

**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 207

Held at :

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

Monday, March 31 2008

Tenue à:

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

Lundi, le 31 mars 2008

ERRATA

February 28th, 2008
Volume 201

Transcript

Page 150, line 6:

MR. ENGELMANN: Because it says:
"This could possibly turn into an
alpha-type situation, therefore,
please assign ASAP. The new
investigator should see and discuss
this with Sergeant Lortie."

Should have read:

MR. ENGELMANN: Because it says:
"This could possibly turn into an
Alfred-type situation, therefore,
please assign ASAP. The new
investigator should see and discuss
this with Sergeant Lortie."

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Janie Larocque Ms. Mary Simms	Commission Counsel
Mr. John E. Callaghan Mr. Mark Crane	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. David Rose	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Darrell Kloeze	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 Mr. Ian Paul	Coalition for Action

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1 --- Upon commencing at 1:22 p.m.

2 L'audience débute à 13h22

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 afternoon, all. I hope everyone took
11 advantage of the three weeks to rest up and get accustomed
12 to living at home a little bit more.

13 So I have some comments to make at this
14 point. It's called the Statement of March 31st, 2008.

15 Maintenant que les vacances du mois de mars
16 sont terminées, nous voilà prêts à nous consacrer à notre
17 emploi du temps chargé pour la saison du printemps.

18 Aujourd'hui, j'aborderai plusieurs sujets
19 concernant la Phase 1 et la Phase 2, puis je passerai aux
20 témoignages prévus pour aujourd'hui.

21 First I would like to take the opportunity
22 today to speak to a decision of the Court of Appeal made in
23 January of this year. To give context for my comments, I
24 will outline only briefly the background of this decision.

25 In 1993, a teenage girl, then 16 years old,

1 was referred to as C-12 to protect her privacy, reported to
2 the Ontario Provincial Police in Alexandria that she had
3 been sexually assaulted by two teenage boys who were 16 and
4 17 years old.

5 Commission counsel proposed to call the
6 evidence of C-12 and her mother, C-13, in the spring of
7 2007. There was objection by the OPP.

8 On June 6th, 2007, I ruled that I had
9 jurisdiction to hear evidence of C-12 and C-13. The OPP
10 appealed my decision to the Divisional Court. That Court
11 agreed, in September 2007, that in deciding to hear the
12 testimony of C-12, I had not erred in interpreting the
13 mandate of this Inquiry and that it was open to me to find
14 this evidence reasonably relevant to the subject matter of
15 this Inquiry.

16 This decision was further appealed by the
17 Ontario Provincial Police, joined by the OPPA, the Ministry
18 of Community, Safety and Correctional Services and the
19 Cornwall Community Police Service. The Ministry of the
20 Attorney General also intervened.

21 In its decision of January 18th, 2008, the
22 Court of Appeal indicated that consideration of this
23 testimony was outside my mandate. I reviewed the decision
24 of the Court of Appeal and carefully considered its
25 reasons. In addition, several parties asked me to consider

1 the Court's decision and its impact on evidence I had
2 already heard as well as on certain evidence Commission
3 counsel indicated they wished to call.

4 The outcome of that process was my ruling of
5 February 28th, 2008. I found that, with some exceptions,
6 the evidence already heard or proposed to be addressed fell
7 within the framework given by the Court of Appeal. I
8 understand that no party is appealing my ruling.

9 Taking all of this into account, I had a
10 further decision to make, whether or not to appeal the
11 Court of Appeal decision to the Supreme Court of Canada.

12 After some consideration, I directed my
13 counsel not to appeal the decision. I do not believe that
14 the public interest would be served by continued
15 uncertainty about the leading of this evidence and the
16 possibility of further delay. It's important to move on
17 with the institutional response testimony that has already
18 started.

19 I decided to accept the guidance given to me
20 by the Court of Appeal. We are all subject to the
21 decisions of our courts, and so I will continue to
22 diligently direct the focus of our work in the words of the
23 Court of Appeal to, and I quote "The important work that
24 the Legislature has assigned to the Commissioner".

25 Having said that, I want to take this

1 opportunity to speak to the young woman and her mother who
2 were prepared to testify before this Inquiry but will not
3 now testify.

4 I regret the long period of uncertainty
5 about your testimony as decisions were made, appealed and
6 appealed again. On a human level, we can all understand
7 that it must be difficult to prepare to testify and have to
8 wait and not know the outcome for many months. And it must
9 also be difficult to read of personal matters in the
10 context of debates over legal jurisdictions.

