8 our call.

9 **MR. ENGELMANN:** All right. Now the second
10 issue that you were seeking some legal guidance on was the
11 Crown's responsibility in this matter. Is that correct?

12 **MR. DEROCHIE:** I really don't recall asking
13 for an opinion on that. I thought, you know, I understood
14 what the relationship between the police and the Crown and
15 the defence was with regards to disclosure, but he may well
16 have wanted to articulate to make sure that we understood.

17 **MR. ENGELMANN:** Well it appears he did.

18 **MR. DEROCHIE:** Yes, he did.

19 **MR. ENGELMANN:** And he wanted you to have
20 something in writing setting out what he thought the
21 Crown's responsibility was.

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** Because the Crown's
24 responsibility with disclosure goes hand-in-hand with that
25 of the police?

1 **MR. DEROCHIE:** Very much so, yes.

2 **MR. ENGELMANN:** All right. And he, for
3 example, would have said that there's an ongoing duty to
4 make disclosure.

5 **MR. DEROCHIE:** Yes. That duty remains; we
6 understand that. I -- at least, I understand that, and I'm
7 sure my Service understands that; that that duty is there.

8 **MR. ENGELMANN:** Yeah, and he would have
9 given you some of the legal authorities for the Crown's
10 duty ---

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** --- with respect to
13 disclosure?

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** These were probably things,
16 as you said, that you were aware of at that point in time?

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** All right. And then the
19 third area to cover is Next Steps.

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** And he's again giving you
22 some encouragement in the second paragraph there under?

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** And this is not just to meet
25 with Dunlop but to report back to the Crown about what

1 you're doing ---

2 **MR. DEROCHIE:** Yes.

3 **MR. ENGELMANN:** --- and when things are
4 going to happen?

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** All right. And he's telling
7 you to document these types of requests and responses?

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** And, again, he appears to be
10 giving you advice that he's given you in person and I think
11 on the phone when we look at the last paragraph of page 5?

12 **MR. DEROCHIE:** In the last paragraph?

13 **MR. ENGELMANN:** Can you just tell us what
14 that's referring to?

15 **MR. DEROCHIE:** Well, that was -- that's
16 referring to the issues that I had raised of the potential
17 or the possibility of there having been perjured evidence.

18 **MR. ENGELMANN:** And he's, again, advising
19 you that that's not something your force should
20 investigate?

21 **MR. DEROCHIE:** That's correct. Say if we
22 feel there's a need, we should be going outside of our
23 service.

24 **MR. ENGELMANN:** And was that in fact
25 referred outside of your service?

1 **MR. DEROCHIE:** Yes, it was.

2 **MR. ENGELMANN:** And do you recall, sir,
3 which service would have looked at that?

4 **MR. DEROCHIE:** It was the Ottawa Police
5 Service.

6 **MR. ENGELMANN:** And a report was given at
7 some point later about that?

8 **MR. DEROCHIE:** They conducted an
9 investigation, sought a Crown's opinion and subsequently
10 provided us with the results of all of that.

11 **MR. ENGELMANN:** All right. And as a result
12 of that, was Constable Dunlop charged with perjury?

13 **MR. DEROCHIE:** He was not.

14 **MR. ENGELMANN:** All right. He does, again,
15 though -- and I'm just looking towards the end of his legal
16 opinion to you -- stress the importance of Constable Dunlop
17 not meeting with witnesses?

18 **MR. DEROCHIE:** Yes, he does.

19 **MR. ENGELMANN:** And the reasons, are they
20 similar to what you've indicated as well, sir?

21 **MR. DEROCHIE:** Yes, they are.

22 **MR. ENGELMANN:** And they would include what?
23 What do they include?

24 **MR. DEROCHIE:** Well, they include the whole
25 idea of contaminating the cases, you know, giving rise to a

1 defence having a Charter argument.

2 (SHORT PAUSE/COURTE PAUSE)

3 MR. ENGELMANN: Madam Clerk, if the witness
4 could be shown Document Number 731826.

5 THE COMMISSIONER: Mr. Engelmann, I don't
6 know if -- will we be going to the report from the Ottawa
7 Police about the charges? Is that -- have you had any
8 thoughts about going there?

9 MR. ENGELMANN: It comes up with another
10 witness, sir.

11 THE COMMISSIONER: Pardon me?

12 MR. ENGELMANN: It comes up with another
13 witness.

14 THE COMMISSIONER: All right.

15 MR. ENGELMANN: I could go there if ---

16 THE COMMISSIONER: No, no, no. Maybe I'll
17 just do it this way.

18 Sir, did you read the opinion from the
19 Ottawa Police as to whether or not Mr. Dunlop should be
20 charged?

21 MR. DEROCHIE: Yes, I did.

22 THE COMMISSIONER: All right. And just for
23 now, was it their recommendation that he not be charged?

24 MR. DEROCHIE: It was the Crown's
25 recommendation that there would be no reasonable prospect

1 for a conviction.

2 **THE COMMISSIONER:** All right. So it wasn't
3 one of your -- the Cornwall Police did not do an evaluation
4 of well, we should not charge him because it's going to
5 complicate things. That wasn't the analysis?

6 **MR. DEROCHIE:** No, our understanding was we
7 would have nothing to do with that decision.

8 **THE COMMISSIONER:** No, I understand that.
9 But in the end you hadn't -- there was no assessment that
10 way. You got a report back with the Crown's opinion saying
11 no reasonable prospect of conviction and that's the reason
12 why it stopped there, as far as you're concerned?

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

14 **THE COMMISSIONER:** Thank you.

15 I'm sorry; yes, thank you. Exhibit 1327 is
16 internal correspondence to Chief Repa from Staff Sergeant
17 Garry Derochie dated November 26th, 1999.

18 **--- EXHIBIT NO./PIÈCE NO. P-1327:**

19 (731826) Internal Correspondence from Staff
20 Sergeant Garry Derochie to Chief A. Repa -
21 November 26, 1999

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

23 **MR. ENGELMANN:** Staff Sergeant Derochie,
24 this document is a memo that you prepared for your Chief
25 after your meeting with Mr. Garson?

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

2 **MR. ENGELMANN:** And you set out -- if I can
3 summarize two issues.

4 One is the possible investigation by another
5 police force of Constable Dunlop's evidence in the Lalonde
6 preliminary inquiry?

7 **MR. DEROCHIE:** Correct.

8 **MR. ENGELMANN:** And this is this issue about
9 whether or not he may have committed perjury?

10 **MR. DEROCHIE:** Correct.

11 **MR. ENGELMANN:** And the second issue that
12 you're briefing him on is ongoing disclosure issues?

13 **MR. DEROCHIE:** Yes, and how I intend to deal
14 with those.

15 **MR. ENGELMANN:** All right. And with both
16 you're telling him about some of the advice that you've
17 received from Mr. Garson?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** And do you actually meet
20 with the Chief after you provide him with this internal
21 correspondence, to discuss these issues?

22 **MR. DEROCHIE:** I'm sure I did. I would have
23 encouraged him to look around for a police service to do
24 the investigation.

25 **MR. ENGELMANN:** All right. And that was

1 your recommendation to him?

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: To get another police
4 service to look at the testimony ---

5 MR. DEROCHIE: Yes.

6 MR. ENGELMANN: --- issue?

7 MR. DEROCHIE: Yes.

8 MR. ENGELMANN: And as well you recommended
9 a more formal order dealing with disclosure issues and
10 compliance, failing which some kind of an application by
11 way of judicial review?

12 MR. DEROCHIE: Yes, that whole issue of
13 judicial review was still there. If we -- you know ---

14 MR. ENGELMANN: Did you know what the Crown
15 meant by that?

16 MR. DEROCHIE: No. Well, I -- well, I
17 assumed it meant, as I explained earlier, that Mr. Dunlop
18 would be called before a sitting court or -- in that, I
19 mean the tryer of fact probably in chambers and have the
20 law laid down to him with regards to disclosure.

21 MR. ENGELMANN: You also recommended to the
22 Chief a clear direction -- precise and direct orders to
23 Constable Dunlop about discontinuing any contact with
24 witnesses?

25 MR. DEROCHIE: Yes, I was concerned, as I

1 mentioned before, that the order should be airtight, there
2 should be no wiggle room whatsoever.

3 **MR. ENGELMANN:** And my understanding is you
4 met with the Chief that same day, November 26th, and he
5 concurred with your recommendations?

6 **MR. DEROCHIE:** Yes, that's my recollection,
7 yes.

8 **MR. ENGELMANN:** Now, sir, do you recall if
9 you would have had a meeting shortly thereafter with the
10 Chief and Pat Hall to discuss these issues further, and the
11 date being December 1st, 1999?

12 **MR. DEROCHIE:** Yes, I have those notes in
13 front of me.

14 **MR. ENGELMANN:** And during the course of
15 that meeting, was there any discussion about concerns that
16 a Crown attorney by the name of Robert Pelletier may have
17 had?

18 **MR. DEROCHIE:** Yes, there were.

19 **MR. ENGELMANN:** And can you tell us
20 essentially what was discussed, and especially with respect
21 to those concerns by Mr. Pelletier?

22 **MR. DEROCHIE:** As I understood it, we were
23 talking about concerns relevant to obstruction of justice.

24 **MR. ENGELMANN:** And I'm looking at -- and
25 again, this is Exhibit 1325, your notes.

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: Bates page 1043334.

3 MR. DEROCHIE: Yes.

4 MR. ENGELMANN: And it's not really clear
5 what the issue is. The note says:

6 "Dunlop will probably be testifying at
7 Malcolm MacDonald's prelim."

8 MR. DEROCHIE: Yes.

9 MR. ENGELMANN: All right. This is before
10 he dies and he's coming up on his charges?

11 MR. DEROCHIE: Yes.

12 MR. ENGELMANN: And this -- apparently that
13 was to happen on January 17th of 2000?

14 MR. DEROCHIE: That appears so, yes.

15 MR. ENGELMANN: "Crown Hallett..." and then
16 it says:

17 "...and Father Charles MacDonald, on
18 May 1st, clarified his concerns re
19 Dunlop at MacDonald prelim in Ottawa."
20 Now, Pelletier is not at this meeting?

21 MR. DEROCHIE: No.

22 MR. ENGELMANN: Is this Hall recounting?

23 MR. DEROCHIE: This -- this is Hall.

24 And -- and my -- my recollection, my sense
25 was that he didn't know what those concerns were ---

1 MR. ENGELMANN: All right.

2 MR. DEROCHIE: --- specifically.

3 MR. ENGELMANN: But it says:

4 "Pelletier's concerns were related to
5 obstruct justice."

6 MR. DEROCHIE: Yes.

7 MR. ENGELMANN: "He did not pursue because
8 of potential harm to MacDonald
9 prosecution. Hall believes that was
10 the issue."

11 What -- where do we get "obstruct justice"
12 from?

13 MR. DEROCHIE: Again, that was Pat Hall had
14 the impression that that's what Pelletier's concerns were,
15 that something had happened that -- that involved an
16 obstruction of justice or a potential.

17 MR. ENGELMANN: All right.

18 MR. DEROCHIE: And Pat wasn't sure of
19 exactly what -- what had occurred.

20 MR. ENGELMANN: So that wasn't explained any
21 further?

22 MR. DEROCHIE: No, it wasn't. It left -- it
23 was left to me.

24 I was left with no further information than
25 I had prior.

1 **MR. ENGELMANN:** And you have a follow-up
2 meeting with the Chief on the 6th of December; Bates
3 page 1043335?

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** And what was that meeting
6 about, sir?

7 **MR. DEROCHIE:** It was the -- we spoke about
8 the criminal investigation into the -- the conduct of -- of
9 Dunlop at the preliminary hearing for Marcel Lalonde.

10 **MR. ENGELMANN:** All right. That was the --
11 there were three issues you were dealing with; is that
12 fair?

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

14 **MR. ENGELMANN:** That was the first?

15 **MR. DEROCHIE:** That was the first.

16 The second was the Police Act misconduct.

17 At this point, I had -- I had considered and
18 putting together a brief relating to all matters involving
19 misconduct as it relates to disclosure.

20 **MR. ENGELMANN:** And you've referenced "and
21 disobeying Inspector Trew's orders;" is that the order back
22 from ---

23 **MR. DEROCHIE:** From 1997. I saw this as a
24 continuous event, a flowing event.

25 **MR. ENGELMANN:** And what was the third

1 issue?

2 **MR. DEROCHIE:** Was the continued meddling
3 into the criminal investigations, when he had no official
4 role in those investigations.

5 **MR. ENGELMANN:** And what did the Chief tell
6 you to do?

7 **MR. DEROCHIE:** I -- I believe he informed me
8 to -- to get a -- to draft the report so that he could --
9 he could get in motion the request to another police
10 service to -- to conduct the investigation.

11 He knew what my strategy was going to be on
12 -- on the matter of getting -- issuing an order and getting
13 full disclosure.

14 He also knew that -- I had told him that I'm
15 -- I'm looking now at starting a brief to get a legal
16 opinion with regards to Police Act misconduct; and thirdly
17 that, of course, we were -- my order to him subsequently on
18 January 11th, would include a provision with regards to his
19 ceasing and desisting -- desisting from all investigations
20 into -- into criminal matters surrounding Project Truth.

21 **MR. ENGELMANN:** All right. And I just note
22 on the screen now, 1043336, you're working on a report to
23 the Chief and you provide him with something on the 8th of
24 December?

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

1 **MR. ENGELMANN:** Outlining reasons for
2 requesting a criminal investigation into Constable Dunlop's
3 actions?

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** And you didn't do that,
6 correct, the investigation?

7 **MR. DEROCHIE:** No, I didn't do the
8 investigation; I did the report.

9 **MR. ENGELMANN:** And that report was
10 commenced by the Ottawa Carleton Regional Police?

11 **MR. DEROCHIE:** I subsequently met with them;
12 provided them some documentation and the report where I had
13 outlined my reasons to believe that there -- there had been
14 an offence committed. I acted as the complainant on that
15 criminal offence.

16 And, you know, they went away to consider
17 whether or not they would do it and subsequently,
18 eventually they -- they got to it.

19 **MR. ENGELMANN:** As I understand it, the way
20 that then gets done is one police chief writes to another?

21 **MR. DEROCHIE:** Exactly.

22 **MR. ENGELMANN:** And did Chief Repa write to
23 Chief Brian Ford of the Ottawa Carleton Regional Police
24 Service?

25 **MR. DEROCHIE:** Yes, he did.

1 **MR. ENGELMANN:** If the witness could be
2 shown Document Number 731830?

3 **(SHORT PAUSE/COURTE PAUSE)**

4 **THE COMMISSIONER:** Thank you.

5 Exhibit 1328 is the letter addressed to
6 Chief Brian Ford, Ottawa Carleton Regional Police Service,
7 from Chief of Police Repa, again dated January 6th, 2000.

8 **MR. ENGELMANN:** I'm sorry, sir, that was
9 which number?

10 **THE COMMISSIONER:** 1328.

11 **--- EXHIBIT NO./PIÈCE NO P-1328:**

12 (731830) Letter from Chief A. Repa to Chief
13 Brian Ford - 06 Jan 00

14 **MR. ENGELMANN:** And I neglected to put in
15 the report just before it, so maybe we should look at them
16 together.

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

18 **MR. ENGELMANN:** Document Number 731828, and
19 it's the report dated December 7th, from Staff Sergeant
20 Derochie to Chief Repa, and, Mr. Commissioner, it is
21 subject of a publication ban.

22 **THE COMMISSIONER:** Sure, thank you.

23 Thank you.

24 Exhibit 1329 is internal correspondence to
25 Chief of Police Repa, from Staff Sergeant Garry Derochie,

1 dated December 7th, 1999.

2 --- EXHIBIT NO./PIÈCE NO P-1329:

3 (731828)Internal correspondence from Garry
4 Derochie to Chief A. Repa - 07 Dec 99

5 MR. ENGELMANN: Sir, this is your report
6 that then leads to Chief Repa's letter to Chief Ford?

7 MR. DEROCHIE: Yes, it contains a complete
8 history of the whole matter, starting back in 1993.

9 MR. ENGELMANN: Okay, but it's a short form,
10 obviously.

11 MR. DEROCHIE: It's a very short form, yes.

12 MR. ENGELMANN: Yeah. So you set out some
13 background facts?

14 MR. DEROCHIE: Yes, I do.

15 MR. ENGELMANN: And then you get into some
16 of the concerns; for example, the Lalonde preliminary
17 hearing?

18 MR. DEROCHIE: Correct.

19 MR. ENGELMANN: And the testimony of
20 Constable Dunlop?

21 MR. DEROCHIE: Yes.

22 MR. ENGELMANN: And you also talk, at the
23 end of the third page, about possible concerns relating to
24 conduct at the preliminary inquiry of Father Charles
25 MacDonald?

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

2 **MR. ENGELMANN:** And as a result of this
3 letter, I understand the Chief concurs with your
4 recommendations and, as I said, writes to Chief Ford at the
5 Ottawa Police Service?

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

7 **MR. ENGELMANN:** And in Exhibit 1328, he's
8 asking that two issues be investigated, not just the
9 potential perjury charge but also a potential obstruct
10 justice charge?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** And were they both, in fact,
13 investigated, sir?

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

15 **MR. ENGELMANN:** And what was the conclusion
16 with respect to the second matter -- you had a dialogue
17 with the Commissioner about the first one -- do you recall?

18 **MR. DEROCHIE:** It's my -- it's my -- as I
19 recall it, there was no obstruction of justice, there was
20 no misconduct identified by Mr. Pelletier; it had something
21 to do with some other issue that I don't really recall at
22 this time.

23 **MR. ENGELMANN:** All right. So there was ---

24 **MR. DEROCHIE:** There was no grounds, there
25 was no basis for -- our -- our information or our -- our --

1 our feeling or assumption that something had happened of a
2 criminal nature was unfounded.

3 **MR. ENGELMANN:** All right. Now, you've told
4 us that you prepared an extensive written order for
5 Constable Dunlop.

6 **MR. DEROCHIE:** Very detailed order, yes.

7 **MR. ENGELMANN:** Yeah. And you would have
8 had some assistance from counsel?

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** And you would have also run
11 this by some of your peers?

12 **MR. DEROCHIE:** Yes, I would imagine I had.

13 **MR. ENGELMANN:** All right. Any other
14 sources of assistance in preparing that written report?

15 **MR. DEROCHIE:** I had -- I had also invited
16 comments from the -- from Crown attorneys on it.

17 **MR. ENGELMANN:** All right. And would that
18 have included the local Crown attorney?

19 **MR. DEROCHIE:** I don't believe I involved
20 Mr. MacDonald. I know for sure I involved Claudette
21 Wilhelm and I thought I sent a copy to ---

22 **MR. ENGELMANN:** Mr. Garson?

23 **MR. DEROCHIE:** --- Ms. Hallett, but I'm not
24 ---

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

1 **MR. DEROCHIE:** Mr. Garson, yes, for sure,
2 and I thought Ms. Hallett as well.

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

4 **MR. DEROCHIE:** But I may be wrong about Ms.
5 Hallett. It would be in my notes.

6 **MR. ENGELMANN:** Sir, if the witness could be
7 shown Document 728121. Perhaps I can just enter this
8 before we take our lunch break.

9 This is an internal correspondence from
10 Staff Garry Derochie to Constable Perry Dunlop dated
11 January 10th, 2000.

12 **THE COMMISSIONER:** Exhibit 1330 is internal
13 correspondence to Constable Perry Dunlop from Staff
14 Sergeant Garry Derochie dated January 10th, 2000.

15 **--- EXHIBIT NO./PIÈCE NO P-1330:**

16 (728121) Internal Correspondence from Staff
17 Sgt. Garry Derochie to Constable Perry
18 Dunlop - January 10, 2000

19 **MR. ENGELMANN:** Sir, these are, are they
20 not, the written orders that you would have issued to
21 Constable Dunlop on or about the 10th of January of the year
22 2000?

23 **MR. DEROCHIE:** That's correct, they are.

24 **MR. ENGELMANN:** And there is a preamble that
25 sets out some background facts?

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

2 **MR. ENGELMANN:** And then you have specific
3 orders 1 through 7?

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** Sir, I'm going to ask you
6 about your meeting with Constable Dunlop about this after
7 lunch, but had you ever issued orders of this nature
8 before?

9 **MR. DEROCHIE:** Never.

10 **MR. ENGELMANN:** All right. And what was so
11 unique about this?

12 **MR. DEROCHIE:** Everything was unique about
13 this. The whole -- I've never run into anything like this
14 in my entire career, starting from 1993 onwards.

15 This was a -- this is a unique, unique
16 situation. You shouldn't have to order police officers to
17 provide disclosure. You certainly shouldn't have to order
18 them in writing to provide disclosure; that's part of their
19 basic duties.

20 **MR. ENGELMANN:** Perhaps we'll break there,
21 sir.

22 **THE COMMISSIONER:** Thank you.

23 We'll come back at two.

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

1 This hearing will resume at 2:00 p.m.

2 --- Upon recessing at 12:28 p.m./

3 L'audience est suspendue à 12h28

4 --- Upon resuming at 2:03 p.m./

5 L'audience est reprise à 14h03

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

8 This hearing is now resumed, please be
9 seated. Veuillez vous asseoir.

10 **THE COMMISSIONER:** Good afternoon, all.

11 Mr. Engelmann.

12 **MR. ENGELMANN:** Good afternoon, Mr.

13 Commissioner.

14 Good afternoon, Staff Sergeant Derochie.

15 **MR. DEROCHIE:** Good afternoon, Mr.

16 Engelmann.

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

18 --- **EXAMINATION IN-CHIEF/INTERROGATOIRE EN-CHEF PAR MR.**

19 **ENGELMANN (Continued/Suite):**

20 **MR. ENGELMANN:** When we left off, sir, we
21 were -- we were just starting to discuss a comprehensive
22 written order that you gave to Constable Dunlop?

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

24 **THE COMMISSIONER:** And you told us that
25 you'd never, ever given an order like this?

1 **MR. DEROCHIE:** No, I had not.

2 **MR. ENGELMANN:** Or ever been aware of one?

3 **MR. DEROCHIE:** No, and haven't since.

4 **MR. ENGELMANN:** All right. And did you
5 actually meet with Perry Dunlop on the 10th of January,
6 2000?

7 **MR. DEROCHIE:** Yes, I did.

8 **MR. ENGELMANN:** And you gave him this order
9 during the course of your meeting with him?

10 **MR. DEROCHIE:** I gave him the order, yes,
11 and I -- we went over it line-by-line.

12 **MR. ENGELMANN:** All right. Did you actually
13 read it to him?

14 **MR. DEROCHIE:** Yes. Read every -- every
15 issue that I was interested in, yes. And I asked for his
16 acknowledgment that he understood the context of the order.

17 **MR. ENGELMANN:** All right. And as you went
18 through it, did you get that acknowledgment?

19 **MR. DEROCHIE:** I did.

20 **MR. ENGELMANN:** All right. So you first
21 would have gone through the background?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And then -- let's look at
24 them one-by-one if we can, and I don't need you to read
25 them but can you just tell us briefly the first order you

1 gave. What was -- what was it about?

2 MR. DEROCHIE: It was with reference to the
3 Marcel Lalonde investigation and that he was to provide
4 full and complete disclosure to Assistant Crown attorney
5 Claudette Wilhelm.

6 MR. ENGELMANN: All right. And ---

7 MR. DEROCHIE: And provide a Will Say
8 statement, as well.

9 MR. ENGELMANN: I was just going to ask you
10 that.

11 MR. DEROCHIE: Yes, sorry.

12 MR. ENGELMANN: All right. So disclosure of
13 documents plus the preparation of a comprehensive Will Say?

14 MR. DEROCHIE: That's correct.

15 MR. ENGELMANN: Is that fair?

16 MR. DEROCHIE: Yes.

17 MR. ENGELMANN: All right. And that was
18 addressing the concerns that we spoke about earlier this
19 morning with respect to disclosure in the Lalonde matter?

20 MR. DEROCHIE: Exactly.

21 MR. ENGELMANN: All right. What about the
22 second order, sir?

23 MR. DEROCHIE: It was the same type of an
24 order with reference to all Project Truth investigations.

25 MR. ENGELMANN: All right. So the first one

1 was specific to Lalonde and then the others, number 2, is a
2 general with respect to all?

3 MR. DEROCHIE: Yes.

4 MR. ENGELMANN: And same kind of thing, sir,
5 with disclosure?

6 MR. DEROCHIE: The same thing; same
7 requirement for a Will Say statement.

8 MR. ENGELMANN: Okay. And, again, requiring
9 a comprehensive or detailed Will Say dealing with those
10 other allegations?

11 MR. DEROCHIE: Yes.

12 MR. ENGELMANN: The third order, sir?

13 MR. DEROCHIE: There was an order to not
14 communicate in any way, shape or form with victims or
15 witnesses associated to the Marcel Lalonde investigation,
16 any Project Truth or similar criminal investigations.

17 MR. ENGELMANN: All right. And this is
18 consistent with the guidance or direction you're getting
19 from Marc Garson?

20 MR. DEROCHIE: That's correct.

21 MR. ENGELMANN: And when you would have read
22 that out, would you have given some reasons for these
23 various paragraphs, at the time?

24 MR. DEROCHIE: I don't think specifically
25 beyond what I was using as an introduction to the orders on

1 the first page.

2 MR. ENGELMANN: All right.

3 MR. DEROCHIE: I don't recall us having
4 detailed conversations about each order. It was a matter
5 of, "This is what I'm saying. Do you understand the intent
6 of my order? Do you understand..." ---

7 MR. ENGELMANN: I'm just wondering if you
8 talked to him about some of the things you said here that
9 you were concerned about tainting or contaminating evidence
10 if he talked to witnesses, et cetera?

11 MR. DEROCHIE: I believe I did. I believe I
12 copied some of those comments. I might have notes to that
13 effect; I'm not sure.

14 MR. ENGELMANN: All right. Why don't we
15 take a look at that.

16 MR. DEROCHIE: M'hm.

17 MR. ENGELMANN: The fourth order, sir?

18 MR. DEROCHIE: He shall not communicate
19 directly or indirectly with the media and to abide by the
20 -- by the provisions of Directive Number 59.

21 MR. ENGELMANN: All right. And that's in
22 keeping with some of the other issues we looked at this
23 morning about interviews with media outlets?

24 MR. DEROCHIE: Exactly.

25 MR. ENGELMANN: And the fifth order?

1 **MR. DEROCHIE:** The fifth order dealt with
2 his activity with regards to investigating criminal
3 activities. He was not to do that.

4 **MR. ENGELMANN:** All right. And further I
5 think you would have affirmed the fact that you wanted him
6 to bring any of this new information immediately to the
7 attention of ---

8 **MR. DEROCHIE:** Exactly, to make detailed
9 notes in his duty book with regards to any such contacts he
10 may have.

11 **MR. ENGELMANN:** All right. You were aware,
12 were you not, that Mr. Dunlop would have been well-known to
13 victims or alleged victims ---

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

15 **MR. ENGELMANN:** --- of sexual abuse?

16 **MR. DEROCHIE:** Yes. And we -- and I knew
17 that some of them were comfortable approaching him I knew.

18 **MR. ENGELMANN:** Right. So you weren't
19 saying that he couldn't talk them, you were saying that he
20 shouldn't get into details and before getting into details,
21 he should refer them to OPP Project Truth?

22 **MR. DEROCHIE:** Exactly. He was not to
23 conduct any kind of interview of them and take their --
24 their statements or anything like that.

25 **MR. ENGELMANN:** And in those cases, was he

1 to prepare some kind of an OMPPAC report?

2 MR. DEROCHIE: Yes, he would submit an
3 OMPPAC report; record his contact and make detailed notes.

4 MR. ENGELMANN: And what, if anything, was
5 he to report to his supervisor?

6 MR. DEROCHIE: The fact that's he had those
7 -- those types of contacts and to get guidance as to
8 whether or not he should take any further steps, actions.

9 MR. ENGELMANN: All right. And the sixth
10 order simply supersedes any previous orders?

11 MR. DEROCHIE: Exactly.

12 MR. ENGELMANN: And you asked him to
13 acknowledge receipt of the orders below?

14 MR. DEROCHIE: I ordered him to acknowledge
15 receipt with his signature.

16 MR. ENGELMANN: All right. And did he, in
17 fact, do it on that day?

18 MR. DEROCHIE: He requested a time period.
19 He requested a period of time to consult with his lawyer
20 and I said that was fine, but I gave him a date that he had
21 to have it. I think it was by the 14th, I believe, I wanted
22 the order in my possession.

23 MR. ENGELMANN: It appears it was signed on
24 the 17th?

25 MR. DEROCHIE: Then perhaps it was the 17th.

1 I gave him a period of time.

2 THE COMMISSIONER: You gave him until the
3 14th. Your notes say the 14th.

4 MR. DEROCHIE: Oh, did I?

5 THE COMMISSIONER: M'hm.

6 MR. DEROCHIE: I had communications with the
7 -- with the President of the Association of the day, so
8 that may have accounted for the delay. I know that they
9 working with it and they were getting a legal opinion with
10 regards to the order. So there may have been a little bit
11 of run over.

12 THE COMMISSIONER: So can you give me some
13 idea of how this went? What was his response? What was
14 his attitude? That kind of thing.

15 MR. DEROCHIE: I don't believe he expressed
16 much of -- much emotion or much attitude about it at all.
17 He listened very intently to what I was saying.

18 THE COMMISSIONER: M'hm.

19 MR. DEROCHIE: And ---

20 THE COMMISSIONER: And you were them there
21 with whom?

22 MR. DEROCHIE: With acting Inspector Carter

23 ---

24 THE COMMISSIONER: Okay.

25 MR. DEROCHIE: --- at the time.

1 **THE COMMISSIONER:** Well, your notes said he
2 tried to draw you into ---

3 **MR. DEROCHIE:** Oh, I'm sorry. Yes, that was
4 a conversation. He had applied for a position within the
5 service as an investigator in SACA ---

6 **THE COMMISSIONER:** Right.

7 **MR. DEROCHIE:** --- and he attempted to raise
8 that subject with me and I asked him not to, we'll deal
9 with this issue here, here and now.

10 **THE COMMISSIONER:** What was he saying about
11 his job; his application?

12 **MR. DEROCHIE:** I don't believe I gave him
13 much of an opportunity to expand beyond, "I applied for
14 this job and I didn't get it". And I would have said,
15 "Well, Perry, we're not here to discuss that. I don't know
16 the details to that."

17 **THE COMMISSIONER:** Okay. Mr. Engelmann.

18 **MR. ENGELMANN:** And the notes that the
19 Commissioner has been referring you to, sir, they start at
20 Exhibit 1325, Bates page 1043339 at the bottom. Is that
21 correct?

22 **MR. DEROCHIE:** Yes, they do.

23 **MR. ENGELMANN:** And references to some of
24 what goes on at least can be found on the next page,
25 including a reference at the bottom of the page that,

1 "Dunlop attempted to draw us into conversation"?

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: Not related to this matter
4 and that's ---

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

6 MR. ENGELMANN: --- dealing with the job
7 application that he was interested in?

8 MR. DEROCHIE: Yes.

9 MR. ENGELMANN: All right. And it does, as
10 the Commissioner stated, refer to the fact that you wanted
11 the order back to you by the 14th ---

12 MR. DEROCHIE: M'hm.

13 MR. ENGELMANN: --- Friday, the 14th?

14 MR. DEROCHIE: Yes and we -- in my notes, I
15 see now that I mention the fact that we're talking about
16 the impact that his continued involvement might damage the
17 prosecution. So it's right there ---

18 MR. ENGELMANN: Yes.

19 MR. DEROCHIE: --- in my notes. So we did
20 discuss that.

21 MR. ENGELMANN: All right. And then you
22 have a note, a couple of pages later, Bates page 1043343,
23 bottom of the page 14, eight o'clock?

24 MR. DEROCHIE: Yes.

25 MR. ENGELMANN: "Attend headquarters to

1 meet with Dunlop."

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: "Told by Carter that he
4 had booked off sick."

5 MR. DEROCHIE: Yes.

6 MR. ENGELMANN: All right?

7 MR. DEROCHIE: Yes.

8 MR. ENGELMANN: And then on Monday, the 17th,
9 you have a note, "Meet with Dunlop" -- or:

10 "Met with Dunlop in Carter's office.

11 Dunlop signed order."

12 MR. DEROCHIE: Yes, I recall that now, yes.

13 MR. ENGELMANN: All right. Now he -- I
14 apologize for I think you might have already said this --
15 he asked you for some time because he wanted to review it
16 with a lawyer?

17 MR. DEROCHIE: That's correct.

18 MR. ENGELMANN: All right. And under the
19 circumstances, I assume you thought that was a reasonable
20 request?

21 MR. DEROCHIE: Yeah, I thought it was
22 reasonable, yes.

23 MR. ENGELMANN: All right. You'd had some
24 help drafting your order with a lawyer?

25 MR. DEROCHIE: So, yeah ---

1 **MR. ENGELMANN:** It wasn't unreasonable for
2 him ---

3 **MR. DEROCHIE:** --- sure, that was ---

4 **MR. ENGELMANN:** --- to have a lawyer to look
5 at it?

6 **MR. DEROCHIE:** --- the -- he asked for time.
7 I thought that was a fair request under the circumstances.
8 I had no problem with that.

9 **MR. ENGELMANN:** All right. Now can you give
10 us a sense? This -- I think you said he was to remain
11 reassigned until the orders were complied with or words to
12 that effect?

13 **MR. DEROCHIE:** Yes, yes. Prior to this
14 meeting on the 10th that I had with him, he was assigned to
15 uniform patrol team. He would have been working a regular
16 schedule ---

17 **MR. ENGELMANN:** Yes.

18 **MR. DEROCHIE:** --- as a uniformed patrol
19 officer and I told him that he would be relieved of those
20 duties and that he would work a straight 40-hour week,
21 straight days, Monday to Friday, and devote himself
22 entirely to this chore, this assignment.

23 **MR. ENGELMANN:** And, sir, just before I go
24 on with a little bit more then with Constable Dunlop's
25 duties, and I think we covered this briefly, but I just

1 want to go back to it for a minute.

2 You did meet with some officers from the
3 Ottawa Regional Police Service dealing with the issue of
4 Mr. Dunlop's testimony at the Lalonde preliminary inquiry?

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** And as I understand it that
7 was on or about the 8th of February?

8 **MR. DEROCHIE:** Yes, I remember travelling to
9 Ottawa.

10 **MR. ENGELMANN:** And you have a note of that
11 again, same exhibit, 1325, Bates page 1043348?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** And you would have met with
14 three officers there?

15 **MR. DEROCHIE:** Inspector Gary Nelson, Bob --
16 Staff Sergeant Bob Palfrey and Staff Sergeant Gerry
17 Sabourin.

18 **MR. ENGELMANN:** And the purpose of that
19 meeting, sir, was to provide them with some background
20 information?

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

22 **MR. ENGELMANN:** And setting out why you were
23 requesting that they look into Mr. Dunlop's conduct?

24 **MR. DEROCHIE:** Yes. I provided them with
25 some documentation at that time that would ---

1 **MR. ENGELMANN:** Right.

2 **MR. DEROCHIE:** --- I thought would be
3 helpful to their investigation; at least get them started
4 as to where to look.

5 **MR. ENGELMANN:** Now, can you give us a
6 sense, sir, if following the issuance of your order to
7 Constable Dunlop in January, whether he might have turned
8 over more documents in February of the year 2000?

9 **MR. DEROCHIE:** Oh yes, he began making
10 disclosures to me as a result of his assignment.

11 **THE COMMISSIONER:** Now, was this when he was
12 assigned to an office in your police services?

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

14 **THE COMMISSIONER:** All right. And was this
15 a windowless office?

16 **MR. DEROCHIE:** I heard that testimony, but
17 it's the office that's currently occupied by Inspector
18 Wells of our police service and there is a window in that
19 office.

20 **THE COMMISSIONER:** Well, was there then in
21 2000?

22 **MR. DEROCHIE:** As far as I know, there was,
23 yes.

24 **THE COMMISSIONER:** Okay. And where is this
25 office?

1 **MR. DEROCHIE:** It's on the second floor,
2 just close to where our SACA office is located ---

3 **THE COMMISSIONER:** Okay. Is it ---

4 **MR. DEROCHIE:** --- within the CID portion of
5 the building.

6 **THE COMMISSIONER:** Okay. Was it clean?

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

8 **THE COMMISSIONER:** Functional?

9 **MR. DEROCHIE:** Yes.

10 **THE COMMISSIONER:** Wasn't seen as
11 imprisonment or anything like that?

12 **MR. DEROCHIE:** No. I -- no.

13 **THE COMMISSIONER:** Punishment?

14 **MR. DEROCHIE:** No, no.

15 **THE COMMISSIONER:** It's not a place where
16 you put ---

17 **MR. DEROCHIE:** No, no.

18 **THE COMMISSIONER:** --- people out for a time
19 out or something?

20 **MR. DEROCHIE:** No. No, it's not.

21 **THE COMMISSIONER:** Okay.

22 **MR. DEROCHIE:** It's a small office, granted,
23 but most of our offices are very small. We don't have a
24 lot of space, not nearly as much space as we need, but it's
25 not -- there is room enough there for a desk and a filing

1 cabinet and a chair.

2 **THE COMMISSIONER:** Telephone?

3 **MR. DEROCHIE:** There was no telephone at the
4 time in the office. It was used as a project room.

5 **THE COMMISSIONER:** M'hm. It was used as a
6 project room?

7 **MR. DEROCHIE:** Project room.

8 **THE COMMISSIONER:** Okay. And right now,
9 it's used as?

10 **MR. DEROCHIE:** A staff -- Inspector Wells'
11 office, he's with Quality Assurances.

12 **THE COMMISSIONER:** All right. And has it
13 been enlarged or anything like that?

14 **MR. DEROCHIE:** No.

15 **THE COMMISSIONER:** Okay. So we've heard
16 some evidence that, I think it was from Mrs. Dunlop, that
17 she felt that her husband felt that he was closed in, in a
18 windowless room, and that the pressure was mounting on him.

19 **MR. DEROCHIE:** Yes, when I heard that
20 testimony, I spoke with Mrs. Carroll who is one of our
21 administrative assistants up there and asked her. She had
22 plans actually for the building, so she drew those plans
23 out for me and I confirmed -- I confirmed that the room was
24 as it is today.

25 **THE COMMISSIONER:** All right. Okay. Thank

1 you.

2 **MR. ENGELMANN:** I was going to come to a few
3 questions about work environment ---

4 **THE COMMISSIONER:** Sorry.

5 **MR. ENGELMANN:** No, no, not at all -- given
6 that that would have come up. There was an issue, I guess.
7 So whose office had it been just before Constable Dunlop
8 was assigned to that office?

9 **MR. DEROCHIE:** I don't believe it was
10 dedicated to any particular purpose. It was used by CID
11 from time-to-time. If they had a major case, they would
12 store documents in there. I recall it -- I recall there
13 being a computer set up in there that was online to deal
14 with something over the internet. Some investigation
15 involved internet use and they would work out of that
16 office.

17 But other than that, I don't recall -- I
18 don't recall anything further than that. I know that after
19 we used it in 2000, it subsequently became the officer of
20 Sergeant Jeff Carroll who was named as the Officer in
21 Charge of the SACA unit. So he used it for a period of
22 time until such time as we -- he left the unit and went
23 back to uniform patrol. At which time, it was converted
24 for -- to staff -- to Inspector Wells' use.