11 Clarifying the law of jurisdiction is a
12 necessary and important part of the checks and balances of
13 our legal system, but that does not make it easy for those
14 involved in a personal capacity.

15 Please accept my thanks for your willingness
16 to testify and give recommendations for future change.

17 As many of you know, to this day, despite
18 being summonsed, Perry Dunlop has decided not to testify at
19 this Inquiry. Given his decision, I will now discuss the
20 possible use of an Overview of Documentary Evidence, which
21 we refer to as an ODE, in respect to Mr. Perry Dunlop.

22 Of course the best approach to receiving
23 evidence concerning Mr. Dunlop is to hear it in person.
24 This permits the public to hear the voice of the man
25 testifying and his response to questions. Since we do not

1 have the benefit of Mr. Dunlop's testimony, we must
2 consider alternative methods of bringing forward evidence
3 related to Mr. Dunlop, including the use of an ODE or some
4 other means to obtain information on the issues arising in
5 the documents relating to him.

6 Should Mr. Dunlop decide to return to this
7 Inquiry to testify, he is welcome to do so. His oral
8 testimony would be a valuable elaboration and enhancement
9 of the documentary record and evidence given by others.
10 His recommendations may also be helpful to this Inquiry.

11 I understand the draft Overview of
12 Documentary Evidence related to Mr. Dunlop has been
13 circulated to all parties. It would be my preference that
14 the use of such a document be addressed sooner rather than
15 later, and given that we have commenced the institutional
16 response evidence of the Cornwall Police Service.

17 The final matter I would like to discuss
18 regarding Phase 1 is the date on which we expect to
19 complete the testimony of the institutional witnesses. We
20 had previously projected that the evidence in Phase 1 would
21 be completed by the end of July. However, there have been
22 a number of unexpected occurrences in the last few months.

23 These include the refusal of Mr. Perry
24 Dunlop to testify and subsequent contempt of court
25 proceedings; the cancellation of hearing for snowstorms and

1 dangerous driving conditions, extra submissions made by the
2 parties after the Ontario Court of Appeal decision was
3 rendered, witnesses being ill and parties' submissions on
4 the content of the factual overview related to Probations.

5 These are some of the reasons that have
6 resulted in the need to extend our hearing date beyond
7 July. We also recognize the desire of the parties to have
8 a summer break. So we plan to continue the hearings until
9 the end of July, adjourn for a break and resume in August.
10 The length of the break may well depend on the progress
11 that we have made up until that time. The evidentiary
12 hearings will continue into the fall.

13 The hearing schedule for the balance of the
14 evidentiary hearings is organized to use available time
15 effectively. For example, when possible, two witnesses
16 will testify in the same hearing day.

17 In order to continue to ensure the
18 efficiency of the hearing's process in the remaining months
19 of the Inquiry, we will also seek the continued cooperation
20 of counsel in focusing their cross-examination on their
21 party's interest and refraining from asking questions that
22 have already been canvassed in detail by Commission counsel
23 during the examinations in-chief or by other parties in
24 cross-examinations.

25 With these measures, I am confident that an

1 additional two or three months beyond July will bring us to
2 the completion of Phase 1 hearings.

3 I would also like to take this opportunity
4 to address progress related to Phase 2 of this Inquiry.

5 First, as many of you know, a winter storm
6 in early March meant that we had to reschedule a workshop
7 on a Phase 2 party research paper entitled "An ombudsman
8 for survivors of sexual violence". That workshop is
9 rescheduled to April 22nd of this year at the Best Western
10 Parkway Inn and Conference Center starting at 7 o'clock in
11 the evening. So I would urge you all to attend on April
12 22nd.

13 As well, I remind you that on April 15th of
14 this year, we have an evening meeting at the Cornwall Civic
15 Complex on Technology and Child Exploitation. This event
16 is particularly directed at parents, teachers and adults
17 working with children and youth. It will look at both
18 risks and prevention strategies. Survivors of childhood
19 sexual abuse have told us of their heartfelt desire to
20 reduce risk of abuse for a new generation. This is one of
21 the events we have organized that is aimed at doing exactly
22 that.

23 J'aimerais maintenant parler d'un nouveau
24 projet de recherches actives. La Phase 2 a notamment pour
25 objet de donner la possibilité de faire des recherches qui

1 proposerai des idées et des initiatives susceptibles de
2 favoriser la guérison et la réconciliation.

3 Nous avons présenté les rapports de
4 recherches terminés ces derniers mois et avons fixé les
5 dates des ateliers qui s'y rapportent.