25 **MR. ENGELMANN:** So it would have been

1 Sergeant Carroll immediately after Constable Dunlop or at
2 least later that year?

3 **MR. DEROCHIE:** I'm sorry, I wouldn't be able
4 to say with any degree of certainty. It wouldn't have been
5 -- it would have been around the time that I went into CID.
6 I can remember him being in there ---

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

8 **MR. DEROCHIE:** --- so in 19 -- or 2001,
9 2002, somewhere in that general area.

10 **MR. ENGELMANN:** And there were some issues
11 at some point, I guess, during that timeframe. Constable
12 Dunlop wanted a telephone?

13 **MR. DEROCHIE:** Yes, he had asked for a
14 telephone. He asked for a lock to be put on the door. I
15 don't think we installed the telephone. It would have been
16 an expense that we didn't have to ---

17 **MR. ENGELMANN:** And did you install a lock
18 for him?

19 **MR. DEROCHIE:** But I believe we did get a
20 lock for it, yes.

21 **MR. ENGELMANN:** All right. He was concerned
22 about the security of his documents?

23 **MR. DEROCHIE:** Yes, he was bringing his
24 documents there and wanted to make sure he could lock them
25 up.

1 **MR. ENGELMANN:** And what about the office
2 itself? Was it cleaned up before he moved in?

3 **MR. DEROCHIE:** At this particular time, I'm
4 offsite. I'm working out of the Bob Turner Memorial
5 Centre, as is all of the administrative people. The
6 office, the first floor of the building is being renovated,
7 so the second floor where administration is now located was
8 being used for certain other functions. They had moved the
9 -- well, we had moved other people up from the first floor.

10 And so I'm not -- I can't vividly recall
11 that office.

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

13 **MR. DEROCHIE:** But you know we wouldn't -- I
14 can't recall.

15 **MR. ENGELMANN:** It wasn't just a storeroom
16 for documents at the time?

17 **MR. DEROCHIE:** No, no. There was nothing in
18 there but a desk and a chair and whether there was a filing
19 cabinet, I don't recall, but I do recall a desk and a
20 chair.

21 **MR. ENGELMANN:** All right. Do you recall
22 having any concerns expressed by Constable Dunlop at the
23 time with respect to his work environment?

24 **MR. DEROCHIE:** Other than the issues with
25 regards to the telephone and the lock on the door and,

1 subsequent to that, he had a problem with the photocopy
2 machine and also he needed clerical assistance, we -- as he
3 identified problems and we thought they were reasonable, we
4 provided those things to him.

5 MR. ENGELMANN: The photocopy machine, was
6 that in the office itself?

7 MR. DEROCHIE: Oh, no. It was in the -- it
8 was used -- it was in the hallway actually where we all
9 used it.

10 MR. ENGELMANN: All right.

11 MR. DEROCHIE: It would have been close
12 proximity to where he was working.

13 MR. ENGELMANN: All right. So I believe I
14 was asking you about disclosure subsequent to the order?

15 MR. DEROCHIE: Yes.

16 MR. ENGELMANN: And you said there was some?

17 MR. DEROCHIE: Oh, yes. He started making
18 regular disclosure to me.

19 MR. ENGELMANN: And I note, sir, you have a
20 note -- and again I'm still in 1325. It's Bates page
21 1043350.

22 MR. DEROCHIE: Yes.

23 MR. ENGELMANN: You have a reference to some
24 disclosure on February 9th ---

25 MR. DEROCHIE: Yes.

1 **MR. ENGELMANN:** --- 2000?

2 **MR. DEROCHIE:** Yes.

3 **MR. ENGELMANN:** Can you give us a sense as
4 to what that involved?

5 **MR. DEROCHIE:** That was a massive amount of
6 disclosure that he made on that particular date. There was
7 quite a bit. It took me some days just to inventory what
8 he had provided.

9 **MR. ENGELMANN:** All right. And were you
10 able to tell whether this was all new disclosure or if it
11 was mainly copies of things that had already been
12 disclosed? Are you able to help us with that?

13 **MR. DEROCHIE:** No, I'm sorry. I didn't -- I
14 wasn't familiar with what had and had not been disclosed.
15 There was some concern on Perry's part with regards to that
16 in that he wanted to know what he had already disclosed so
17 as not to duplicate, and my instructions to him were it
18 doesn't -- I don't -- "it doesn't matter what you
19 previously disclosed, I want to see it all again. I want
20 everything you've got so there's no possibility we've
21 missed pages."

22 So I had no appreciation of the value of the
23 stuff that was being disclosed, but my job was to get it
24 and pass it on to the people that we had identified.

25 **MR. ENGELMANN:** All right. Would it be fair

1 to say that he, just from that expression you just gave us
2 about him wanting to know what he had already disclosed,
3 that ---

4 MR. DEROCHIE: Yes.

5 MR. ENGELMANN: --- he wasn't even sure what
6 he'd already disclosed?

7 MR. DEROCHIE: That is certainly the
8 impression I got, and it was fortified some short period --
9 some short time later.

10 MR. ENGELMANN: And when you say "four
11 volumes of documents," are you talking about binders of
12 documents or are you talking about boxes of documents?

13 MR. DEROCHIE: No.

14 MR. ENGELMANN: Or do you recall?

15 MR. DEROCHIE: My recollection is they were
16 binders, and I may not be 100 percent. I don't know if I
17 describe it.

18 MR. ENGELMANN: Similar to large binders
19 like ---

20 MR. DEROCHIE: That's my recollection of
21 what they were.

22 MR. ENGELMANN: And that wasn't the only day
23 you received new disclosure?

24 MR. DEROCHIE: Oh, no. Oh, no, but that was
25 certainly the day when I got the big dump, as it were, of

1 information, of documents.

2 **MR. ENGELMANN:** All right and you would
3 continue to get documents in dribs and drabs? Is that what
4 happened?

5 **MR. DEROCHIE:** Yes. Yes. Yes.

6 **MR. ENGELMANN:** All right. And what about
7 the Will Say or Will State; it's known by both terms.

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** You get the final product
10 sometime in April?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** Do you get anything before
13 then?

14 **MR. DEROCHIE:** As far as the Will Say goes?

15 **MR. ENGELMANN:** Yes. Any kind of a draft to
16 look at or anything of that nature? Do you recall?

17 **MR. DEROCHIE:** I don't recall that
18 happening.

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

20 **THE COMMISSIONER:** So you are saying that he
21 started mid-January and stayed in that office on a 40-hour
22 week until mid-April?

23 **MR. DEROCHIE:** Yes, I don't -- I don't have
24 his exact attendance. I know there was -- there was at
25 least one break where he had to take in-service training

1 for something and was excused for that time. I don't
2 recall exactly.

3 As I say, I was -- I didn't deal with him on
4 a day-to-day basis. That was Inspector Carter, Acting
5 Inspector Carter at the time.

6 **MR. ENGELMANN:** All right. So there were
7 several weeks at least that he was working ---

8 **MR. DEROCHIE:** Yes, but I was assured that
9 he was well employed; that he was doing what it was he was
10 supposed to do.

11 **MR. ENGELMANN:** And some other examples of
12 disclosure or notes, would they be referenced, for example,
13 later on, on that Bates page 1043350?

14 **MR. DEROCHIE:** Oh, yes. That -- it
15 continues now from that page for several pages into my
16 notebook as to what he was disclosing.

17 **MR. ENGELMANN:** All right. And these are
18 various tabs from binders?

19 **MR. DEROCHIE:** Yes, I'm identifying exactly
20 what it is, so I want to be able to have a record of
21 exactly what it is that I've received.

22 **MR. ENGELMANN:** So how would this work, sir?
23 He would disclose to you and then you would have to review
24 at some point what you got?

25 **MR. DEROCHIE:** Well he would -- he would

1 turn it in or he would -- I would get a call typically when
2 he had stuff to disclose, to turn -- to physically turn
3 over, and I would make myself available to him. I'd go to
4 the police station and receive this, give a call to Pat
5 Hall or turn stuff over to René Desrosiers, as the case may
6 be, and that's how it worked.

7 I wasn't in contact with him, as I said,
8 daily.

9 **MR. ENGELMANN:** All right. And so when we
10 see a reference at Bates page 1043370, February 15th:

11 "Inventory of Dunlop's disclosure
12 continued."

13 That could still be that initial disclosure from February
14 9th?

15 **MR. DEROCHIE:** That is, in fact, the initial
16 -- that's correct, yeah.

17 You know, I -- we were trying to do this in
18 a very timely manner but, of course, again my time is not
19 totally dedicated to Perry Dunlop and those issues. I have
20 other duties. So as best I can I'm trying to get this
21 stuff identified and over to Pat Hall or the other
22 investigators.

23 **MR. ENGELMANN:** And in fact some of the
24 material you were turning over to your colleague, René
25 Desrosiers; isn't that a fact?

1 **MR. DEROCHIE:** Yeah. If I come across
2 something that's obvious Marcel Lalonde material, I will
3 make that effort.

4 **MR. ENGELMANN:** So that the references, for
5 example, on Bates page 1043374 to turning over documents to
6 Constable Desrosiers ---

7 **MR. DEROCHIE:** Yes?

8 **MR. ENGELMANN:** --- those would be documents
9 that had to do with the Lalonde prosecution?

10 **MR. DEROCHIE:** That I thought might
11 possibly, yes, have some bearing.

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

13 **THE COMMISSIONER:** So are you giving over
14 the document or are you keeping a photocopy of the main
15 file?

16 **MR. DEROCHIE:** I'm keeping -- I'm keeping a
17 photocopy of everything that he turns over to me.

18 **THE COMMISSIONER:** Right.

19 **MR. DEROCHIE:** And he's keeping -- Perry
20 Dunlop is keeping his original file in that room. He's
21 making photocopies of his disclosure to me. I'm making a
22 photocopy for my record and passing on a photocopy. We are
23 dealing with photocopies here.

24 **MR. ENGELMANN:** So for example, sir, when we
25 look at Bates page 1043377, there's a reference to:

1 "Called Hall. He'll pick them up after
2 lunch. Turned over statements to
3 Hall."

4 You are turning over photocopies of some of
5 what Constable Dunlop has given you ---

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** --- to Pat Hall?

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** And on that very same day,
10 there's a reference to -- and this is, I believe, February
11 29th, year 2000 -- there's reference to your speaking to
12 Dunlop this morning:

13 "He told me that his first lawyer,
14 Charles Bourgeois, had tapes and other
15 material, which he had not given him.
16 Bourgeois..."

17 **MR. DEROCHIE:** "...may well have
18 evidence..."

19 **MR. ENGELMANN:** "...relative to this matter.
20 Bourgeois would also have been involved
21 with..."

22 This is C-8?

23 **MR. DEROCHIE:** C-8, yes.

24 **MR. ENGELMANN:** So you called Desrosiers
25 about that?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** And was there a follow up
3 with Bourgeois either by you or by one of your colleagues,
4 to your knowledge?

5 **MR. DEROCHIE:** Something was done because I
6 remember speaking to a Crown attorney about it later on. I
7 would assume that -- I don't know. I don't know, but I
8 expect that René did bring the issue up to some -- to the
9 Crown.

10 **MR. ENGELMANN:** All right. So you didn't do
11 that yourself?

12 **MR. DEROCHIE:** I didn't do that myself, but
13 I made sure that René would do that or Detective Desrosiers
14 would do that.

15 **MR. ENGELMANN:** And do you know if other
16 material was turned over because it had been obtained by --
17 or from Mr. Bourgeois?

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

19 **MR. ENGELMANN:** All right. Did Constable
20 Dunlop ask you or anyone else for any assistance in the
21 work he was doing?

22 **MR. DEROCHIE:** He did at one time come to us
23 and say he was a little bit overwhelmed I think when he was
24 starting to do his ---

25 **THE COMMISSIONER:** His Will State?

1 **MR. DEROCHIE:** His Will Say I believe it was
2 and we made Ms. Trottier available to him as support.

3 **MR. ENGELMANN:** So this is another officer,
4 sir?

5 **MR. DEROCHIE:** It was a civilian support
6 staff member.

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

8 And Constable Dunlop would have prepared
9 Will Says or Will States for others before presumably,
10 witnesses in cases he'd been investigating?

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

12 **MR. ENGELMANN:** Yeah.

13 **MR. DEROCHIE:** He would have done that.

14 **MR. ENGELMANN:** May not have prepared
15 something as detailed as the one he was doing here?

16 **MR. DEROCHIE:** Oh, no, he was trying to
17 capture his entire involvement in this whole matter over
18 the many years that he had been involved.

19 **THE COMMISSIONER:** What makes you say that?

20 **MR. DEROCHIE:** Well, that was my
21 instructions to him to complete a complete detailed
22 statement and I have no reason to believe but that he did
23 that. Certainly based on the amount of time he was taking
24 it was certainly -- you know, it certainly took him a long
25 time because he was trying to -- first of all, he had to

1 get his notes in some sort of order and I believe that
2 would have been a challenging mission for him, and then
3 subsequently from his notes make a -- create a Will Say
4 statement.

5 **MR. ENGELMANN:** Why did you believe it would
6 be challenging for him to get his notes in order?

7 **MR. DEROCHIE:** Well, I had an appreciation
8 that his notes were rather scattered and undisciplined.

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

10 **THE COMMISSIONER:** Did you make any
11 observation during that period of time as to his stress
12 level, his mental health, how he was making out on that
13 project?

14 **MR. DEROCHIE:** I didn't -- again, from when
15 -- when I saw him I didn't see any evidence of that. He
16 never expressed those types of concerns to me, but I was
17 aware and conscious that he had been ill previously ---

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

19 **MR. DEROCHIE:** --- and I kept that in mind.
20 There was no -- as you may well have observed, we weren't
21 obviously putting a lot of pressure on him. I thought he
22 was working at a reasonable pace and felt no need to move
23 him along, as it were.

24 **THE COMMISSIONER:** That's fair, yeah. Thank
25 you.

1 **MR. ENGELMANN:** And from time-to-time he
2 would be asked to do perhaps some work for the OPP as a
3 result of having to prepare a statement?

4 **MR. DEROCHIE:** Yeah, I believe there would
5 have been some communication directly or indirectly with
6 the investigating officers when they needed specific
7 information.

8 **MR. ENGELMANN:** I just -- there's a
9 reference to one of those instances at -- it's Bates page
10 1043382, March 16th, bottom of the page:

11 "Dunlop called, told me he'd been asked
12 to do a statement for OPP. Also has a
13 court brief to do."

14 **MR. DEROCHIE:** Yes, as part of the OPP
15 mandate, they were to investigate the Cornwall Police
16 Service and its members with regards to complicity. The
17 allegations that were contained in his statement of claim
18 that there was some sort of complicity within the Police
19 Service members to cover up, and there was allegations of
20 misconduct. So that was part of the mandate originally of
21 Project Truth and Pat Hall was going to deal with that.

22 I had had periodically -- periodically had
23 conversations with him as to when that was going to happen
24 and he had assured me at the end of the investigative stage
25 of Project Truth when all of the matters that they thought

1 were done with Project Truth, they would begin that
2 investigation. And certainly they interviewed me and other
3 members of the service and they were now at this point
4 wanting to interview Perry on that issue ---

5 **MR. ENGELMANN:** Right.

6 **MR. DEROCHIE:** --- and Perry asked why he
7 was being called to a meeting with the OPP and I just
8 explained it to him, that that was the purpose, his
9 allegations were now being investigated.

10 **MR. ENGELMANN:** All right. And we have
11 examples of more disclosure being made by Mr. Dunlop.
12 Again, we don't know if it's new or not, but more
13 disclosure being made on the next Bates page, 1043383,
14 March 30th?

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

16 **MR. ENGELMANN:** And you set out a number of
17 statements or affidavits that he turns over?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** Now, on April 10th, is that
20 when this is finally finished, this being the Will Say
21 statement?

22 **MR. DEROCHIE:** That's the date I turn it
23 over to Pat Hall.

24 **MR. ENGELMANN:** Right. And I guess your
25 note -- and I'm looking at Bates page 1043386 -- indicates

1 that he's completed his work on the 7th and you say:

2 "Attended Carter's office. Received
3 five books from Dunlop. He is done.
4 Will report to his shifts by
5 Wednesday."

6 So he's going to go back -- is he going to
7 go back then to his old duties?

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

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

10 **MR. DEROCHIE:** He's completed what we -- the
11 task we had set for him.

12 **MR. ENGELMANN:** And you make a reference
13 later on the 10th of April -- later on, on that page -- to
14 turning over the Will Say to Pat Hall?

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

16 **MR. ENGELMANN:** Now, he's telling you at
17 this time that more charges will be laid against Father
18 Charles MacDonald ---

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

20 **MR. ENGELMANN:** --- and a couple of other
21 individuals?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And does he tell you that
24 some of the new charges are as a result of information
25 provided by Constable Dunlop in January of 2000?

1 **MR. DEROCHIE:** Yes. It was my understanding
2 that at that meeting that he had with Pat Hall, the very
3 one we were just speaking of, that Perry had made some
4 disclosures that had assisted them in laying more charges.

5 **MR. ENGELMANN:** All right. You're making
6 the observation on the following Bates page, 1043387, that
7 Dunlop had been possession of that information for
8 approximately two years prior.

9 "He informed us that Dunlop has made
10 disclosures previously unknown to the
11 Project Truth and Crown which impact
12 cases currently before the courts."

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** So that information about
15 Dunlop having been in possession of that information for
16 approximately two years, is that information that came from
17 Pat Hall to you?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** All right. That wasn't
20 something -- was that something you were aware of at that
21 time, Staff Sergeant Derochie?

22 **MR. DEROCHIE:** No, I wasn't aware of that.

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

24 **MR. DEROCHIE:** I didn't have much knowledge
25 of what Project Truth was really doing. I distanced myself

1 from that. There was none -- you know, I had no dealings
2 with it, so I really didn't know who their victims were or
3 who their suspects were, to a degree. I knew some of the
4 obvious ones, mind you, but ---

5 **MR. ENGELMANN:** I thought you had taken over
6 that role though from Inspector Trew?

7 **MR. DEROCHIE:** As liaison, but this is my
8 involvement -- what we're reading now is my involvement --
9 all of my involvements with regards to those matters.

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

11 **MR. DEROCHIE:** And I hadn't had occasions
12 other than this disclosure that we're making -- were making
13 subsequent to the January 10th order. So there had been no
14 issues that we had discussed prior that that relate to
15 these -- this subject matter anyways.

16 **MR. ENGELMANN:** Now, what are you saying
17 just a little later then on this page? The reason I'm
18 asking, it says:

19 "He said that these new disclosures may
20 prove fatal to some of the
21 prosecutions."

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And this again is Inspector
24 Hall speaking to you?

25 **MR. DEROCHIE:** That's my interpretation of

1 what Inspector Hall said. I'd like to emphasize that the
2 word "fatal" is my word.

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

4 **THE COMMISSIONER:** But we have that little
5 comment on the left-hand side:

6 "Not P. Hall's words but Sergeant
7 Derochie's."

8 **MR. DEROCHIE:** Yeah.

9 **THE COMMISSIONER:** So ---

10 **MR. DEROCHIE:** This became an issue at my
11 testimony at the MacDonald -- 11-B, pardon, that this issue
12 was brought up there and I assume -- I don't know ---

13 **MR. ENGELMANN:** That's not ---

14 **MR. DEROCHIE:** I don't know where this copy
15 of this disclosure came from, whether -- it's not from our
16 service.

17 **MR. ENGELMANN:** My understanding is it may
18 have been from the Ministry of the Attorney General.

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

20 **MR. ENGELMANN:** It may have been from the
21 Ministry of the Attorney General. You don't know who made
22 those handwritten comments?

23 **MR. DEROCHIE:** No.

24 **MR. ENGELMANN:** All right, but some of these
25 were your own words, at least "may prove fatal"?

1 **MR. DEROCHIE:** Yes, I definitely recall that
2 that was my interpretation of what Pat Hall said. I wasn't
3 quoting Pat Hall verbatim there.

4 **MR. ENGELMANN:** Were you cross-examined on
5 these notes?