6 En approuvant les projets de recherche, je
7 n'ai jamais fermé la porte à des initiatives communautaires
8 émanant de Cornwall. Même si nous n'acceptons plus de
9 propositions de recherche émanant d'ailleurs que Cornwall,
10 le comité consultatif et moi-même avons pensé qu'il était
11 important de continuer à accepter des propositions
12 provenant de la population au sein de laquelle nous nous
13 trouvons. En particulier, nous avons lancé un appel à des
14 propositions qui démontrent l'établissement de partenariat
15 communautaire à Cornwall.

16 J'ai le plaisir de vous annoncer que nous
17 avons approuvé le financement d'une autre proposition de
18 recherches actives dans le cadre de la Phase 2 qui
19 constitue une proposition émanant de la collectivité.

20 Un groupe qui s'appelle pour l'instant
21 « Shelter 2005 » s'est proposé pour effectuer une recherche
22 visant à cerner les besoins et les obstacles dans le
23 domaine du logement avec service de soutien efficace pour
24 les jeunes hommes et jeunes femmes de 16, 17 et 18 ans qui
25 auront besoin d'un logement stable.

1 Ces jeunes peuvent facilement être la proie
2 d'agresseurs et s'ils ont déjà subi des mauvais traitements
3 sans bénéficier de soutien, ils risquent de répondre par
4 des mécanismes autodestructeurs. Le groupe espère qu'en
5 intervenant tôt, il sera disponible de prévenir le mal ou
6 d'empêcher qu'il se poursuive.

7 Le groupe souhaite également d'examiner la
8 situation chez d'autres segments de la population qui
9 semblent, à l'heure actuelle, difficiles à servir à
10 Cornwall comme les contrevenants qui ont besoin d'un
11 certain degré de surveillance.

12 Le groupe « Shelter 2015 » comprend
13 notamment Glen Grant, superviseur des services sociaux de
14 longue date et, depuis récemment, employé de Cornwall
15 Housing. Monsieur Grant qui est le président intérimaire
16 du groupe a déclaré qu'il considérait ce projet important
17 comme son projet de retraite. Sont aussi membres du
18 « Shelter 2015 », monsieur Wayne Kyte de Laurencrest ;
19 monsieur Claude Legault du Bureau de probation et de
20 libération conditionnelle ici à Cornwall ; madame Denise
21 Paquette du Carrefour ; et Mark MacDonald, conseiller
22 municipal de Cornwall. « The Family Counselling Center of
23 Cornwall » a accepté d'agir en qualité d'administrateur et
24 de banquier du groupe.

25 J'aimerais féliciter ce groupe de bénévoles

1 pour leur initiative. Je me réjouis déjà de recevoir son
2 rapport à l'automne.

3 In terms of Phase 2, much of my statement
4 today is in relation to consultations held in late 2007 and
5 early 2008 regarding opportunities for non-evidentiary
6 opportunities for individuals to express their experiences
7 and explain their impact on their lives of such
8 experiences.

9 This consultation is in the context of
10 recognizing the healing effect of telling one's story, of
11 reducing a long-carried burden of shame, guilt and
12 repression or denial. Such work is one part of the Phase 2
13 healing and reconciliation mandate. I want to outline the
14 thorough consultation process we went through in trying to
15 find the best way to proceed.

16 First, we developed a consultation paper
17 with specific models and sample summaries and specific
18 questions to answer about informal testimony.

19 We met several times with counsel of all
20 parties. We all posted the consultation paper on our
21 website and mailed it out to those involved in Phase 2.

22 My advisory panel Inquiry staff had several
23 days of consultation meetings late last year and in January
24 and February of this year.

25 From the mix of opinions expressed, we

1 received the information that has assisted me in
2 determining how we will proceed. That decision was a
3 difficult one for me. I believe strongly that supporting
4 an individual and talking about their experiences can have
5 a therapeutic effect.

6 One of the consultation options would have
7 engaged me personally in the process and there were many,
8 including parties to this Inquiry who thought this was
9 important. However, with regret, I have come to the
10 conclusion that it is not practical for me to be directly
11 involved. And so we are proceeding with another process
12 that will serve those who will take the opportunity to tell
13 their story privately in Phase 2.

14 What we have heard in consultation did
15 persuade me that the healing purpose of telling one's story
16 is better done by someone who is not already in an
17 adjudicative role. And by pursuing an option that does not
18 involve the Commissioner of this Inquiry, we are able to
19 offer the opportunity to tell one's story much sooner and
20 to give people more time to give their informal testimony
21 if they need it.