6 **MR. DEROCHIE:** I certainly was, yes.

7 **MR. ENGELMANN:** And this was during the
8 course of the -- was that the stay application into ---

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** --- the Father MacDonald
11 case?

12 **MR. DEROCHIE:** Yes. Yes, and this very
13 issue was brought up, this whole word of -- that use of
14 that word was discussed.

15 **MR. ENGELMANN:** All right. And so that the
16 issue of late disclosure was in play in that application?

17 **MR. DEROCHIE:** Oh, yes, very much so.

18 **THE COMMISSIONER:** So what do you mean:

19 "That Dunlop may be in contravention of
20 the order I gave him in January"?

21 **MR. DEROCHIE:** I guess this comment is with
22 regards to this fact that I'm getting new information from
23 Pat Hall that comes from a source other than the tasks that
24 I gave him, you know.

25 I'm willing to concede that it's done in the

1 same time period so it's -- but it's -- it's something I
2 had to consider. I was at this time seriously considering
3 a Police Act action against Mr. Dunlop, so this would be
4 yet another one that I would -- I would look at.

5 MR. ENGELMANN: All right. Well, let me
6 just ask you about that because actually it's where I was
7 going next. Dunlop may be in contradiction of the order --
8 contravention.

9 MR. DEROCHIE: Yes.

10 MR. ENGELMANN: And on the previous page at
11 the bottom, you say that this was material he would have
12 provided at the end of January, 2000?

13 MR. DEROCHIE: Yes.

14 MR. ENGELMANN: So ---

15 MR. DEROCHIE: At the meeting that he had
16 with Pat Hall.

17 MR. ENGELMANN: All right. So you've
18 ordered him to turn everything over on January 10th?

19 MR. DEROCHIE: Yes.

20 MR. ENGELMANN: You're aware that he's being
21 interviewed by the OPP?

22 MR. DEROCHIE: Yes.

23 MR. ENGELMANN: Because he asks for time off
24 from time-to-time?

25 MR. DEROCHIE: Yes.

1 **MR. ENGELMANN:** He clearly brings something
2 up in these meetings?

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** That wasn't inappropriate,
5 was it?

6 **MR. DEROCHIE:** Oh, no.

7 **MR. ENGELMANN:** Okay. But are you
8 suggesting he should have done that through your Service?

9 **MR. DEROCHIE:** Well, I don't know that he
10 didn't do that. I don't know if that wasn't included in
11 the disclosure that he made to me.

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

13 **MR. DEROCHIE:** So it may well have been; he
14 may just have highlighted it. He may have said something
15 like, "You'll find in this disclosure this information".

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

17 **MR. DEROCHIE:** I didn't pursue that,
18 ultimately.

19 **MR. ENGELMANN:** I'll just be a moment, sir.
20 You had a meeting shortly thereafter with a
21 Constable Genier from OPP Project Truth and I'm thinking
22 around the beginning of May. I'm just going to try and
23 find a reference.

24 **MR. DEROCHIE:** Constable Genier was working
25 with René Desrosiers on the ---

1 **MR. ENGELMANN:** On the Lalonde matter?

2 **MR. DEROCHIE:** On the Lalonde investigation.

3 **MR. ENGELMANN:** Because if you look at Bates
4 page 1043393?

5 **MR. DEROCHIE:** On May 1st, yes?

6 **MR. ENGELMANN:** This is May 1st, 2000.

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

8 **MR. ENGELMANN:** There seems to be a
9 reference to a victim and that there's no disclosure
10 relative to certain meetings from Dunlop?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** And let's avoid the name
13 referenced there ---

14 **MR. DEROCHIE:** Okay.

15 **MR. ENGELMANN:** --- the statement from.
16 Do you recall anything about this?

17 **MR. DEROCHIE:** I recall only what's written
18 in my notebooks that ---

19 **MR. ENGELMANN:** Well, it appears that -- and
20 I believe this is you that would have been asking for it:

21 "We're going to order Dunlop to provide
22 a further Will Say about this
23 information."

24 **MR. DEROCHIE:** Yes. A final order to Dunlop
25 to provide a Will Say.

1 **MR. ENGELMANN:** Do you know if you, in fact,
2 did that, sir?

3 **MR. DEROCHIE:** I don't recall if I did.

4 **MR. ENGELMANN:** All right. I'd just like to
5 take you to some other notes, if I may, Staff Sergeant
6 Derochie, and these are notes that follow on your previous
7 notes; there's also a bit of overlap. It's Document Number
8 738467. They are notes from May 3rd, 2000 until August 17th
9 of 2000.

10 **THE COMMISSIONER:** Thank you.

11 Exhibit 1331 are notes of Gerry (sic)
12 Derochie -- Garry, sorry. First date of entry, the 3rd of
13 May, 2000 and last date of entry, the 17th of August, 2000.

14 **--- EXHIBIT NO./PIÈCE NO. P-1331:**

15 (738467) Notes of Staff Sgt. Garry Derochie -
16 May 3, 2000 to August 17, 2000

17 **MR. ENGELMANN:** Now, sir, I just note from
18 the cover that these don't have the reference "Dunlop"?

19 **MR. DEROCHIE:** That's correct. There's only
20 two such books.

21 **MR. ENGELMANN:** All right. Is this -- how
22 would you describe this set of notes?

23 **MR. DEROCHIE:** This is my regular day-to-day
24 duty notebook ---

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

1 **MR. DEROCHIE:** --- covering a host of issues
2 I'd be dealing with involving Professional Standards. I
3 was the area firearms officer at the time; all of those
4 duties that I had other than --

5 **MR. ENGELMANN:** You had Professional
6 Standards and other duties?

7 **MR. DEROCHIE:** Yes. Yes, I did.

8 **MR. ENGELMANN:** Which would increase or
9 detract from time-to-time?

10 **MR. DEROCHIE:** Depending on what was going
11 on on any given day, yes.

12 **MR. ENGELMANN:** All right. And were you
13 reporting directly to the Chief or to someone else at this
14 point-in-time? This is the year 2000.

15 **MR. DEROCHIE:** I would think at this
16 particular point-in-time I would -- I'd probably be
17 reporting directly to the Chief.

18 **MR. ENGELMANN:** All right. Now, you have
19 some reference to a meeting with the Chief ---

20 **MR. DEROCHIE:** I'm sorry, in the normal
21 chain of command, I would report to the Deputy Chief. I
22 just don't know if we had a Deputy Chief in place at this
23 time, so -- but that would be my normal reporting.

24 **MR. ENGELMANN:** You have notes from June the
25 22nd, 2000 on Bates pages 7167883 and 884, and you're

1 apparently having a meeting with the Chief, Sergeants
2 Lefebvre and Carter, a Mr. Paquin?

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

4 **MR. ENGELMANN:** I'm not sure who the next
5 person is?

6 **MR. DEROCHIE:** Mrs. Gibeau is the Chief's
7 secretary, the Chief, myself.

8 **MR. ENGELMANN:** All right. And there's some
9 media reports about a public inquiry?

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** And what is the concern? I
12 mean, you're talking about a press strategy here is it?

13 **MR. DEROCHIE:** Yes, we're -- we anticipate
14 that we'll be asked for an opinion and the Chief would have
15 called a meeting to chart our response to -- to this news.

16 **MR. ENGELMANN:** And you make reference at
17 the bottom of the page to a call that day with Pat Hall.
18 Is that correct?

19 **MR. DEROCHIE:** Yes, subsequently I spoke
20 with Pat Hall; is that where you are?

21 **MR. ENGELMANN:** Yes.

22 **MR. DEROCHIE:** Yeah. And they inform me
23 that the OPP were getting all kinds of media requests.

24 **MR. ENGELMANN:** And he's telling you as well
25 they're winding up their investigation?

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: And hope to be finished by
3 month's end?

4 MR. DEROCHIE: Yes, that was his opinion.

5 MR. ENGELMANN: And does he also give you
6 some information about Constable Dunlop?

7 MR. DEROCHIE: Yeah, he mentions to me that
8 he's received information that the Dunlops will be moving
9 to B.C. shortly.

10 MR. ENGELMANN: And is that information that
11 you were familiar with, sir?

12 MR. DEROCHIE: Yes, I had that same
13 information. I can't recall what the source of that would
14 have been, but I knew of it and ---

15 MR. ENGELMANN: All right.

16 MR. DEROCHIE: --- and I had heard rumour of
17 it.

18 MR. ENGELMANN: So this story was out in the
19 community, not only with your force but elsewhere?

20 MR. DEROCHIE: Obviously, yes.

21 MR. ENGELMANN: Now, do you recall if, just
22 in keeping with interactions with Constable Dunlop, whether
23 you or the Cornwall Police Service would have received a
24 letter from a lawyer by the name of Howard Yegendorf?

25 MR. DEROCHIE: Yes, at the end of June, I

1 believe it was. We received a -- the Service received a
2 letter. It would go to -- all mail normally goes through
3 the Chief's office and I was given a copy of that letter
4 and it was from Mr. Yegendorf, informing us that -- that
5 Constable Dunlop was advancing a claim of wrongful
6 dismissal -- constructive wrongful dismissal, and that he
7 would not be reporting for duty further with the Cornwall
8 Police Service.

9 MR. ENGELMANN: Okay. I note in your -- in
10 1325, the first set of notes ---

11 MR. DEROCHIE: Yes.

12 MR. ENGELMANN: --- at Bates page 1043394
13 and on to 3395, there's a reference to receipt of this
14 letter on June 29th?

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

16 MR. ENGELMANN: And did Constable Dunlop
17 report for duty that day, do you know?

18 MR. DEROCHIE: No, he did not.

19 MR. ENGELMANN: All right. Did he ever
20 report for duty after that?

21 MR. DEROCHIE: No, he did not.

22 MR. ENGELMANN: What did you decide to do
23 after you learned that Constable Dunlop would not be
24 returning to work?

25 MR. DEROCHIE: Well, I -- I sent copies of

1 the letter to our solicitor and I subsequently asked for --
2 I called Perry and asked that he return his equipment. He
3 had certain equipment that if he was no longer a police
4 officer would constitute -- possibly -- they were
5 restricted weapons, baton, pepper spray, things of that
6 nature that -- we wanted to recover that equipment as soon
7 as we could

8 MR. ENGELMANN: There's some reference to
9 opening his locker with others ---

10 MR. DEROCHIE: Yes.

11 MR. ENGELMANN: --- and removing some duty
12 books, et cetera?

13 MR. DEROCHIE: Yes, yes, we did that.

14 MR. ENGELMANN: And can you tell us what, if
15 any, interaction you had either with Constable Dunlop or
16 Mrs. Dunlop after learning about the fact that he was not
17 going to be returning to work?

18 MR. DEROCHIE: As a result of my telephone
19 call to him, Mrs. Dunlop attended at our station and turned
20 over the -- the equipment that I had requested.

21 MR. ENGELMANN: And do you describe that to
22 some extent in your notes, sir?

23 MR. DEROCHIE: Yes, I do. It wasn't a
24 pleasant interaction with Mrs. Dunlop.

25 MR. ENGELMANN: And is that what we see at

1 Bates page 1043399, starting with the reference 1505?

2 MR. DEROCHIE: Yes. She was very angry with
3 us.

4 MR. ENGELMANN: All right. Did she want to
5 see you or anyone in particular when she came in?

6 MR. DEROCHIE: Well, it -- I don't recall
7 specifically. It seems to me that we were told by Perry
8 that the equipment would be returned immediately and we --
9 we -- I offered to go over and get the equipment and he
10 said, no, we'll deliver it to the station and that's how we
11 -- that's how we came to meet. I expected her to come into
12 the station.

13 MR. ENGELMANN: All right. And he was -- he
14 was not with her?

15 MR. DEROCHIE: No, he was not, no.

16 MR. ENGELMANN: All right. And did she, in
17 fact, return the equipment?

18 MR. DEROCHIE: She did, yes.

19 MR. ENGELMANN: And you described it as an
20 unpleasant ---

21 MR. DEROCHIE: She was angry. She was very
22 angry with us and it was a -- it was an unpleasant
23 experience.

24 MR. ENGELMANN: And did she, in fact, leave
25 the restricted weapons that you were concerned about and

1 other ---

2 MR. DEROCHIE: I got everything ---

3 MR. ENGELMANN: --- sources of ---

4 MR. DEROCHIE: --- that I was concerned
5 about, yes.

6 MR. ENGELMANN: All right. Did you, sir,
7 have occasion to speak with Constable Dunlop after that at
8 any time?

9 MR. DEROCHIE: I don't recall ever having
10 spoken to Perry after that day when I called him on the
11 phone.

12 THE COMMISSIONER: So just to get a picture
13 of that last meeting. I take it -- you've written that she
14 was angry to the point of trembling?

15 MR. DEROCHIE: Yes.

16 THE COMMISSIONER: She had a letter from the
17 lawyer, I guess ---

18 MR. DEROCHIE: It was -- it would have -- it
19 was -- the lawyer was the same; lawyer's suggestion that
20 any further communication should be made through the lawyer
21 and she emphasized that she meant that that should happen
22 in the future, that we are not to call her at any other
23 time.

24 THE COMMISSIONER: Okay.

25 MR. DEROCHIE: Other than through her

1 lawyer.

2 **THE COMMISSIONER:** All right. I understand
3 from your notes, she recorded the interview?

4 **MR. DEROCHIE:** Yes, she did.

5 **MR. ENGELMANN:** All right. And she asked
6 you to sign the receipt?

7 **MR. DEROCHIE:** She required that I would
8 sign it -- or she asked me to sign the receipt. I obliged.

9 **MR. ENGELMANN:** Sir, that summer, the summer
10 of 2000, were you summonsed to be a witness for the Marcel
11 Lalonde trial?

12 **MR. DEROCHIE:** Yes, I was summonsed, yes.

13 **MR. ENGELMANN:** All right. And were you
14 summonsed by the prosecution or by the defence?

15 **MR. DEROCHIE:** I'm sorry, I -- it -- I don't
16 recall. If you could -- can you refer me to my notes or --
17 -

18 **MR. ENGELMANN:** M'hm ---

19 **MR. DEROCHIE:** It may well have been by the
20 defence.

21 **MR. ENGELMANN:** Sir, I have a date for it,
22 but I don't seem to have a note reference -- July 28th,
23 2000?

24 **MR. DEROCHIE:** Okay. It should be in these
25 documents. I would assume that these are specific to a ---

1 THE COMMISSIONER: Yes.

2 MR. DEROCHIE: --- a specific case.

3 THE COMMISSIONER: We missed the month.

4 MR. ENGELMANN: Sir, I understand you did
5 testify in the Lalonde trial that fall, or did you?

6 MR. DEROCHIE: I don't believe I did.

7 MR. ENGELMANN: Oh, okay.

8 MR. DEROCHIE: I -- I believe the only one I
9 testified at was the 11(b) argument.

10 MR. ENGELMANN: And that was the hearing
11 before Justice Chilcott. This was the ---

12 MR. DEROCHIE: Yes.

13 MR. ENGELMANN: --- application by Father
14 Charles MacDonald ---

15 MR. DEROCHIE: Yes.

16 MR. ENGELMANN: --- under 11(b).

17 MR. DEROCHIE: Yes.

18 MR. ENGELMANN: All right.

19 MR. DEROCHIE: That's the only recollection
20 I have.

21 MR. ENGELMANN: All right.

22 MR. DEROCHIE: It's a long time ago. I'm
23 sorry, I ---

24 MR. ENGELMANN: No, no, that's fine.

25 MR. DEROCHIE: Yeah.

1 **MR. ENGELMANN:** That's fine. Now, I
2 understand that in the year 2000, you and other officers of
3 the Cornwall Police Service were interviewed by the OPP
4 Project Truth team?

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

6 **MR. ENGELMANN:** And you indicated to us that
7 Inspector Hall had mentioned to you that that part of their
8 investigation would take place towards the end ---

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** --- of their criminal
11 investigation?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** And this was an
14 investigation into a possible cover-up or I think you used
15 the term "complicity" ---

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** --- on the part of members
18 of the Cornwall Police Service?

19 **MR. DEROCHIE:** Yes.

20 **MR. ENGELMANN:** And were you, in fact,
21 interviewed by two OPP officers in January of the year
22 2000?

23 **MR. DEROCHIE:** Inspector Pat Hall and
24 Detective Constable Joe Dupuis.

25 **MR. ENGELMANN:** If the witness could be

1 shown -- it's Document Number 703883.

2 **THE COMMISSIONER:** Thank you.

3 Exhibit Number 1332 is an audio-taped
4 interview report of Garry Derochie, Staff Sergeant. The
5 date of the interview is the 19th of January, 2000.

6 **--- EXHIBIT NO./PIÈCE NO. P-1332:**

7 (703883) Audio-taped Interview Report -
8 Garry Derochie w/OPP Pat Hall and J.B.
9 Dupuis - January 19, 2000

10 **MR. ENGELMANN:** Sir, the interview was
11 audio-taped?

12 **MR. DEROCHIE:** It was.

13 **MR. ENGELMANN:** It was just under an hour
14 long?

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

16 **MR. ENGELMANN:** And were you provided with a
17 copy of the transcription?

18 **MR. DEROCHIE:** I was.

19 **MR. ENGELMANN:** All right. At or about that
20 time or ---

21 **MR. DEROCHIE:** Yes, shortly thereafter, I
22 believe.

23 **MR. ENGELMANN:** This is a document you've
24 read before?

25 **MR. DEROCHIE:** It is, yes.

1 **MR. ENGELMANN:** Did they -- so you met with
2 Officers Hall and Dupuis?

3 **MR. DEROCHIE:** I did.

4 **MR. ENGELMANN:** They were both familiar to
5 you?

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

7 **MR. ENGELMANN:** Yes. And did they set out
8 the purpose for the interview at the beginning of the
9 interview?

10 **MR. DEROCHIE:** They did.

11 **MR. ENGELMANN:** I note at the bottom of the
12 first page, Inspector Hall says:

13 "We are investigating allegations of an
14 alleged conspiracy ..." ---

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** --- "... between the
17 Diocese, Cornwall Police, Crown
18 attorney's office, involving
19 investigation of the sexual assault
20 allegations against Father Charles
21 MacDonald and the payment of the
22 thirty-two thousand dollars (\$32,000)
23 to the victim in lieu of criminal
24 charges."

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** All right. So the
2 conspiracy investigation is limited to the Silmsier
3 complaints with Father MacDonald?

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** Is that how you understood
6 it?

7 **MR. DEROCHIE:** That's how I understood it.

8 **MR. ENGELMANN:** All right. Now, on Bates
9 page 7012823 ---

10 **MR. DEROCHIE:** I'm there, yes.

11 **MR. ENGELMANN:** Sorry, it's page -- I think
12 it's page 431 at the bottom, if that's easier. Do you have
13 that page, sir?

14 **MR. DEROCHIE:** I have the Bates page. I
15 don't have any numbers at the bottom of the page.

16 **MR. ENGELMANN:** That's very small print.
17 There's a ---

18 **MR. DEROCHIE:** Oh, three of -- three of ---

19 **MR. ENGELMANN:** --- there's a number at the
20 top right as well that might be helpful; 1771.

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** I'm not sure where that
23 comes from but ---

24 **MR. DEROCHIE:** I have no problems with the
25 Bates page numbers.

1 **MR. ENGELMANN:** All right. Okay, I'll just
2 keep going with the Bates pages.

3 You are asked about whether it was normal to
4 place a sexual assault investigation in the project files?

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** See that? And you said it
7 was not?

8 **MR. DEROCHIE:** It was not, no.

9 **MR. ENGELMANN:** And I think that's something
10 you said here as well?

11 **MR. DEROCHIE:** Yes. Yes.

12 **MR. ENGELMANN:** But -- yes, you say:

13 "When you want to control information
14 internally, that would be a reason to
15 put an OMPPAC file on projects."