22 The need for more time was another message
23 that came from consultation. My advisory panel told me
24 that many said to them that having to wait many months to
25 start this process was frustrating. As a result, they

1 supported a process that could start this summer, not next
2 year. I have listened to that advice in coming to a
3 decision. This decision also has the advantage of allowing
4 us to work concurrently in Phase 1 and Phase 2 and this
5 supports an earlier report date.

6 Let me give a basic outline of the process I
7 have approved, a process that builds in as much choice as
8 possible.

9 In terms of the model chosen, it will be a
10 private session with one advisory panel member acting as
11 the person receiving the account. Individuals can choose
12 the advisory panel member they see as most appropriate to
13 the extent possible.

14 Those intending to give an account will be
15 able to bring up to five friends and family to support them
16 and to listen to their account.

17 Individuals giving informal, non-evidentiary
18 testimony will be given a choice of a summary or no
19 summary. If they do not offer a summary, there will be no
20 recording.

21 Individuals who choose a summary can review
22 then comment before completion and the recording will then
23 be destroyed within 30 days.

24 Summaries will be prepared and published as
25 part of the Phase 2 report. They will be anonymous but

1 will try to capture the words and spirit of those giving
2 them without naming individuals.

3 It will be necessary to keep the summaries
4 to a reasonably short length. Procedures will be put in
5 place so that I will see these summaries only after we have
6 sent the Phase 1 report to print.

7 We will implement the witness support and
8 preparation suggestions outlined in our consultation paper
9 which were generally endorsed. I will give discretion to
10 my staff managing witness support to ensure adequacy of
11 support in specific situations.

12 Counsel and others may have questions about
13 specific areas I have not fully covered. I direct them to
14 Colleen Parrish, our Director of Policy, who will be
15 pleased to fill in the details.

16 We will put in place the processes and
17 procedures to carry out this decision. Implementation
18 details and dates for the opportunities will also be on our
19 website when we are ready to go.

20 We will now resume with the completion of
21 the institutional response evidence of the Cornwall
22 Community Police Service. Then in May, we will hear from
23 our third institutional party, the Diocese of Alexandria-
24 Cornwall. Following a schedule set many months ago, the
25 Diocese's evidence will be immediately followed by that of

1 the school boards and shortly thereafter. This will then
2 leave the last institutional parties to give their response
3 evidence, the OPP and the Ministry of the Attorney General.

4 And so we will have to redo the schedule for
5 the months of July and August and, as I had indicated, the
6 month of July is still a working month and I understand
7 that consultations have been had with the parties and I
8 will, in very short order, provide you with further details
9 of what I intend the sitting schedule will look like.

10 Thank you.

11 Now, Mr. Engelmann.

12 **MR. ENGELMANN:** Mr. Commissioner, Mr.
13 Derochie is present if we could continue then with his
14 evidence.

15 **THE COMMISSIONER:** Thank you.

16 Good afternoon, sir.

17 **MR. DEROCHIE:** Good afternoon.

18 **THE COMMISSIONER:** Welcome back.

19 **MR. DEROCHIE:** Thank you.

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

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

22 **PETER ENGELMANN (cont'd/suite) :**

23 **MR. ENGELMANN:** Staff Sergeant Derochie, you
24 acknowledge you are still under oath, sir?

25 **MR. DEROCHIE:** I do.

1 **MR. ENGELMANN:** I know it's been some time
2 but I want to carry on and finish your evidence and we
3 could be sitting somewhat late tonight. You were informed
4 of that?

5 **MR. DEROCHIE:** That's correct. That's fine.

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

7 When we left off, I believe we were looking
8 at your report and you recall you were involved in two
9 investigations involving Earl Landry, Jr.?

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

11 **MR. ENGELMANN:** The first being an
12 administrative review, the second being a criminal
13 investigation?

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** And we were still on the
16 first part. And if you could pull up -- it's Exhibit 1348,
17 Madam Clerk.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MR. DEROCHIE:** Yes, I have it.

20 **MR. ENGELMANN:** Thank you. If you could
21 turn to the last page, sir? I'm sorry, the last page
22 before your chronology?

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** Now, we've gone through some
25 of these points before, Staff Sergeant Derochie. I just

1 want to touch on a few if I can.

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: But essentially this page
4 has your conclusions?

5 MR. DEROCHIE: That's correct.

6 MR. ENGELMANN: And in your conclusion you
7 set out a number of concerns. Is that fair?

8 MR. DEROCHIE: That's fair.

9 MR. ENGELMANN: The reference to the notes
10 being attached to completed investigative report, sir, were
11 you talking about loose-leaf notes as opposed to notes in a
12 bound duty book?

13 MR. DEROCHIE: That's correct.

14 MR. ENGELMANN: All right. And in looking
15 at the first two points, the fact that -- the one that
16 starts "That notes were attached" and the next one, "That
17 occurrences/incidents which contained"; those two?

18 MR. DEROCHIE: Yes.

19 MR. ENGELMANN: These were evident to you,
20 given the problems that you encountered trying to retrieve
21 notes and records about this complaint. Is that fair?

22 MR. DEROCHIE: Yes, they were; they were
23 quite a problem. You couldn't -- I couldn't evaluate fully
24 the response to the allegation because the supplement
25 reports that went with -- outlining the entirety or the

1 totality of the investigation were not available to me and
2 there was a suggestion or -- the habit of the day was to
3 attach those loose-leaf notes directly to the officer's
4 investigation of the supplement report.

5 **MR. ENGELMANN:** But these two types of
6 shortcomings or concerns, they could be a particular
7 concern as in a case where you have an abuser who stays
8 active, like Earl Landry Jr. did. Is that fair?

9 **MR. DEROCHIE:** Yes, the history of that
10 wouldn't be complete.

11 **MR. ENGELMANN:** Right. And then the lack of
12 proper note-keeping or follow-up can seriously impact the
13 quality of a subsequent investigation could it not?

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

15 **MR. DEROCHIE:** Of the subsequent
16 investigations?

17 **MR. ENGELMANN:** Of a subsequent
18 investigation?

19 **MR. DEROCHIE:** Oh yes, involving the same
20 circumstances?

21 **MR. ENGELMANN:** Yes.

22 **MR. DEROCHIE:** Yes, it could.

23 **THE COMMISSIONER:** You said "the habit".
24 What was the rule?

25 **MR. DEROCHIE:** I don't know that there was a

1 rule with regards to note-taking.

2 There was certainly a rule for uniform
3 patrol officers who were taking notes. There was very
4 strict guidelines about keeping notes.

5 The Criminal Investigation Bureau were
6 independent of those -- or acted independently of those
7 guidelines with the full acknowledgment of the supervisors
8 of the day.

9 **MR. ENGELMANN:** We know, sir, about the
10 order that came about as a result of this review with
11 respect to historical sexual abuse cases, and I'll come
12 back to that shortly, but I'm wondering if there were any
13 changes made to retention and storage of notes and records
14 as a result of this administrative review?

15 **MR. DEROCHIE:** I believe by the time we did
16 this review, there was already -- those safeguards were
17 already in place. We had a retention bylaw, we had -- we
18 had not yet -- for CID had not yet gone to bound notebooks,
19 however, the -- we were now with OMPPAC and there's an
20 historical record of all of these things.

21 **MR. ENGELMANN:** Well, you were definitely
22 with OMPPAC?

23 **MR. DEROCHIE:** Yeah.

24 **MR. ENGELMANN:** So you wouldn't -- do you
25 know of any other changes that might have been enforced or

1 promulgated?

2 MR. DEROCHIE: Other than the one we're
3 talking about, the 30-day supplementary ---

4 MR. ENGELMANN: Yes.

5 MR. DEROCHIE: --- report. Not off the top
6 of my head, Mr. Engelmann.

7 MR. ENGELMANN: All right. And do you know
8 as a result of this particular review, whether there were
9 any other changes made at that time to the classification
10 of complaints as unfounded or is that something that would
11 have happened later?

12 MR. DEROCHIE: I'm not sure when that would
13 have happened. That did happen, but I'm not sure exactly
14 when it did happen.

15 MR. ENGELMANN: All right. There's a
16 reference to, sir, the fourth bullet on that page that:
17 "Case management issues in CIB remain
18 unresolved and a continued source of
19 concern."

20 Do you see that?

21 MR. DEROCHIE: Yes.

22 MR. ENGELMANN: Can you give us a sense as
23 to what unresolved case management issues you identified
24 specifically in this case?

25 MR. DEROCHIE: The filing of reports, again,

1 would have been the main one.

2 MR. ENGELMANN: Were there any others? You
3 talk about case management issues.

4 MR. DEROCHIE: Yeah, I'm thinking in the
5 context that I've done these before and I've identified
6 various other shortcomings with investigations, for want of
7 a better term, and I was just reiterating that general
8 statement.

9 There had been obviously progress made from
10 1993's investigations until present, but this was -- this
11 was now going back to the 1996 era.

12 MR. ENGELMANN: All right. Would it be fair
13 to say that one of them would be delay, sir, one of the
14 case management issues?