16 **MR. DEROCHIE:** Yes. When you have -- when
17 you have information in the regular OMPPAC database, it's
18 accessible not only to people within the Cornwall Police
19 Service but all members of the cooperative. That means
20 other police services at the time; certainly the OPP,
21 Sudbury was a member of the cooperative. So officers --
22 that was the whole idea of putting things into OMPPAC so
23 other police agencies could also see what we were doing if
24 we had anything in common.

25 **MR. ENGELMANN:** That could be particularly

1 useful in investigating crimes where there may be
2 allegations that an alleged offender had committed crimes
3 within two different police jurisdictions?

4 **MR. DEROCHIE:** Correct.

5 **MR. ENGELMANN:** So, for example, the
6 allegations of Mr. Silmsler against Father MacDonald, some
7 within the City of Cornwall, some just outside?

8 **MR. DEROCHIE:** Exactly. It satisfied a lot
9 of the issues that raised -- that were raised with Bernardo
10 and those types of issues where -- there was a problem
11 between police officers -- or police departments sharing
12 their databases. There was no common database for the day-
13 to-day stuff.

14 **THE COMMISSIONER:** Okay. So Mr. Dunlop, I
15 think, I take it, found that unusual, I guess, that -- and
16 may have concluded that it was an attempt to hide it from
17 everybody by putting it in a project file?

18 **MR. DEROCHIE:** He may have done so, yes.

19 **THE COMMISSIONER:** Okay, so was he -- was
20 that a legitimate, I mean, could a reasonable person come
21 to that conclusion?

22 **MR. DEROCHIE:** If that was the only -- if,
23 yes, okay -- a reasonable -- you could come to that
24 conclusion, if you had some reason to -- if you had
25 something else.

1 The fact that -- I don't think it would have
2 occurred to anybody just sort of scrolling through OMPPAC
3 if they came across this thing without reports being
4 appended or information being appended where -- I don't
5 know that ---

6 **THE COMMISSIONER:** But there were no reports
7 appended.

8 **MR. DEROCHIE:** No, no. I'm saying finding
9 no reports appended. Finding no people appended to the
10 incident number, somebody might sort of speculate as to
11 what that was, but if you had a theory, then certainly that
12 would go a long way to adding to your suspicion, if I can
13 put it that way.

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

15 **MR. ENGELMANN:** In fact, the OPP asked you
16 about that in this interview, did they not?

17 **MR. DEROCHIE:** Oh, yes, they did. Yes.

18 **MR. ENGELMANN:** At Bates page 7012825, after
19 they asked you questions that -- they ask you:

20 "To your knowledge, did Chief Shaver
21 try to cover up this investigation?"

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And you answer:

24 "Absolutely not."

25 And they ask you the same thing with Staff

1 Sergeant Brunet and you answer:

2 "Absolutely not."

3 You are then asked:

4 "The complaint of Silmsers was placed in
5 a project file. Did..." --

6 and I think what was meant to be said, did this facilitate
7 the hiding or covering up of this occurrence?

8 **MR. DEROCHIE:** Yes, and I went on to explain
9 why I thought it ---

10 **MR. ENGELMANN:** And in a similar way, the
11 Commissioner just asked you whether that might in the
12 normal course, and I think what you're saying here was that
13 given when the project file was created ---

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** --- that wouldn't have
16 facilitated it here?

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** Or words to that effect?

19 **MR. DEROCHIE:** Yes, there was some question
20 or speculation that at the start that Chief Shaver had
21 ordered this into a project file and there are some people
22 of the opinion he had done that in December of 1992, and I
23 had no -- I had never uncovered any information to that
24 effect.

25 **MR. ENGELMANN:** All right, but one thing

1 that could facilitate -- I mean, if the project file had
2 been opened earlier ---

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** --- one could conclude that
5 there was an effort to hide that information from others?

6 **MR. DEROCHIE:** Hide it, yes.

7 **MR. ENGELMANN:** Certainly, if you wanted to
8 cover it up, that would be one way to do it. If you didn't
9 want people to know that?

10 **MR. DEROCHIE:** Well, I would suspect if you
11 didn't want -- if you wanted to cover it up, you wouldn't
12 create any kind of a project or any kind of an incident on
13 it. You wouldn't start an official record if you wanted to
14 cover it up in that sense.

15 If you wanted to -- just wouldn't do that.
16 You wouldn't take notes. You wouldn't create a record.

17 **THE COMMISSIONER:** No, but I guess ---

18 **MR. ENGELMANN:** Well, the -- I'm sorry.

19 **THE COMMISSIONER:** If, for example, the
20 Police Chief is there and he's stuck with the Silmsler
21 complaint.

22 **MR. DEROCHIE:** Yes.

23 **THE COMMISSIONER:** Right? As part of damage
24 control to make sure that nobody in the office could see
25 it, right, he could put it in that file?

1 **MR. DEROCHIE:** Yes.

2 **THE COMMISSIONER:** And at least it would
3 keep the rank and file away from seeing this?

4 **MR. DEROCHIE:** Absolutely correct, and that
5 was what he did in the fall of 1993.

6 **MR. ENGELMANN:** And prior to the fall, there
7 was nothing to put in a project's file or there had been
8 nothing to put in OMPPAC at all, except opening it?

9 **MR. DEROCHIE:** Opening it was the only
10 function that had been activated in OMPPAC, yes.

11 **MR. ENGELMANN:** So then what you're saying
12 in your answer about the project file is, you say:

13 "By the time that this thing was
14 created into a project file, the thing
15 had fallen apart. What was unusual
16 about this circumstance was that no
17 reports had been filed up until the
18 time the project file was initiated."

19 **MR. DEROCHIE:** Yes, and you know, as I
20 testified, I had brought OMPPAC into the Police Service and
21 I knew its functionality and I knew, you know, what it was
22 intended to do, but quite -- there was a difference of
23 opinion with regards to those reports being submitted. But
24 at the very least, there should have been a general
25 occurrence report put in as soon as we got the information.

1 **MR. ENGELMANN:** Yeah, so -- I don't know if
2 we want to go back to ---

3 **MR. DEROCHIE:** Well, yes.

4 **MR. ENGELMANN:** --- an exchange we had with
5 the Commissioner, but this was introduced in 1989?

6 **MR. DEROCHIE:** Yes, it was.

7 **MR. ENGELMANN:** Yes, and we talked about how
8 the investigating officer in this case was well versed in
9 entering ---

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** --- things into OMPPAC?

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** Very computer literate, et
14 cetera?

15 **MR. DEROCHIE:** Oh, yes, she was very
16 proficient.

17 **MR. ENGELMANN:** All right. I just want to
18 go a bit further. You say:

19 "That project file was not initiated
20 until Shaver found out that the
21 investigation had lagged; that the
22 investigation had become old and that
23 the settlement had been made when we
24 had to look at this."

25 Okay?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** So you're talking about
3 where there were some issues, obviously, there were some
4 concerns, and the project file doesn't get open as we know
5 now until October?

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

7 **MR. ENGELMANN:** And that's after the
8 settlement?

9 **MR. DEROCHIE:** After the settlement is made
10 and it's obvious that there's information being -- leaving
11 the station in a unofficial way.

12 **MR. ENGELMANN:** And you then say a bit later
13 on that page, the reason that was given at that time was
14 that:

15 "By that time, it had become a matter
16 of internal investigation and the Chief
17 was somewhat embattled at that time.
18 He wasn't having a good time with
19 regards to his management of the force.
20 The Association was after him and this
21 was perceived to be a delegate (sic) ..."

22 --
23 probably "delicate"?

24 **MR. DEROCHIE:** Delicate, yes.

25 **MR. ENGELMANN:** "... situation at that point."

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: "There was internal politics
3 that played a role in the decision-
4 making that we had now found out that
5 our people were given."

6 All right, so you are talking about some
7 concerns within the force at this time?

8 MR. DEROCHIE: Yeah, I think it reflects
9 what I had indicated in my notes about I don't know what
10 agendas are at work here.

11 MR. ENGELMANN: And that you were concerned
12 that some people might be using what was a very unfortunate
13 situation and a very serious criminal charge to advance
14 their own interests?

15 MR. DEROCHIE: At that time. At that point,
16 in 1993 ---

17 MR. ENGELMANN: If I can paraphrase ---

18 MR. DEROCHIE: --- yes, that's correct.

19 MR. ENGELMANN: Yes. That was I think some
20 of what you told us earlier ---

21 MR. DEROCHIE: Yes.

22 MR. ENGELMANN: --- about what was going on
23 at that time?

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

25 MR. ENGELMANN: And what concerned you about

1 what was going on at that time?

2 **MR. DEROCHIE:** Yes.

3 **MR. ENGELMANN:** And you talked about the
4 fact that Perry Dunlop had gone outside normal channels and
5 to prevent any further leaks, he wanted it controlled by a
6 project?

7 **MR. DEROCHIE:** Yes.

8 **MR. ENGELMANN:** That was your
9 interpretation?

10 **MR. DEROCHIE:** That was my interpretation as
11 to why the project file was created at that time.

12 **MR. ENGELMANN:** Did he actually tell you
13 that at that time or is that just your surmise?

14 **MR. DEROCHIE:** That's my assumption,
15 surmise. I surmised that; I assumed that, yes.

16 **MR. ENGELMANN:** And you say just a little
17 bit later and just following up on this answer:

18 "When the deal was raised And I think
19 you mean "the settlement" and the
20 information got out, we, the management
21 of the organization, did not have a
22 good idea of what was going on with the
23 investigation. So to bring themselves
24 up to speed, they say we want this
25 documented. We want to find out what

1 went on here but we don't want
2 everybody in the organization to find
3 out."

4 So I guess to go back to the original
5 question:

6 "Was it unusual for this type of an
7 investigation going to project?"

8 The answer is:

9 "No. Given the circumstances it was --
10 it was reasonable."

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** All right. So, normally, it
13 would be unusual but given these circumstances and when it
14 happened ---

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** --- and everything else that
17 was happening with the Cornwall Police Service, you thought
18 it was reasonable?

19 **MR. DEROCHIE:** I thought it was reasonable.

20 **THE COMMISSIONER:** So, Mr. Engelmann, as a
21 coach, and someone doesn't want to get off the ice, you
22 just leave him on there for the whole period? And he might
23 think he is doing really good, but it's just to tire him
24 out so the rest of us can go on break.

25 **(LAUGHTER/RIRES)**

1 **MR. ENGELMANN:** So the 90-second shift ended
2 a while ago?

3 **THE COMMISSIONER:** I'm afraid so, Mr.
4 Engelmann.

5 Let's take the afternoon break.

6 **MR. DEROCHIE:** Thank you.

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

9 This hearing will resume at 3:30 p.m.

10 --- Upon recessing at 3:11 p.m. /

11 L'audience est suspendue à 15h11

12 --- Upon resuming at 3:32 p.m./

13 L'audience est reprise à 15h32

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

16 This hearing is now resumed. Please be
17 seated. Veuillez vous asseoir.

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

19 --- **EXAMINATION IN CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.**
20 **ENGELMANN (Continued/suite):**

21 **MR. ENGELMANN:** Staff Sergeant Derochie, we
22 were reviewing your interview with the OPP or their
23 interview of you.

24 **MR. DEROCHIE:** Yes.

25 **MR. ENGELMANN:** Exhibit 1132. I'd like to

1 turn to -- it's Bates page 7012828.

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: Now, at the bottom of that
4 page, well, actually in the two paragraphs that refer to
5 you at the bottom of the page, you're talking about
6 Silmser's request, his call with Chief Shaver and the fact
7 that he complained about having a female officer assigned?

8 MR. DEROCHIE: Yes.

9 MR. ENGELMANN: And, again, at the bottom,
10 you acknowledge that you could see where a male victim
11 would be uncomfortable speaking to her?

12 MR. DEROCHIE: Yes.

13 MR. ENGELMANN: And you're referring to
14 Heidi Sebalj?

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

16 MR. ENGELMANN: All right. And, sir, you
17 understand that on occasion that individuals may have
18 difficulty talking about sexual acts or sexual assaults
19 with a person of the opposite gender?

20 MR. DEROCHIE: Yes.

21 MR. ENGELMANN: And, on occasion, victims or
22 alleged victims of crime specifically request a male or
23 female officer?

24 MR. DEROCHIE: Yes.

25 MR. ENGELMANN: And would you agree with me

1 that where possible, police forces should follow that
2 request or that choice?

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** And would you agree with me
5 that in this case, that maybe it's something that shouldn't
6 have been done back in January of 1993?

7 **MR. DEROCHIE:** If there were someone else
8 available, then we should have certainly assigned a male
9 investigator.

10 **MR. ENGELMANN:** And that on occasion --
11 you're aware, sir, that every time a victim or alleged
12 victim gives details of an alleged crime, the more times
13 they talk about it, the more statements there are to be
14 questioned or cross-examined about?

15 **MR. DEROCHIE:** Oh, yes, I understand that.

16 **MR. ENGELMANN:** And that if people aren't
17 fully comfortable in revealing all the details with a
18 member of the opposite sex and it only comes out later,
19 that can come back to cause them difficulty as a witness;
20 if they told different versions or they'd said more in a
21 second occasion.

22 **MR. DEROCHIE:** That could happen, yes.

23 **THE COMMISSIONER:** Well, in this case, sir,
24 Lortie was coming back a day after the file was assigned to
25 Constable Sebalj as n't he?

1 **MR. DEROCHIE:** The day after or the day
2 before, either one, yes.

3 **THE COMMISSIONER:** Okay.

4 **MR. DEROCHIE:** Very close, same time.

5 **MR. ENGELMANN:** Now, sir, on the ---

6 **MR. DEROCHIE:** I'm sorry, I'm sorry.
7 Certainly before the interview occurred, he was back, yes.

8 **MR. ENGELMANN:** Sir, on the very next page,
9 7012829, I believe there may be an error in your answer. I
10 just want to ask you about it.

11 You talk about the fact that you had a phone
12 call with David Silmser and we've looked at that. That was
13 a phone call from December 16th.

14 **MR. DEROCHIE:** Yes, there is an error there,
15 definitely.

16 **MR. ENGELMANN:** All right. Maybe I'll let
17 you explain it then.

18 **MR. DEROCHIE:** Yes. I was recounting in
19 this particular paragraph, the phone call that actually
20 D'Arcy Dupuis had.

21 **MR. ENGELMANN:** Yes.

22 **MR. DEROCHIE:** And that's -- I noticed that
23 again last night reviewing this document, yes.

24 **MR. ENGELMANN:** All right. That's exactly
25 what I thought you did.

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** So you're not describing the
3 actual discussion ---

4 **MR. DEROCHIE:** No, I'm describing what
5 D'Arcy Dupuis told me and confusing that with me receiving
6 the information first hand; that did not happen.

7 **MR. ENGELMANN:** Right. And you describe for
8 us a very brief telephone call you would have had with him
9 on December 16th?

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

11 **MR. ENGELMANN:** All right. And I'm not
12 going to go back to it, but it certainly wasn't about what
13 we see here?

14 **MR. DEROCHIE:** No, definitely an error,
15 you're right.

16 **MR. ENGELMANN:** Now on the following page
17 you're asked, in the middle of the page:

18 "Did you have any direct contact with
19 Malcolm MacDonald concerning this
20 investigation?"

21 And you say, "None"?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And I'm a little confused by
24 the question. The question seems to suggest that you were
25 involved or they thought you were involved in the actual

1 investigation?

2 **MR. DEROCHIE:** No. It would have been my
3 thought at that time that they were well aware of what my
4 role was.

5 **MR. ENGELMANN:** Yes.

6 **MR. DEROCHIE:** I would suggest that they
7 were using due diligence to examine me as to "was I part of
8 the cover up". I'm being interviewed as in the context of
9 they're investigating the possibility that members of the
10 Cornwall Police Service covered this up. Was I involved in
11 that cover up? That was my impression of what they were --
12 -

13 **MR. ENGELMANN:** Well, you didn't have any
14 contact with any of the witnesses, right? You were
15 reinvestigating your investigation, with the exception of
16 the one brief call with David Silmser.

17 **MR. DEROCHIE:** Exactly right. I had no
18 hands on or no contact directly or indirectly with any of
19 the principals.

20 **MR. ENGELMANN:** All right. And they didn't
21 ask you, sir, if you were aware of members of the Cornwall
22 Police Service that had direct contact with Malcolm
23 MacDonald?

24 **MR. DEROCHIE:** They didn't ask me that.

25 **MR. ENGELMANN:** And you didn't offer that

1 either?

2 **MR. DEROCHIE:** No. They were to interview
3 those people. That was to happen in due course.

4 **MR. ENGELMANN:** All right. But clearly
5 there were others. Certainly Heidi Sebalj did?

6 **MR. DEROCHIE:** Yes. Yes.

7 **MR. ENGELMANN:** And you say Staff Sergeant
8 Brunet may have as well?

9 **MR. DEROCHIE:** I don't know if he had direct
10 -- he may have, I don't know.

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

12 **MR. DEROCHIE:** I don't recall. I may have
13 known at one time, I don't recall now.

14 **MR. ENGELMANN:** And so if they were
15 interested in knowing about direct contacts that people had
16 with Malcolm MacDonald, they would have to ask that of
17 others?

18 **MR. DEROCHIE:** Yes, I would have certainly
19 volunteered the information had they asked me the question.
20 I would have told them what I knew, but as you point out,
21 they didn't ask me the question. It didn't occur to me to
22 expand on my answer.

23 **MR. ENGELMANN:** All right. The same would
24 be true of Father Charles MacDonald and the question at the
25 bottom.

1 Again, you weren't involved in the
2 investigation, so again you said you had no direct contact
3 with him concerning this investigation?

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

5 **THE COMMISSIONER:** So, can I ask you a
6 question about 12, bottom of page 12?

7 You said:

8 "There was word around within the
9 organization that Father Charles
10 MacDonald was an active homosexual."

11 **MR. DEROCHIE:** Yes. There was information
12 to that.

13 **THE COMMISSIONER:** So describe that for me.
14 This is -- 1993 is when the -- so you knew before the
15 Silmser allegation that there was a rumour out there that
16 Father Charlie MacDonald was a homosexual?

17 **MR. DEROCHIE:** Yes, that was relayed to me
18 by an officer in the force, that he had come across Father
19 MacDonald in a location that was associated to homosexual
20 activity where people would meet, and it was purely
21 circumstantial. He had not witnessed anything, but that
22 was his impression of what was going on.

23 **THE COMMISSIONER:** Right. But you had
24 sufficient concerns -- hang on -- about your son. He would
25 be serving mass and you'd go with him as a family?

1 **MR. DEROCHIE:** Yes. He began serving mass
2 at St. Andrew's Parish before Father MacDonald went there.

3 **THE COMMISSIONER:** Right.

4 **MR. DEROCHIE:** And by the same token, my son
5 was involved in organized sports and I would accompany him
6 on all such excursions in those types of situations. I
7 don't think it's -- you know, I think that's proper
8 parenting that those things ---

9 **THE COMMISSIONER:** Absolutely.

10 **MR. DEROCHIE:** We know that there are
11 predators out in the community and then we also know that
12 those people sometimes get involved in organized activities
13 that involve children simply to have access. That's common
14 to everyone. As a police officer, maybe I'm more sensitive
15 to it.

16 **THE COMMISSIONER:** Okay. But what I'm
17 saying is -- what I'm trying to get at is with respect to
18 your son and Father MacDonald, were you going to church and
19 going with your son specifically because of Father
20 MacDonald or about your general procedure of going with
21 your child everywhere?

22 **MR. DEROCHIE:** With regards to my general
23 procedure. They were speaking specifically at this
24 interview of my contacts with Father Charlie MacDonald and
25 how I knew him.

1 **THE COMMISSIONER:** Right.

2 **MR. DEROCHIE:** But I would -- for example,
3 Father Charlie came after my son started serving on the
4 altar and was serving with a different priest and I had the
5 same concerns about being there, but I had no knowledge of
6 any wrongdoing by that priest, nor did I have any knowledge
7 or suspicion at that time that Father Charlie MacDonald was
8 involved in anything.

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

10 **MR. ENGELMANN:** Just to follow up.

11 At the bottom of the page, sir, when you're
12 talking about why you weren't surprised that allegations
13 against him arose, you do reference there is this problem
14 within the Catholic Church and I would pay attention to
15 that. You talk about your son. You talk about being in a
16 position where victims often -- young boys are often
17 victimized as altar boys or as an altar boy?

18 **MR. DEROCHIE:** Yes, I'm aware that the
19 church has these issues.

20 **MR. ENGELMANN:** And when you were saying
21 that to the OPP officers, were you talking about this
22 Diocese or were you talking about the ---

23 **MR. DEROCHIE:** Oh, no.

24 **MR. ENGELMANN:** --- broader church or were
25 you talking about both?

1 **MR. DEROCHIE:** I was talking about the
2 broader experience. And we were talking -- we were talking
3 at the same level, Inspector Hall and myself and Joe
4 Dupuis. We were -- you know, we were talking about issues
5 that we were all aware of so it was -- there was a lot
6 understood between us. No, it wasn't specifically St.
7 Andrew's Parish or this Diocese in fact.

8 **MR. ENGELMANN:** All right. Now, maybe it's
9 the context. I'm just a little confused by a question and
10 answer and I just want to ask you about it.

11 At the bottom of page 7012832:

12 "Hall: Did you ask Perry Dunlop to
13 turn over any notes or statements he
14 had involving this investigation?"

15 The answer:

16 "No".

17 **MR. DEROCHIE:** I'm out of context here. I
18 don't understand what ---

19 **MR. ENGELMANN:** Maybe that's ---

20 **MR. DEROCHIE:** --- what investigation you're
21 talking -- oh, then maybe it's not clear.

22 **MR. ENGELMANN:** I'm not sure if -- again, I
23 think this is to you personally. This is not a question to
24 the CPS. Just like those other questions about your
25 dealings with Malcolm or Father Charlie.

1 **MR. DEROCHIE:** Oh, I see, with regards to
2 when -- I understand the context. Now they're talking with
3 -- as Luc Brunet had done, advised Perry to turnover any
4 documents he had in his possession. Is that what you're --
5 -

6 **MR. ENGELMANN:** I don't know. I'm looking
7 at a transcript of the interview you had.

8 **MR. DEROCHIE:** Yeah, I would think in
9 reading it that's probably the context in which they were
10 putting the question to me.

11 **MR. ENGELMANN:** Because you answered "no"
12 and it clearly -- at least later on with Constable Dunlop,
13 you were asking him to turn over anything he had.

14 **MR. DEROCHIE:** I'm asking him?

15 **MR. ENGELMANN:** We just went through some of
16 the disclosure issues ---

17 **MR. DEROCHIE:** Oh, I'm sorry. I'm sorry.
18 We're on -- we're talking at cross ---

19 **MR. ENGELMANN:** Yes.

20 **MR. DEROCHIE:** -- different things here.
21 All right.

22 **MR. ENGELMANN:** So you're giving a "no"
23 answer to a statement about asking Perry Dunlop to turn
24 over any notes or statements he had involving this
25 allegation. Is that simply because you think you're

1 talking about an early time in it?

2 MR. DEROCHIE: I think we're talking about
3 1993.

4 MR. ENGELMANN: All right. And then if
5 anybody asked you ---

6 MR. DEROCHIE: And if you look at ---

7 MR. ENGELMANN: Sorry.

8 MR. DEROCHIE: If you look at the questions
9 leading up to that, that's what -- they're talking about
10 Richard Abell and the Children's Aid Society and my
11 involvement back then. So I'm -- I believe that would be
12 the context that I ---

13 MR. ENGELMANN: All right.

14 MR. DEROCHIE: They'd asked the question and
15 I provided the answer.

16 MR. ENGELMANN: All right. Now, you were
17 asked some questions about Sean Adams, on the next page,
18 7012833?

19 MR. DEROCHIE: Yes.

20 MR. ENGELMANN: And about follow-up with
21 Sean Adams thereafter?

22 MR. DEROCHIE: Yes. He starts out by asking
23 me the question and my immediate answer is "no", but then
24 it occurs to me of course he did, he talked about some --
25 getting some information from Sean Adams.

1 **MR. ENGELMANN:** Now, Staff Sergeant
2 Derochie, as some point after 1993 you became aware, did
3 you not, that Sean Adams had a very limited retainer on
4 behalf of David Silmser?

5 **MR. DEROCHIE:** I would suggest that I
6 learned that when I heard his testimony -- when I heard the
7 testimony here. I never knew the extent of his
8 involvement. I didn't involve myself in this beyond the
9 1994 -- in January of '94 when I -- when it terminated. I
10 didn't want to -- I didn't continue a quest for information
11 at that time.

12 **MR. ENGELMANN:** All right. Well, even in
13 January of '94, there was some press release issues ---

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** --- that came out and there
16 was an issue about whether Mr. Silmser had been represented
17 and then there was a corrected press release by the Diocese
18 about that matter, that it was a very limited involvement?

19 **MR. DEROCHIE:** Well, yes. What I knew about
20 that was that Sean Adams represented Silmser during the
21 negotiation stages or thereabouts with regards to the
22 settlement. Beyond that, I didn't know what his
23 involvement was, how many times they had met or ---

24 **MR. ENGELMANN:** So you're not even aware,
25 sir, that Mr. Adams had apparently nothing to do with the

1 negotiation?

2 **MR. DEROCHIE:** No, what I know now is what
3 I've heard through testimony.

4 **MR. ENGELMANN:** Here?

5 **MR. DEROCHIE:** Here.

6 **MR. ENGELMANN:** All right. And you refer to
7 it in this paragraph. You say:

8 "I believe Staff Sergeant Brunet
9 contacted Sean Adams and asked him to
10 provide that in writing and subsequent
11 to that we also asked -- we did get a
12 letter from Sean Adams to that effect."

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** Are you sure about that,
15 that a letter was actually received by Sean Adams?

16 **MR. DEROCHIE:** What I recall of that is as a
17 result of that communication, we actually had Mr. Silmsen
18 come in. We had requested that Mr. Silmsen actually come
19 in himself and meet with Sebalj to make sure that we -- or
20 my understanding is Staff Sergeant Brunet did that just to
21 make sure that we understood that this was being
22 orchestrated or this was -- Mr. Silmsen was fully
23 comfortable with the arrangement. We wanted it in his
24 words not through his lawyer's.

25 Is that where you're leading?

1 **MR. ENGELMANN:** Well, you know what, I think
2 maybe we'll save those questions for Staff Sergeant Brunet
3 ---

4 **MR. DEROCHIE:** Okay.

5 **MR. ENGELMANN:** --- who was more directly
6 involved.

7 **MR. DEROCHIE:** Fine.

8 **MR. ENGELMANN:** I think that's probably
9 better.

10 **MR. DEROCHIE:** Sure.

11 **MR. ENGELMANN:** Because I don't think a
12 letter ever came from Mr. Adams. But we'll go there with
13 Staff Sergeant Brunet.

14 Now, at the top of Bates page 7012835,
15 you're asked by Detective Inspector Hall:

16 "Could you explain why you felt there
17 were larger issues at stake than those
18 involving Constable Dunlop?"

19 And that quote or that question seems to
20 come right from your notes at the time we would have looked
21 it. You know, we went through Exhibit 1293 here?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** That just sort of comes out
24 of the blue in this conversation. Would he have already
25 had your notes? As I recall you writing that, that there

1 were ---

2 **MR. DEROCHIE:** He may well have ---

3 **MR. ENGELMANN:** --- larger issues at stake.

4 **MR. DEROCHIE:** I recall at one point where
5 I'm putting together a package in 1994 because I anticipate
6 turning over my file to the OPP to conduct this supplement
7 investigation. It may well be that I included copies of my
8 notes at that time.

9 But at the same time, at this meeting, I --
10 I do recall that I turned over the package to him as well.

11 **MR. ENGELMANN:** Yeah. No, I know. I saw a
12 reference to that later in these notes.

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** And I was a bit confused by
15 that because that's ---

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

17 **MR. ENGELMANN:** --- that phrase is right out
18 of your -- your musing in your early notes?

19 **MR. DEROCHIE:** Yes, yeah. And I would
20 suspect that -- I would suspect that at least he got a copy
21 of my notes at that time.

22 **MR. ENGELMANN:** Well, by that time we know
23 that Jacki Leroux had a copy of your notes?

24 **MR. DEROCHIE:** Yes. Yes, we know that.

25 **MR. ENGELMANN:** She -- she'd had them ---

1 **MR. DEROCHIE:** We suspected that she had
2 those.

3 **MR. ENGELMANN:** Well, she had them ---

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** --- apparently had reference
6 to them about six or seven years before then.

7 **MR. DEROCHIE:** Yes, and my notes were
8 well-travelled by that time, obviously.

9 **MR. ENGELMANN:** And I think Detective
10 Inspector Hall had told you some time earlier that when you
11 looked at that other newspaper article that she had
12 written, that he'd had disclosure from Dunlop sometime
13 earlier?

14 **MR. DEROCHIE:** Yes, quite right.

15 **MR. ENGELMANN:** All right. And on the
16 following page, 7012836, you were asked by Detective
17 Inspector Hall:

18 "To your knowledge, why was the CAS not
19 involved with this investigation from
20 the start?"

21 Do you see that?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And you give a rather
24 lengthy answer, setting out your views of the CAS practice.
25 Is that fair?

1 **MR. DEROCHIE:** That was -- yes, as I
2 understood it at that time, as I previously testified to,
3 that was my understanding.

4 **MR. ENGELMANN:** The short answer was, was it
5 not, sir, that the CPS didn't ask them to be?

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

7 **MR. ENGELMANN:** The short answer was that
8 the CPS didn't ask them to be?

9 **MR. DEROCHIE:** Oh ---

10 **MR. ENGELMANN:** The Cornwall Police Service
11 didn't ask the CAS to be involved from the start of the
12 investigation?

13 **MR. DEROCHIE:** That's quite right.

14 **MR. ENGELMANN:** And when you met with Rick
15 Abell about this, certainly he had a broader view of their
16 mandate than you did?

17 **MR. DEROCHIE:** He certainly did, yes.

18 **MR. ENGELMANN:** All right. Then on Bates
19 page 7012838, you were asked by Detective Inspector Hall:

20 "Chief Shaver and Deputy Chief St-Denis
21 stated they had concerns about the
22 mismanagement of this investigation.

23 Could you comment?"

24 And you talk -- you talk at some length
25 about what Heidi Sebalj did, but you never seem to comment

1 on the comments by either the Chief or the Deputy Chief.
2 Is that correct?

3 **MR. DEROCHIE:** Yes. I indicate that I
4 brought those concerns to them, to the Chief and the Deputy
5 Chief, that this was -- you know, this was certainly a
6 concern I had originally; this is a concern they had
7 originally.

8 **MR. ENGELMANN:** It doesn't say that in your
9 answer though does it? Not here?

10 **MR. DEROCHIE:** Okay, it doesn't, yes.

11 **MR. ENGELMANN:** And I don't think they ever
12 came back to that with you. I mean that's something we've
13 discussed here, so.

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** All right. Now, on Bates
16 page 7012842, you're answering the end of what appears to
17 be a very long answer from a couple of pages before.

18 You're asked, at the bottom of page 7012840:

19 "To your knowledge, was Constable
20 Sebalj told to withhold information
21 about the other victims from Murray
22 MacDonald or anyone else?"

23 So, again, you're asked this direct question
24 and you've been asked earlier, was there a cover-up, and
25 you're asked this direct question again:

1 "To your knowledge, was Constable
2 Sebalj told to withhold information
3 about the other victims from Murray
4 MacDonald or anyone else?"

5 And you start giving a rather long answer
6 and I'm not faulting you on the answer, sir, don't get me
7 wrong.

8 **MR. DEROCHIE:** No, no, I rambled here.

9 **MR. ENGELMANN:** Yeah, but when we get over
10 to 7012842, you bring up David Silmser and it's sort of out
11 of the blue and if you see, it's right in the middle of
12 that page where you say:

13 "She was having difficulty forming
14 R and PG because of the way Silmser was
15 reacting. He was -- it was..."

16 What it says is:

17 "...it was the -- it was obvious that
18 he was using us to achieve a means
19 other than what we thought it was. You
20 know, he was -- he was using us to get
21 somewhere other than where we wanted to
22 go and she was having trouble with his
23 credibility quite frankly."

24 **MR. DEROCHIE:** Yes.

25 **MR. ENGELMANN:** That -- that sort of comes

1 out of the blue about Silmsen. You're not asked a question
2 about Silmsen, fair? Correct?

3 MR. DEROCHIE: Correct.

4 MR. ENGELMANN: And, sir, correct me if I'm
5 wrong, that in the phone call you had with him and in the
6 meeting you had with him, because there was a meeting with
7 his lawyer in January of '94 ---

8 MR. DEROCHIE: I didn't -- yes, I -- I came
9 in to deliver a copy of the statement and shake his hand,
10 yes.

11 MR. ENGELMANN: Right.
12 You never spoke with him about his
13 motivation in laying those charges back in December of '94?

14 MR. DEROCHIE: No, no one did, as far as I
15 know.

16 MR. ENGELMANN: Or laying a complaint, I'm
17 sorry, not a charge.

18 MR. DEROCHIE: That's correct.

19 MR. ENGELMANN: All right. So you didn't
20 have his views on what was motivating him?

21 MR. DEROCHIE: No, I did not.

22 MR. ENGELMANN: Now, I wanted to just ask
23 you, you say "It was obvious that he was using us to
24 achieve a means". What was obvious?

25 MR. DEROCHIE: Well, the whole issue of

1 advising the -- contacting the church at the same time or
2 if not before. He contacted us originally in December.
3 The continued conversations with the church, the suggestion
4 that he was discussing a civil settlement with the church
5 during the investigation.

6 That, in my mind, was evidence that -- that
7 he was looking at a remedy possibly other than our -- than
8 a criminal charge and that he may be using the whole idea
9 of a threat of a criminal charge as a lever.

10 **MR. ENGELMANN:** Was that a widely held view
11 in the Cornwall Police Service at that time and ---

12 **MR. DEROCHIE:** At that time, I don't -- in
13 nineteen-ninety ---

14 **MR. ENGELMANN:** Three (3).

15 **MR. DEROCHIE:** Nineteen-ninety-three (1993)?
16 No ---

17 **MR. ENGELMANN:** This investigation was ---

18 **MR. DEROCHIE:** I don't think it was widely
19 held. I think maybe that Heidi Sebalj may have had those
20 concerns. I don't recall speaking to Staff Sergeant Brunet
21 about it.

22 And certainly when I read the -- the
23 chronology and how things had developed, that became a
24 question for me to look at as well.

25 **MR. ENGELMANN:** Chronology prepared by whom?

1 **MR. DEROCHIE:** Well, the chronology of her
2 notes. The way things were developing in her notes.

3 **MR. ENGELMANN:** All right. So these were --
4 these were concerns that would have been expressed to you
5 by others?

6 **MR. DEROCHIE:** I don't recall them ever
7 being expressed by others to me. These observations that I
8 made and conclusions I reached.

9 I -- I may well have discussed them with
10 Heidi Sebalj. I believe she had some concern to that
11 effect, but I don't know if they would have -- they didn't
12 seem to matter to her. She was doing what she had to do
13 with it.

14 **MR. ENGELMANN:** Well, sir ---

15 **MR. DEROCHIE:** I'm looking at it after the
16 fact, long after the fact, looking at everything that
17 occurs, and I'm looking at the end product of everything,
18 so ---

19 **MR. ENGELMANN:** Well, when you're making
20 this comment in 2000, going back to the time of the
21 investigation in '93 ---

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

23 **MR. ENGELMANN:** --- you also have, and I
24 don't know if you're able to segregate this in your mind,
25 knowledge of what Staff Sergeant Dupuis is telling you

1 after this investigation in late November ---

2 MR. DEROCHIE: Quite right.

3 MR. ENGELMANN: --- of '93?

4 MR. DEROCHIE: Yes, and my conversation with
5 Brian Simser. There was, you know -- I had -- there was
6 cause for me to think that this was a possibility.

7 MR. ENGELMANN: All right. And that
8 conversation with Brian Simser -- I don't know if you were
9 here that day, David Silmsen told us about why his cousin
10 might have said that about him.

11 MR. DEROCHIE: Yes, I -- he may -- there may
12 well have been an explanation. I never did follow up to
13 find out what that was but, certainly, I had that
14 knowledge.

15 MR. ENGELMANN: And, sir, I don't know if
16 you were here, but Mr. Silmsen testified that he first
17 asked for an apology from the Diocese?

18 MR. DEROCHIE: Yes.

19 MR. ENGELMANN: Money wasn't involved.

20 MR. DEROCHIE: That's right. I remember
21 that.

22 MR. ENGELMANN: In fact, I think that's at
23 least documented in some of the evidence from some of the
24 people for the Diocese at the time when they had the first
25 meeting with him in February of '93.

1 **MR. DEROCHIE:** Yes, that's correct, yeah.

2 **MR. ENGELMANN:** And, sir, were you aware
3 that prior to the settlement, as it's described, that he'd
4 not hired a lawyer nor filed any kind of civil lawsuit?

5 **MR. DEROCHIE:** Yes, I was probably aware of
6 that.

7 **MR. ENGELMANN:** And were you aware, sir,
8 that at least according to a statement from Malcolm
9 MacDonald, that it was Malcolm MacDonald who was the -- who
10 was the lawyer for Father Charlie Macdonald that would have
11 brought up the idea of money for the first time with David
12 Silmser?

13 **MR. DEROCHIE:** I'm not aware of that.

14 **MR. ENGELMANN:** So what were the facts that
15 you relied on then in coming to that conclusion?

16 **MR. CALLAGHAN:** If I could just interject
17 here.

18 One of the concerns, of course, is we never
19 got a chance to cross-examine David Silmser to find out the
20 voracity of what he said.

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

22 **MR. CALLAGHAN:** So when -- what's put to him
23 as to what's testified here, it would be fair to say the
24 witness that we did not get an opportunity to challenge
25 what was said ---

1 THE COMMISSIONER: M'hm.

2 MR. CALLAGHAN: --- and it was untested.

3 THE COMMISSIONER: Yes.

4 MR. CALLAGHAN: Well, I'm just saying it's
5 being presented that these are definitive facts ---

6 THE COMMISSIONER: No.

7 MR. CALLAGHAN: They're not -- certainly not
8 -- they were not challenged by anybody.

9 THE COMMISSIONER: No, they're not
10 definitive facts.

11 MR. CALLAGHAN: I ---

12 THE COMMISSIONER: They are things that Mr.
13 Silmsen said here.

14 MR. CALLAGHAN: Right, but without
15 challenge.

16 THE COMMISSIONER: Well -- well ---

17 MR. CALLAGHAN: Certainly not by me.

18 THE COMMISSIONER: Leave that for your
19 submissions, but I don't know that we need to ponder that
20 in ---

21 MR. ENGELMANN: So the only thing that I
22 said testified to as opposed to fact -- just so we're clear
23 -- is the fact that he was seeking an apology first and I
24 think when we get to the evidence from the Diocese, we'll
25 get to some notes that actually support that view as well.

1 **MR. DEROCHIE:** I'm sorry what was the
2 question that ---

3 **MR. ENGELMANN:** What I was asking before the
4 interruption was ---

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** --- what were the facts that
7 you relied upon?

8 **MR. DEROCHIE:** As I stated, the notes that I
9 had seen of the -- the way he was acting or the way he was
10 just still discussing the matter with the church while we
11 were investigating it. The fact that he had made a -- that
12 phone call from Mr. Silmsen on the night of Mr. Seguin's
13 death, that he was pursuing -- he's going to be -- he had
14 turned the heat up or was pressuring Mr. Seguin for a cash
15 settlement. The conversation as we spoke of Mr. Brian
16 Simser.