15 MR. DEROCHIE: There was delay in this one,
16 yes there was.

17 MR. ENGELMANN: All right. Now we've
18 reviewed other investigations where you've noted similar
19 concerns.

20 For example, we reviewed the Silmsler
21 investigation ---

22 MR. DEROCHIE: Yes.

23 MR. ENGELMANN: --- correct? You had
24 concerns about case management there?

25 MR. DEROCHIE: Yes, I did.

1 **MR. ENGELMANN:** And including supervision,
2 record-keeping, delay, et cetera?

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** We reviewed the Antoine
5 investigation ---

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** --- correct?

8 **MR. DEROCHIE:** Correct.

9 **MR. ENGELMANN:** You had concerns about case
10 management issues there?

11 **MR. DEROCHIE:** I did.

12 **MR. ENGELMANN:** Again supervision, record-
13 keeping, delay, et cetera?

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** It appears that those two
16 cases and the Earl Landry Jr. case had similar problems?

17 **MR. DEROCHIE:** They had some similar
18 problems, yes.

19 **MR. ENGELMANN:** And I think -- would it be
20 fair to say that this would indicate a systemic problem,
21 sir?

22 **MR. DEROCHIE:** Yes, to a degree there was a
23 systemic problem.

24 **MR. ENGELMANN:** And, sir, as a result, you
25 had a recommendation to rectify these recurring problems.

1 Is that what we see at the end of page 4 of Exhibit 1348?

2 MR. DEROCHIE: That's correct.

3 MR. ENGELMANN: And that reads:

4 "That the Service develop policies in
5 the form of general orders which
6 address the issues raised in this
7 review with regards to the
8 investigation and the records-keeping."

9 MR. DEROCHIE: That's correct.

10 MR. ENGELMANN: Now, that's essentially one
11 change which leads to one order?

12 MR. DEROCHIE: Yes, but also at this
13 particular time, standards are now being introduced by the
14 Province that cover a lot of these same issues.

15 MR. ENGELMANN: All right. So in ---

16 MR. DEROCHIE: In major case -- I'm sorry.

17 MR. ENGELMANN: Some of them are coming from
18 elsewhere?

19 MR. DEROCHIE: Some of them are coming from
20 elsewhere to cover this off.

21 The most notable one that I was happy to see
22 was the notebooks -- the bound notebooks for CID
23 investigators.

24 MR. ENGELMANN: All right.

25 MR. DEROCHIE: This was all on its way at

1 this time.

2 **MR. ENGELMANN:** And when you draft an order
3 or you draft a recommendation for an order for the Chief,
4 it is your hope that he'll draft an order that people will
5 be expected to follow it?

6 **MR. DEROCHIE:** Yes, of course.

7 **MR. ENGELMANN:** And that the order is
8 something that they will be able to follow?

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** So, for example, you have
11 some changes to your reporting from 7 days to 14,
12 et cetera?

13 **MR. DEROCHIE:** That's correct. And there
14 wasn't -- there wasn't a unanimous agreement that that was
15 practical at the time.

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

17 **MR. DEROCHIE:** However, it was the decision
18 of the Chief, based on my recommendation, that we implement
19 it anyway.

20 I have to admit that subsequently it --
21 having experienced it myself, it wasn't always practical
22 but it was a best effort, I guess.

23 **MR. ENGELMANN:** All right. And if the
24 witness could be shown -- it's Document Number 740366.

25 **(SHORT PAUSE/COURTE PAUSE)**

1 **THE COMMISSIONER:** Exhibit 1355 is internal
2 correspondence to Staff Sergeant Derochie from Chief Repa.

3 **--- EXHIBIT NO./PIÈCE NO. P-1355:**

4 (740366) Internal Correspondence from Chief
5 A. Repa to Staff Sergeant G. Derochie -
6 December 13, 1999

7 **(SHORT PAUSE/COURTE PAUSE)**

8 **MR. ENGELMANN:** So, you've had a chance to
9 review the document?

10 **MR. DEROCHIE:** I have.

11 **MR. ENGELMANN:** Okay.

12 So Exhibit 1355 -- that would be, then, the
13 Chief's written response to your recommendation, sir?

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

15 **MR. ENGELMANN:** And initially, the Chief had
16 asked for seven days, and that's amended to 14 after a
17 discussion he has with you. Is that correct?

18 **MR. DEROCHIE:** Yes; he had -- yes, we had
19 originally -- he originally wanted seven days, agreed to 14
20 and subsequently, as I previously said, agreed with -- or,
21 30 days, rather.