17 All of these things would have -- would have
18 led me to that possibility.

19 **MR. ENGELMANN:** So many of those things
20 happened after the Cornwall Police Service had ended its
21 investigation in September?

22 **MR. DEROCHIE:** Had ended the -- yes, but --
23 but tended to explain why it was ended as well; that there
24 was -- that Mr. Silmsen had that option and I'm not, you
25 know, I'm not commenting whether or not it was right to

1 have that option. I'm just saying that's where I was --
2 that's where my mind was on the issue.

3 **MR. ENGELMANN:** You'd agree with me, sir,
4 would you not, that a comment like that in this statement
5 to the OPP would reflect negatively on Mr. Silmsner?

6 **MR. DEROCHIE:** Yes, it would; it may well.
7 They were going to have to evaluate the merits of that
8 statement as they did with all of the evidence they heard
9 and assign it what weight they would.

10 **MR. ENGELMANN:** They're speaking to a fairly
11 senior officer from the Cornwall Police Service. They're
12 probably going to give what you say to them ---

13 **MR. DEROCHIE:** But he's an equally ---

14 **MR. ENGELMANN:** --- fair weight.

15 **MR. DEROCHIE:** Yes, he's an equally senior
16 officer that has more experience than I have in these
17 matters certainly so it would balance out.

18 **MR. ENGELMANN:** Fair enough. Now, at Bates
19 page 7012843, you're asked:

20 "Why were Seguin's allegations not
21 proceeded with at the same time?"

22 And you say, at least initially:

23 "This was a bone of contention with me
24 when I was doing this review as well."

25 I know you go on to say you'd indicated he

1 didn't want to deal, didn't want to complain at that time;
2 wanted to deal with first -- Father Charlie first and then
3 subsequently with Ken at some later date. And we know he
4 said that in interview notes on March 10, but I'm
5 wondering, you say:

6 "That was a bone of contention with me
7 when I was doing the review as well."

8 **MR. DEROCHIE:** Yes, I was -- I was still
9 questioning the -- I wasn't questioning, I had accepted the
10 fact that we weren't -- it wasn't -- it wasn't proper to
11 force victims to cooperate with our investigation; that the
12 Crown wasn't going to force a victim to testify against his
13 will.

14 So my sense of it was, you know, I would
15 have preferred to see the whole thing investigated, but I
16 was -- I was willing to concede that we didn't have the
17 authority to force the victim, as it were, to testify,
18 therefore, we had no investigation. But I would have -- I
19 would have preferred it. As I think I've testified, I
20 wanted to see this criminal investigation advanced.

21 **MR. ENGELMANN:** But, sir, just on that
22 point, from December 9th, '92 until March 10th of 1993,
23 something could have been investigated, at least in that
24 timeframe, dealing with Ken Seguin, could it not have?

25 **MR. DEROCHIE:** Well, until they -- until

1 they get the statement from Mr. Seguin they -- or from Mr.
2 Silmser rather -- they hadn't met with Mr. Silmser until
3 they received that statement -- so that was when the clock
4 would start ticking because if they ---

5 **MR. ENGELMANN:** Well, they met with him on
6 January 28th?

7 **MR. DEROCHIE:** Yes.

8 **MR. ENGELMANN:** He provided information
9 about Ken Seguin then?

10 **MR. DEROCHIE:** But told us he didn't want to
11 pursue -- to proceed -- or pursue that investigation. He
12 may ---

13 **MR. ENGELMANN:** I don't know where you got
14 that from, sir, but I know that's in a couple of
15 chronologies, but I didn't see it anywhere else. And then,
16 sir, he gives an actual statement to the police force on
17 February 16th.

18 **MR. CALLAGHAN:** To correct the record, on
19 February 10th he says he only wants to proceed against
20 Father Charlie, according to Heidi Sebalj's notes.

21 **MR. ENGELMANN:** Sir, on January 28th, he
22 gives a statement?

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** And three officers are
25 present?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** I'm going to suggest to you,
3 at that time he never says, "I want to proceed with them
4 one at a time". That that comment is made by him on March
5 10th?

6 **MR. DEROCHIE:** Well, I have -- I have ---

7 **THE COMMISSIONER:** Hold on, hold on, just a
8 minute. Do you have an objection?

9 **MR. CALLAGHAN:** I thought -- I thought I
10 just made an objection that the notes say February 10th not
11 March 10th. I'm not sure what my friend's talking about
12 saying it's only March 10th.

13 **THE COMMISSIONER:** Okay. Yes, okay. Wait a
14 minute, wait a minute. I -- I keep hearing people -- are
15 you talking?

16 **MR. ENGELMANN:** I think we have to make a
17 decision, sir, if there's one lawyer in the front bench or
18 two to speak, but, in any event, maybe I could carry on.

19 **THE COMMISSIONER:** Well, now, just a minute
20 ---

21 **MR. ENGELMANN:** No, I'm -- no, I'm just
22 responding ---

23 **THE COMMISSIONER:** Yes.

24 **MR. ENGELMANN:** --- to the objection.

25 What I've stated is, there's an interview on

1 January 28th.

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

3 **MR. ENGELMANN:** There's a note in Ms. Sebalj
4 -- Mrs. Sebalj's notes of a phone call with David Silmser
5 on February 10th.

6 **THE COMMISSIONER:** Right.

7 **MR. ENGELMANN:** That's correct. We don't,
8 you know, we just have a very brief reference to the note.

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

10 **MR. ENGELMANN:** On February 16th, Mr. Silmser
11 gives his statement to the Cornwall Police Service and in
12 this statement he refers to allegations against both David
13 -- he refers to allegations against both Father Charles
14 MacDonald and Ken Seguin?

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** Correct?

17 **MR. DEROCHIE:** That's correct. At the very
18 end of the statement, he indicates something to the effect
19 that Mr. Seguin also abused him.

20 **MR. ENGELMANN:** It's about half a page at
21 the end of an eight-page statement and then -- and then on
22 March the 10th, at the very end of the interview notes,
23 there's a reference to a conversation with him about
24 wanting to deal with them one at a time. Are you aware of
25 that?

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: All right. So in any event

3 ---

4 MR. DEROCHIE: But there's also a note where
5 he calls -- he says he called Mr. Seguin and assured him
6 that he wasn't going to proceed ---

7 MR. ENGELMANN: That's ---

8 MR. DEROCHIE: --- with criminal charges.

9 MR. ENGELMANN: --- that's the note that
10 your counsel's ---

11 MR. DEROCHIE: Oh.

12 MR. ENGELMANN: --- been referring to on
13 February 10th ---

14 MR. DEROCHIE: So ---

15 MR. ENGELMANN: --- and he's done it now
16 three times.

17 MR. DEROCHIE: I would have had knowledge of
18 all of that.

19 MR. ENGELMANN: Yes. No, I agree.

20 MR. DEROCHIE: Okay, okay.

21 MR. ENGELMANN: I agree, but on February
22 16th, he gives the statement over?

23 MR. DEROCHIE: Yes.

24 MR. ENGELMANN: What I'm saying is, let's --
25 there was no investigation of Ken Seguin?

1 **MR. DEROCHIE:** Yes, that's true.

2 **MR. ENGELMANN:** And that was at least
3 somewhat of a bone of contention for you?

4 **MR. DEROCHIE:** Yes, I would have liked to
5 have seen -- I would have wanted an investigation done.

6 **MR. ENGELMANN:** Yes.

7 **MR. DEROCHIE:** If I had my druthers, you
8 know.

9 **(SHORT PAUSE/COURTE PAUSE)**

10 **MR. ENGELMANN:** I've just got a couple more
11 questions on this statement. I'll just be a moment. I've
12 lost my spot.

13 Towards the end of the interview, you're
14 asked some questions by Officer Dupuis; right?

15 **MR. DEROCHIE:** Yes, he did pick up, yes.

16 **MR. ENGELMANN:** Right. And he comes back to
17 this OMPPAC issue at the top of 7012844, and he asks you:

18 "To your knowledge..." ---

19 **MR. DEROCHIE:** I'm sorry, could you bring me
20 to that page again, please?

21 **MR. ENGELMANN:** I'm sorry; 7012844.

22 The first question:

23 "To your knowledge why had there been
24 no reports added to OMPPAC with a
25 normal investigation?"

1 Do you see that near the top of the page?

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

3 **MR. ENGELMANN:** You say:

4 "I don't know. I don't know that.
5 That wasn't the practice back then. It
6 was one of the criticisms that I had
7 with regard to how the investigation
8 was conducted, was that people lost
9 track of this investigation. This
10 thing came originally to the attention
11 of very senior people in the
12 organization. The Deputy Chief and the
13 Chief were well aware. The Deputy
14 Chief personally assigned Sergeant
15 Lortie to do this investigation. So
16 there was some recognition that this
17 was an investigation outside normal --
18 normal types of investigations that
19 there was. It was a high profile
20 investigation."

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** So you appear, at least at
23 this point, again to have some concerns about OMPAC and
24 also concerns about the fact that even though this was
25 supposed to be a high profile investigation, that it just

1 got lost track of. Is that fair?

2 **MR. DEROCHIE:** Well, certainly until the --
3 until Heidi Sebalj got assigned to it, nobody knew anything
4 about it because there was nothing created on the system.
5 From December when he called, up until January the 13th,
6 nobody knew about this except certain individuals within
7 the organization.

8 And, in fact, the Deputy Chief -- obviously
9 that's displayed by the fact that the Deputy Chief
10 approaches Lortie some time between Christmas and New
11 Year's and says, "What's going on with this thing?"

12 So, yes, nobody through that five-week
13 period.

14 **MR. ENGELMANN:** Well, I -- maybe I
15 misunderstood what you were saying here.

16 So you're saying lost track of this
17 investigation. You're only talking about the first five
18 weeks of the investigation, not the whole investigation?

19 **MR. DEROCHIE:** Well, the whole investigation
20 in terms of if one of the officers -- that the Chief, for
21 example, or the Deputy Chief wanted to go in and see what
22 was going on with this thing, as we've discussed, there was
23 only an incident created, no reports filed, no people
24 appended to the system. I didn't like that. I didn't
25 think that was proper.

1 **MR. ENGELMANN:** So nobody would have known
2 that there was absolutely no notes on this file for about
3 four months, from late April to late August, for example?

4 **MR. DEROCHIE:** That's correct. Well, longer
5 than that.

6 **MR. ENGELMANN:** Well, it was a significant
7 period of time where there was no documentation?

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

9 **MR. ENGELMANN:** Not even in Ms. Sebalj's
10 notes?

11 **MR. DEROCHIE:** Oh, I see. Oh, yes, I
12 understand.

13 **MR. ENGELMANN:** That's what I meant.

14 **MR. DEROCHIE:** Okay. I'm sorry, yes. Yes.

15 **MR. ENGELMANN:** And you talk about -- and
16 hindsight is 20/20 -- but you talk about some of what could
17 have been done on page 7012845, where you say:

18 "If I received this type of complaint,
19 the first thing I would do is create an
20 incident, an OMPPAC incident number."

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** "I don't know why an
23 incident was not created at the time
24 and there was no report submitted. She
25 had notes indicating that she was

1 actively working on this. There's
2 documentation to support that fact that
3 she was, she was working on this, but
4 she was not filing reports. Nobody was
5 picking up on the fact that she was not
6 filing reports. The Deputy Chief and
7 the Chief were both aware that it was a
8 high profile investigation. to my
9 knowledge never did make any inquiries
10 about it. They just moved onto other
11 things. It appears that this thing is
12 one of those typical situations that
13 slips between the cracks."

14 So, again, you're expressing a similar
15 concern on this page about what happened during the course
16 of this investigation?

17 **MR. DEROCHIE:** Yes, and we'll see as my
18 evidence progresses that I made those same types of
19 comments about other investigations.

20 **MR. ENGELMANN:** Yes. No, I know. Some at
21 that time and some a bit later. Is that fair?

22 **MR. DEROCHIE:** I don't know if I've -- it
23 would have been all around this time. I think this is 2000
24 I'm having this interview?

25 **MR. ENGELMANN:** Yes. You would have wrapped

1 up a report just the year before ---

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: --- where you had similar
4 concerns.

5 MR. DEROCHIE: Yeah, similar concerns, all
6 going back to that time period or before that time period.

7 MR. ENGELMANN: And, sir, as well, on this
8 page, you say at the top of the page:

9 "The situation in CIB couldn't have
10 been worse."

11 MR. DEROCHIE: Yes.

12 MR. ENGELMANN: "There was a changeover in
13 supervisory staff there. There was a
14 new Staff Sergeant Brunet, began his
15 job in January, and this was one of the
16 first ones that he was issued..."

17 MR. DEROCHIE: Yes.

18 MR. ENGELMANN: "he was given to,
19 so he was new to the job."

20 So that might have been another reason why
21 there were more difficulties in this case?

22 MR. DEROCHIE: Yes. And, again, I'll
23 comment further on that in other reports.

24 MR. ENGELMANN: All right. And, sir, lastly
25 with respect to the statement on Bates page 7012849 -- and

1 this is when you're asked a question by Inspector Hall
2 about whether there's anything else that would assist in
3 this investigation. You say:

4 "Every indication the Chief gave to me
5 was that he was anxious to continue
6 with this investigation if we could,
7 but that we were limited by the law and
8 had to accept the fact that we wouldn't
9 be able to proceed with this, okay,
10 that the fact that the victim had
11 reached a remedy that he appeared to be
12 considered to be just, that we had no
13 recourse but to abide by his wishes to
14 resolve the complaint in the manner
15 that he chose to resolve it."

16 Did the Chief tell you that you were limited
17 by the law?

18 **MR. DEROCHIE:** No. No, and that's sort of
19 an overstatement of the restrictions that we were under.

20 **MR. ENGELMANN:** All right. I'm just
21 wondering had ---

22 **MR. DEROCHIE:** No, no.

23 **MR. ENGELMANN:** Okay.

24 **THE COMMISSIONER:** Well, what did the Chief
25 tell you?

1 **MR. DEROCHIE:** That we were bound by the
2 opinion of the Crown; that we won't compel an uncooperative
3 victim or an unwilling victim to testify at a sexual
4 assault -- during a sexual assault trial if they -- you
5 know, there would be issues of retraumatization and it was
6 just not done.

7 **MR. ENGELMANN:** And the factual basis for
8 the opinion of the Crown would have been from one of your
9 colleagues, presumably Staff Sergeant Brunet or Heidi
10 Sebalj?

11 **MR. DEROCHIE:** I'm sorry, I missed that.

12 **MR. ENGELMANN:** The factual basis for this
13 opinion about uncooperative or not wanting to proceed would
14 have been from one of your colleagues?

15 **MR. DEROCHIE:** Based on an opinion he
16 received from the Crown attorney, yes.

17 **MR. ENGELMANN:** I know, but the opinion of
18 the Crown attorney, the opinion of Murray MacDonald ---

19 **MR. DEROCHIE:** Yes.

20 **MR. ENGELMANN:** --- about the position of
21 the alleged victim and whether there was voluntariness,
22 duress, whatever, his information had to come from one of
23 your colleagues.

24 **MR. DEROCHIE:** Oh, the information for
25 forming that ---

1 **MR. ENGELMANN:** Yes.

2 **MR. DEROCHIE:** --- opinion, certainly.

3 **MR. ENGELMANN:** All right. Let's move onto
4 something else then.

5 I want to ask you -- you referred to this
6 earlier, Staff Sergeant Derochie. You report that the
7 police officers from Ottawa for Perry, Blake and Skinner or
8 Skinner and Blake?

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** That was in ---

11 **MR. DEROCHIE:** In 1994?

12 **MR. ENGELMANN:** January of 1994. And you
13 told us -- I can't remember how it came up -- that you were
14 actually asked -- you actually saw it I think for the first
15 time about six-and-a-half years later, in the fall of 2000.

16 **MR. DEROCHIE:** No, I believe I said that I
17 may have seen it at the time ---

18 **MR. ENGELMANN:** Yes.

19 **THE COMMISSIONER:** You may have not had it
20 in your hands but you read parts of it and knew generally
21 what it was about?

22 **MR. DEROCHIE:** Yeah, I got the impression it
23 was being shown to me on the QT.

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

25 **MR. ENGELMANN:** All right. I had understood

1 that you'd been made aware of parts of it, but I didn't
2 know you'd actually seen it.

3 MR. DEROCHIE: Well, I saw the physical
4 report.

5 MR. ENGELMANN: All right.

6 MR. DEROCHIE: Whether I read it from cover-
7 to-cover is what I'm having trouble recalling.

8 MR. ENGELMANN: All right. But in any
9 event, the first time you had in officially in your
10 possession ---

11 MR. DEROCHIE: Yes.

12 MR. ENGELMANN: --- was in 2000?

13 MR. DEROCHIE: Yes.

14 MR. ENGELMANN: All right. And can you
15 explain how that came about, why six-and-a-half years later
16 you are looking at a report from the Ottawa Police Service?

17 MR. DEROCHIE: I can't recall what the
18 driving -- or what initiated my involvement in this, but I
19 knew though that the Board had asked Chief Repa to see a
20 copy of that report, and Chief Repa went looking for it and
21 couldn't find it and asked me to locate a copy of it.

22 There was some issue the Board was dealing
23 with, and I'm not sure what that would have been.

24 MR. ENGELMANN: All right. Let's look at
25 Document 727826. This is an internal correspondence

1 document from Chief Repa to Staff Sergeant Derochie dated
2 September 15th, 2000.

3 **THE COMMISSIONER:** Thank you. Exhibit 1333.

4 --- **EXHIBIT NO./PIÈCE No. P-1333:**

5 (727826) Internal Correspondence from Chief
6 A. Repa to Garry Derochie -
7 15 Sep 00

8 **MR. ENGELMANN:** Again, I don't think this
9 helps us with the reasons why the Board is requesting this,
10 but apparently at a Board meeting on the 14th of September,
11 the Chief is being asked to prepare for the Board an
12 executive overview and chronology of the Ottawa Police
13 Report?

14 **MR. DEROCHIE:** Yes, and it's reason enough
15 for me to ---

16 **MR. ENGELMANN:** Yes. And he asks you to
17 have it prepared by September 27th?

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

19 **MR. ENGELMANN:** All right. And did you, in
20 fact, prepare such a chronology?

21 **MR. DEROCHIE:** Yes, I did.

22 **MR. ENGELMANN:** Now, sir, I would like to
23 look at Document 727827.

24 **THE COMMISSIONER:** Thank you. That is an
25 internal correspondence to Chief Repa from Staff Sergeant

1 Garry Derochie dated October 19th, 2000.

2 MR. ENGELMANN: That's 1334?

3 THE COMMISSIONER: Yes.

4 MR. ENGELMANN: Thank you.

5 --- EXHIBIT NO./PIÈCE No. P-1334:

6 (727827) Internal Correspondence from Garry

7 Derochie to Chief A. Repa -

8 19 Oct 00

9 MR. ENGELMANN: So clearly, sir, when we are
10 looking at this document, this is something that you've
11 prepared for Chief Repa?

12 MR. DEROCHIE: That's correct.

13 MR. ENGELMANN: You're referencing the
14 Ottawa Police Report, so we know that it's the same report.
15 It's dated January 24th, 1994?

16 MR. DEROCHIE: That's correct.

17 MR. ENGELMANN: And he has asked you for an
18 executive overview and chronology of the Ottawa Police
19 report?

20 MR. DEROCHIE: Yes.

21 MR. ENGELMANN: All right. And what do you
22 give him then on October 19th, 2000?

23 MR. DEROCHIE: I give him this and the
24 attached memorandums of the two documents.

25 MR. ENGELMANN: All right.

1 **MR. DEROCHIE:** There is -- I don't recall, I
2 know there was one; it was edited. I had edited one for
3 FOI purposes that removed actual names of people.

4 **MR. ENGELMANN:** Right. I'll show that to
5 you in just a second, if I can.

6 **MR. DEROCHIE:** Oh, okay.

7 **MR. ENGELMANN:** But that's the actual Ottawa
8 Police report?