22 **MR. ENGELMANN:** I understand the 14 resulted
23 from the meeting with you, and then the 30 would have
24 resulted after a meeting between you, the Chief and
25 officers Carter, Brunet and Dupuis.

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

2 **THE COMMISSIONER:** Into which, in the end,
3 once you went back to CIB, you found it difficult to follow
4 the 30 days?

5 **MR. DEROCHIE:** In some instances, yes.

6 **THE COMMISSIONER:** All right.

7 **MR. DEROCHIE:** There were periods of time
8 when the unit was extremely busy, where you would -- you
9 would run into these problems, and you had to rely on
10 verbal, or oral briefings.

11 It was difficult to maintain that standard.

12 **MR. ENGELMANN:** But, sir, just to go back,
13 then, the 30 days that eventually is agreed to in the
14 standing order, wasn't that standard for all cases; a 30-
15 day reporting requirement on ENPAC?

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

17 **MR. ENGELMANN:** So what, if any, priority is
18 then being given to historical sexual abuse cases, if it's
19 the same as the normal reporting requirement?

20 **MR. DEROCHIE:** Just that it's elevated at
21 the time, to that status.

22 There was a finding previous that we weren't
23 maybe treating historical sexual assaults with the same
24 degree of urgency, as it were, to a sexual assault that
25 just came in. Where there was -- you know, by virtue of

1 the fact that there is forensic evidence to gather and
2 there's a suspect identified who's active right now ---

3 **MR. ENGELMANN:** Yes.

4 **MR. DEROCHIE:** --- there is a greater sense
5 of urgency to those types of investigations as opposed to
6 something that occurred 20, 25 years ago.

7 **THE COMMISSIONER:** Well ---

8 **MR. ENGELMANN:** I ---

9 **THE COMMISSIONER:** Well, just a minute now.
10 I'm sorry, Mr. Engelmann, but I have to stop you there.

11 I understand that if someone comes in and
12 there's a -- of an abuse that has just taken place, yes you
13 have to go and get the forensics and get the witness
14 statements and all that, but on your other statement where
15 you're saying that the perpetrator is still out there
16 committing something -- well, I think we found out that
17 pedophiles or people who abuse young boys go on for a long
18 period of time, and so there would still be that same
19 urgency for -- in historical abuse. The person -- the
20 perpetrator might still be out there.

21 **MR. DEROCHIE:** Yes, that's a reasonable
22 argument, yes.

23 **MR. ENGELMANN:** And in fact, that's what the
24 Chief instructed to happen ---

25 **MR. DEROCHIE:** Exactly.

1 **MR. ENGELMANN:** --- that these cases be
2 given the same sense of urgency.

3 **MR. DEROCHIE:** Exactly; that's what -- I
4 think that was the point we were trying to make. Why was
5 it -- why were we giving it the same status as one that
6 just came in was because he recognized that.

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

8 **MR. DEROCHIE:** That's -- I thought -- or
9 maybe we're talking at cross-purposes here.

10 **MR. ENGELMANN:** Okay. But just two
11 questions, then -- because I think I'm perhaps a little
12 confused. If that's the standard for all cases ---

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** --- not even sexual assault
15 cases, but all cases, how are they being given any kind of
16 elevated status or priority?

17 Maybe my question's not fair. I ---

18 **MR. DEROCHIE:** Yeah, I would ---

19 **MR. ENGELMANN:** Do you understand me?

20 **MR. DEROCHIE:** Yeah, I was suggesting -- we
21 have -- the policy was, and is, that we'll try to -- or we
22 will do these supplement reports every 30 days.

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

24 **MR. DEROCHIE:** Across the board.

25 **MR. ENGELMANN:** All right, because -- sorry.

1 **MR. DEROCHIE:** And I would suggest that the
2 point you're -- you may be making is that in major cases
3 that's even more important.

4 **MR. ENGELMANN:** Okay.

5 **MR. DEROCHIE:** And I'll agree with that,
6 yes.

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

8 And is there anything that requires
9 reporting more frequently than 30 days?

10 **MR. DEROCHIE:** Well yes. There's nothing
11 that there's -- well not that requires it, but if you're
12 with an active case, I would suggest there's reporting
13 going on as you go because there's filings of statements
14 and there's activity on the case that makes it apparent
15 that it's ongoing.

16 **MR. ENGELMANN:** Fair enough.

17 **MR. DEROCHIE:** What we were looking to try
18 to prevent were long pauses in the investigation without
19 explanation. We wanted an explanation to -- for that.