9 **MR. DEROCHIE:** Report, yeah.

10 **MR. ENGELMANN:** You've taken some names out
11 for FOI purposes?

12 **MR. DEROCHIE:** Yes, I believe I did.

13 **MR. ENGELMANN:** And there's also -- I'm
14 sorry.

15 **MR. DEROCHIE:** I believe I did, yes.

16 **MR. ENGELMANN:** And there's also a
17 chronology?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** Perhaps if the witness could
20 be shown 727828 and 727829.

21 **THE COMMISSIONER:** Thank you. Exhibit 1335
22 is a chronology. It's a nine-page document.

23 **--- EXHIBIT NO./PIÈCE No. P-1335:**

24 (727828) Chronology Document

25 **THE COMMISSIONER:** And 1336 is a copy of the

1 Ottawa Police Service Investigative Services Division
2 Report dated January 24th, 1994

3 --- EXHIBIT NO./PIÈCE No. P-1336:

4 (727829) Transcription of the Ottawa Police
5 Service's Report - 24 Jan 94

6 MR. ENGELMANN: I believe a version of that,
7 perhaps with names, is already Exhibit 1207.

8 THE COMMISSIONER: Yes, it is and actually
9 this is Transcription of that report.

10 MR. DEROCHIE: Yes, as I recall, I received
11 a very poor copy from Ottawa.

12 MR. ENGELMANN: So it would have been
13 retyped, sir, and edited?

14 MR. DEROCHIE: I retyped it, and I edited
15 it.

16 MR. ENGELMANN: All right. Well just on the
17 retyping for a minute, what about the chronology? Because
18 we've seen a number of these, and I'm -- is this something
19 that you prepared or had it already been prepared?

20 MR. DEROCHIE: I believe I already had this
21 prepared in some form. Over the course of years, I had
22 been asked to provide information to various people. This
23 one, I believe I had prepared for a fellow by the name of
24 John Callaghan.

25 MR. ENGELMANN: All right. I won't ask you

1 why, but I guess my question to you is if there are errors
2 in this chronology ---

3 **MR. DEROCHIE:** They're my errors, if there
4 are.

5 **MR. ENGELMANN:** They're not Mr. Callaghan's?

6 **MR. DEROCHIE:** No, they're my errors.

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

8 **THE COMMISSIONER:** I thought he was
9 infallible.

10 **MR. ENGELMANN:** I heard that.

11 Well, what I wanted to ask you is whether
12 they would be your errors or perhaps someone else who had
13 done a chronology that you then cribbed a bit?

14 **MR. DEROCHIE:** No, as far as I know, these -
15 - if there's errors in here, they're my errors.

16 **MR. ENGELMANN:** All right. So for example,
17 if there is reference to a retaining a lawyer on February
18 18th to pursue a settlement and there had been some news
19 about possible hiring of a lawyer but if so, fired the next
20 day, that would be your error or perhaps your omission for
21 not including that February 19th he's no longer there?

22 **MR. DEROCHIE:** I'm sorry? February 19th
23 he's?

24 **MR. ENGELMANN:** There is a reference to:

25 "Contact Sebalj, informs that he has

1 retained counsel to pursue a settlement
2 with the Diocese."

3 MR. DEROCHIE: Yes.

4 MR. ENGELMANN: All right. We had a
5 discussion about this time with him that he never actually
6 retained someone.

7 MR. DEROCHIE: Oh, yeah, he -- it was, yes,
8 okay.

9 MR. ENGELMANN: And then the next day, he --
10 -

11 MR. DEROCHIE: He, yes.

12 MR. ENGELMANN: --- he tells her he lets the
13 guy go and then he ---

14 MR. DEROCHIE: Yes. Yes, yes, yes, you're
15 quite right.

16 MR. ENGELMANN: All right.

17 MR. DEROCHIE: If that's not there then,
18 yes, that was my omission.

19 MR. ENGELMANN: And the reference -- well,
20 in any event, if there are errors in the document ---

21 MR. DEROCHIE: They're mine.

22 MR. ENGELMANN: Okay. Fair enough. There's
23 no need to go through them.

24 I'm just curious, sir, do you know now,
25 having looked at the chronology briefly and looking at the

1 report itself, what it was the Board then did with the
2 documents you provided?

3 **MR. DEROCHIE:** I'm sorry. You are asking me
4 what the Board did with this chronology?

5 **MR. ENGELMANN:** Yes. I'm looking at 1334
6 for a minute, and you say:

7 "I'm confident that there is sufficient
8 detail contained in these two documents
9 to answer any questions the Board
10 members may have. I will of course
11 make myself available to answer any
12 additional questions they may have."

13 Does it, just looking at these documents
14 now, the chronology, the edited version, give you some
15 sense as to what it was they were seeking?

16 **MR. DEROCHIE:** I would have to look at my
17 notes to see if that would lead me anywhere. It doesn't
18 occur to me why they wanted this.

19 **MR. ENGELMANN:** I'll try and find a
20 reference perhaps for the morning, sir, if I can.

21 **MR. DEROCHIE:** Okay.

22 **MR. ENGELMANN:** Were you ever called to come
23 before the Board and answer any questions they had; do you
24 recall?

25 **MR. DEROCHIE:** I believe I was. Again, I

1 would have to refer to my notes.

2 MR. ENGELMANN: All right. I realize it's
3 seven or over seven years ago.

4 MR. DEROCHIE: And you know -- yes, and so
5 many reports and so many notes.

6 MR. ENGELMANN: Yes.

7 MR. DEROCHIE: Okay.

8 MR. ENGELMANN: I'll see if I can find a
9 reference, sir, for the morning.

10 MR. DEROCHIE: I'll look as well.

11 MR. ENGELMANN: All right. Let's turn to
12 something completely different. You told us a few minutes
13 ago that you had to look at other investigations, and you
14 had to look at some other investigations where there may
15 have been perhaps not the best record keeping or case
16 management. Is that fair?

17 MR. DEROCHIE: Yes.

18 MR. ENGELMANN: All right. And did one of
19 those involve a woman by the name of Jeannette Antoine?

20 MR. DEROCHIE: Yes.

21 MR. ENGELMANN: And sir, I understand that
22 almost immediately after you had dealt with the -- your
23 investigation, and your report on Dunlop, at least with
24 respect to the release to the CAS, et cetera, and your re-
25 investigation and review of the Force's investigation of

1 the Silmsler matter, that you were tasked to look at the CPS
2 investigation that had been done on a complaint, filed by
3 Jeannette Antoine.

4 **MR. DEROCHIE:** Yes; it came in virtually --
5 I think it was within days of ---

6 **MR. ENGELMANN:** It -- I -- as I understand
7 it, it was on or about the 11th of January 1994.

8 **MR. DEROCHIE:** Yes; yes, exactly.

9 **MR. ENGELMANN:** If the witness could be
10 shown Document Number 739111.

11 And, Staff Sergeant Derochie, these are your
12 notes; the dates are 11 January '94 to 22nd March '94.

13 **THE COMMISSIONER:** Thank you.

14 Officer's notes, the -- internal; Antoine
15 from the 11th day of January '94 to the 22nd day of March,
16 1994.

17 **MR. ENGELMANN:** Sir, that would be what
18 exhibit number?

19 **THE COMMISSIONER:** One-three-three-seven
20 (1337).

21 --- **EXHIBIT NO./PIÈCE No. P-1337:**

22 (739111) Notes of Garry Derochie - 11
23 Jan 94 to 22 Mar 94

24 **MR. ENGELMANN:** Now, just to frame a context
25 if we can, sir; on the first page of your notes, there's a

1 reference to 11th Jan '94.

2 "Received a telephone call from Deputy
3 Chief; wants me in this afternoon to do
4 internal investigation; tells me it's
5 another case of poor case management
6 and documentation."

7 **MR. DEROCHIE:** Yes.

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

9 And those are the words of the Deputy Chief.

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** And is he referring, when he
12 says another case, to your knowledge, he's referring to the
13 Silmsen matter?

14 **MR. DEROCHIE:** I believe that's what he's
15 referring to.

16 **MR. ENGELMANN:** Do you know if he's
17 referring to anything else?

18 **MR. DEROCHIE:** I can't think of anything
19 else he would have been.

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

21 And why are you getting this job again, do
22 you know?

23 **MR. DEROCHIE:** No, I don't know. He doesn't
24 like me, I ---

25 **(LAUGHTER/RIRES)**

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

2 And like with the Silmser and Dunlop
3 investigations you've done in the fall of '93 you are
4 briefed and you're given a file with a number of documents
5 in it.

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

7 **MR. ENGELMANN:** This time you're briefed by
8 the Deputy Chief?

9 **MR. DEROCHIE:** Yes.

10 If I might, there was -- I recall there was
11 discussion with regards to why I got this and not the
12 officer supervisor, who was Staff Sergeant Brunet.

13 As I recall it, the allegation had something
14 to do with Detective Malloy's -- excuse me, being a member
15 of the CAS Board of Directors or sitting on the Board in
16 some capacity, and Brunet was, similarly, at that time, a
17 member of that -- of the CAS Board.

18 He -- so he perceived that there would have
19 been a conflict there, for him to investigate this.

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

21 And you're right sir, the note, at least on
22 page 1 of your notes, indicates:

23 "Briefed by the Deputy Chief, Jeannette
24 Antoine is alleging being abused while
25 a ward of CAS. The allegations were

1 reported to the authorities in 1989.
2 Police investigated but nothing was
3 done. She suspects that CAS and a
4 police investigator who was sitting as
5 a board member of CAS at the time may
6 have covered up the abuse."

7 So that's the concern about sitting on the
8 board ---

9 MR. DEROCHIE: Yes.

10 MR. ENGELMANN: --- and investigating?

11 MR. DEROCHIE: Yes.

12 MR. ENGELMANN: All right. And again, then,
13 you're being tasked with reviewing the file that to
14 determine what occurred during that investigation in 1989?

15 MR. DEROCHIE: Yes; report to -- the facts
16 to the Chief.

17 MR. ENGELMANN: All right.

18 MR. DEROCHIE: Or to the Deputy.

19 MR. ENGELMANN: And you were advised, sir,
20 that the investigating officer at the time was Constable
21 Malloy?

22 MR. DEROCHIE: Yes, I was.

23 MR. ENGELMANN: All right.

24 And he was an officer who was at least
25 involved to some extent at the beginning of the Silmser

1 investigation?

2 MR. DEROCHIE: That's correct.

3 My understanding is he went off -- well, I
4 know that he went off on sick leave shortly after that
5 Silmsen investigation started. March, April ---

6 MR. ENGELMANN: Of 1990 ---

7 MR. DEROCHIE: --- of 1990 ---

8 MR. ENGELMANN: --- three?

9 MR. DEROCHIE: --- three.

10 MR. ENGELMANN: All right.

11 And, was he still on sick leave when you
12 were assigned this, sir, in ---

13 MR. DEROCHIE: Yes, he was.

14 MR. ENGELMANN: --- January of '94?

15 MR. DEROCHIE: Yes, he was.

16 MR. ENGELMANN: All right.

17 Now, he gave you some brief background on
18 her allegations?

19 MR. DEROCHIE: Yes.

20 MR. ENGELMANN: Is that fair?

21 And then, gave you file folders with a
22 number of documents?

23 MR. DEROCHIE: That's correct.

24 MR. ENGELMANN: And those documents are set
25 out, and described, on pages 2 through 7 of your notes.

1 Are they not?

2 MR. DEROCHIE: They are.

3 MR. ENGELMANN: As I understand it, you were
4 also going to be reviewing the documents and Constable
5 Malloy's notebook for the time period in question.

6 MR. DEROCHIE: Yes.

7 MR. ENGELMANN: That's what you had ---

8 MR. DEROCHIE: --- were ---

9 MR. ENGELMANN: --- decided to do.

10 MR. DEROCHIE: Yes, yes.

11 MR. ENGELMANN: And again, you searched the
12 OMPPAC files, and you located, at least in this case,
13 OMPPAC files with respect to the investigation, and you
14 numbered them documents 11 and 12?

15 MR. DEROCHIE: Yes.

16 MR. ENGELMANN: That's at page 8.

17 And let's -- you do -- as a result of
18 starting this investigation in January, you prepare a
19 report or a review for the Deputy Chief.

20 Correct? You prepare a final report on
21 this?

22 MR. DEROCHIE: I believe it was to Carl
23 Johnston though ---

24 MR. ENGELMANN: Okay, let me -- I'll just
25 check that.

1 **MR. DEROCHIE:** I believe the report is
2 already in evidence, Mr. Commissioner. I believe it is
3 Exhibit 1286.

4 **THE COMMISSIONER:** And -- which report?

5 **MR. ENGELMANN:** I think it may have gone in
6 with the Overview of Documentary Evidence of Heidi Sebalj?

7 **THE COMMISSIONER:** Twelve (12)

8 **MR. ENGELMANN:** I may be mistaken.
9 It's Document Number 739110.

10 **(SHORT PAUSE/COURT PAUSE)**

11 **THE COMMISSIONER:** All right.

12 **MR. DEROCHIE:** I have it.

13 **MR. ENGELMANN:** Staff Sergeant Derochie,
14 would this be the report that you would have finalized in
15 April of 1995?

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** And, just to confirm what
18 you were tasked to do, if we could take a look at page 10
19 of your report.

20 And I'd like you to -- just to look, there's
21 a caption that says "Conclusion."

22 **MR. DEROCHIE:** I'm sorry -- caption?

23 **MR. ENGELMANN:** There's a caption that says,
24 "Conclusion" near the top of the page.

25 **THE COMMISSIONER:** Maybe page 11?

1 **MR. DEROCHIE:** Page -- I'm sorry, which page
2 are we on?

3 **MR. ENGELMANN:** Near the top of page 10.
4 it's Bates page 715 -- 717 ---

5 **MR. DEROCHIE:** OH, Yes.

6 **MR. ENGELMANN:** --- five six four nine
7 (5649)

8 **MR. DEROCHIE:** Six-four-nine (649), yes.

9 **THE COMMISSIONER:** Six-four-nine.

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** Do you have the page, sir?

12 **MR. DEROCHIE:** I do, I do.

13 **MR. ENGELMANN:** All right.

14 Just have a look at the first two paragraphs
15 under "Conclusion."

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** It says, firstly:

18 "Two tasks, or a task with two issues:
19 to have Ms. Antoine's allegations of
20 assault thoroughly investigated..."

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** "...and, if the evidence
23 will support the laying of charges to
24 resolve this matter in the courts."

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** "And secondly, to review the
2 Cornwall Police Services' handling of
3 Ms. Antoine's 1989 complaint and to
4 make recommendations as to discipline
5 and/or procedural changes to correct
6 deficiencies in the manner in which we
7 investigate historical sexual assault."

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** All right. So were those
10 the two tasks that you were assigned by the Deputy Chief?

11 **MR. DEROCHIE:** That's how I understood them,
12 yes.

13 **MR. ENGELMANN:** All right. And you're
14 right, sir, the report does say that you -- you were
15 reporting to the Acting Chief, Carl Johnston.

16 And in the report though at the -- the
17 caption, it says "On the Media Allegations of Misconduct".

18 This case had received some coverage in the
19 media, sir?

20 **MR. DEROCHIE:** Yes, as I recall there was --
21 and I believe my notes reflect that -- when I got the
22 package, there was an undated newspaper article from the
23 Montreal Gazette, I believe it was. I just saw that in my
24 ---

25 **MR. ENGELMANN:** It's item number 2, at page

1 2 of your notes.

2 MR. DEROCHIE: Yes. Oh ---

3 MR. ENGELMANN: Now ---

4 MR. DEROCHIE: --- the media report appears
5 to detail allegations against CAS in Quebec, but I recall
6 there was media -- there was media activity on this file.
7 This is how it came to our attention.

8 MR. ENGELMANN: Yes, we'll just find you a
9 reference, sir.

10 MR. DEROCHIE: So that particular media
11 clipping is not relevant to Ms. Antoine's allegation.

12 MR. ENGELMANN: Just give me a minute, sir.
13 Do you recall, sir, if this was covered by
14 CJOH Television?

15 MR. DEROCHIE: Yes. Charlie Greenwell, yes,
16 yes.

17 MR. ENGELMANN: Okay. And he had recently
18 done something on the Silmser matter and on that
19 settlement?

20 MR. DEROCHIE: Yes, yes.

21 MR. ENGELMANN: This was all at or around
22 the same time?

23 MR. DEROCHIE: Exactly.

24 MR. ENGELMANN: All right. Now, in your
25 report itself, sir, which is Exhibit 1286, you referred to

1 some background facts and you also make some factual
2 findings as you go through your review, and I'd just like
3 to put some of them to you and ask if you'd agree with
4 them.

5 At the first page of your report, you
6 comment that the alleged abuse on Ms. Antoine occurred at
7 the group home located at 220 Second Street West in
8 Cornwall, in 1975 and 1976?

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** On the next page of your
11 report, you indicate -- and it's in the second paragraph --
12 that she and five others made complaints about what happens
13 to them there and, as I understand it, the allegations are
14 at least excessive corporal punishment and that it was
15 known to management of the CAS?

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** And, sir, as well, that the
18 group home was then disbanded and some of the staff were
19 required to resign?

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** Apparently, there was no
22 mention of sexual misconduct in the 1976 allegations, at
23 least in this discussion about it?

24 **MR. DEROCHIE:** Could you reference me again
25 in the report where you're -- where exactly -- the Bates

1 page you're on?

2 **MR. ENGELMANN:** Sorry. Yeah, I'm on page 2
3 of the report and I'm looking at the fourth paragraph down,
4 where it says:

5 "There's no mention of the allegations
6 of sexual misconduct in the 1976 CAS
7 files."

8 Do you see that?

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** Yet later on the page, when
11 we're under the caption "1989/90 Complaint and Police
12 Investigation", in the third paragraph:

13 "The Executive Director of the CAS..."
14 --

15 I believe this was Tom O'Brien, the predecessor to Mr.
16 Abell?

17 **MR. DEROCHIE:** Yeah, I'm a little confused
18 here because on the previous page, there is indication that
19 -- that there was sexual -- there was complaints of sexual
20 abuse.

21 **MR. ENGELMANN:** This is in the second
22 paragraph, sir?

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** Yes -- no, she's complained
25 to Constable Malloy ---

1 **MR. DEROCHIE:** Oh, okay, then.

2 **MR. ENGELMANN:** --- that she had been
3 sexually and physically abused.

4 **MR. DEROCHIE:** Then I am confused, yes.

5 **MR. ENGELMANN:** All right? And sorry, and
6 it was my fault, I should have said that ---

7 **MR. DEROCHIE:** No.

8 **MR. ENGELMANN:** --- really that the only --
9 the place where there's no reference to sexual abuse or
10 sexual misconduct was in the 1976 CAS file, because as we
11 go down the page, sir, in the second last paragraph, it
12 says:

13 "The Executive Director of CAS was
14 informed that the 1975/76 allegations
15 included allegations of sexual abuse."

16 **MR. DEROCHIE:** Yes.

17 **THE COMMISSIONER:** So we're going to
18 continue in overtime here, Mr. Engelmann?

19 **MR. ENGELMANN:** I'm in your hands.

20 **THE COMMISSIONER:** Well, we'll finish off
21 this area.

22 I thought maybe you've got a breakaway in
23 the St. Lawrence or something.

24 **(LAUGHTER/RIRES)**

25 **MR. DEROCHIE:** You need a bigger contract.

1 **THE COMMISSIONER:** I know.
2 **MR. ENGELMANN:** I think it is time.
3 **THE COMMISSIONER:** All right, thank you.
4 Okay, we'll see you tomorrow morning at 9:30
5 a.m.

6 **MR. ENGELMANN:** Thank you.

7 **THE COMMISSIONER:** Thank you.

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

10 This hearing is adjourned until tomorrow
11 morning at 9:30 a.m.

12 --- Upon adjourning at 4:47 p.m./

13 L'audience est ajournée à 16h47

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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