20 **MR. ENGELMANN:** All right. And you were
21 expecting that to be followed?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And you were also expecting,
24 because of the new wording, that these cases would be given
25 the same level of priority?

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: As current cases?

3 MR. DEROCHIE: Yes.

4 MR. ENGELMANN: And, in fact, the standing
5 order -- if the witness could be shown Document Number
6 731938 and just -- sir, for the record, this is in the
7 earlier volumes but this particular document also has the
8 distribution list, so I thought it might be useful ---

9 MR. DEROCHIE: Yeah.

10 MR. ENGELMANN: --- that the witness see
11 that.

12 MR. DEROCHIE: Yeah.

13 Might I ask -- Mr. Commissioner, are you
14 clear about the -- what I just explained? I know I came
15 through the back door with it, that an active investigation
16 could be reported on three or four times a day, depending
17 on what's going on?

18 THE COMMISSIONER: M'hm.

19 MR. DEROCHIE: Okay.

20 MR. ENGELMANN: The 30 days would be the
21 minimum, as I understand.

22 MR. DEROCHIE: Thirty (30) days would be the
23 minimum where there was no activity that ---

24 MR. ENGELMANN: Yeah.

25 MR. DEROCHIE: That was the intent of the --

1 -

2 **THE COMMISSIONER:** Okay.

3 What I gather from that is that,
4 historically, the historical abuse cases fell to the
5 wayside a little bit, to the 30 days, and that what you're
6 trying to do is bring them back up to the same level of
7 importance and ---

8 **MR. DEROCHIE:** Exactly. To give him the
9 same degree of urgency, as it were.

10 **THE COMMISSIONER:** All right.

11 Thank you.

12 Exhibit Number 1356; internal correspondence
13 to all personnel from Chief Repa which is dated December
14 30th 1999; standing order 003-99.

15 --- **EXHIBIT NO./PIÈCE No. P-1356:**

16 (731938) Internal Correspondence from
17 Chief A. Repa to All Personnel;
18 Standing Order 003-99 - 30 Dec 99

19 **MR. ENGELMANN:** So this is the standing
20 order in question, sir?

21 **MR. DEROCHIE:** It is.

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

23 And the distribution list, we see on the
24 back page?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** Those are all staff that
2 would have received this?

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

4 **MR. ENGELMANN:** And then how would this have
5 been communicated to other staff?

6 **MR. DEROCHIE:** Well, this would have been
7 communicated either in the -- by word of mouth, through
8 supervisors. You were responsible for informing your staff
9 or your subordinates as to these types of new developments.

10 I can't recall if we were posting them on
11 some form of daily orders at that time, but that was --
12 that had been the way we communicated prior; I'm not sure.

13 Certainly, a supervisor would be responsible
14 for making sure that his people abided by this, and if you
15 were to enforce it, they had to be informed of it.

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

17 And sir, the -- just looking back to 1355,
18 for a moment -- aside from the change from seven to 14 now
19 to 30, it's very clear the reference to:

20 "Historical sexual assaults will be
21 given the same considerations as those
22 incidents which have just recently
23 occurred."

24 That's new in the standing order itself?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** That wasn't contained in
2 1355, but it's definitely there in 1356.

3 **MR. DEROCHIE:** Yes. The -- it reflects the
4 feel or the sense that we wanted to give to the
5 investigators that this was to be treated just like any
6 other investigation.

7 **MR. ENGELMANN:** Now, it also says that:

8 "The officer in chief of Professional
9 Standards Division..."

10 And we know that for some time, that was you
11 sir.

12 **MR. DEROCHIE:** That was me, yes. That's
13 right.

14 **MR. ENGELMANN:** "...shall, in the capacity
15 of service auditor, conduct random
16 audits of such investigations."

17 **MR. DEROCHIE:** Yes, and I did.

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

19 **MR. DEROCHIE:** Yes, and I did.

20 **MR. ENGELMANN:** All right; I was just going
21 to ask you that that was your title at that time ---

22 **MR. DEROCHIE:** Professional Standards and
23 Audits.

24 **MR. ENGELMANN:** Can you give us a sense as
25 to how often you were conducting random audits of such

1 investigation?

2 **MR. DEROCHIE:** No, I might do two a week. I
3 might do -- afterwards, they were -- they were very random.
4 As I got an opportunity, I went into the system, there
5 would be a -- there would be notations in my notes, in my -
6 --

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

8 I don't know if this is a question you can
9 answer, sir, but I'll ask it. After this order, December
10 30th, 1999, did you note any change in the level of priority
11 and/or interest, given to historical sexual assault cases
12 by CPS officers, and/or management?

13 **MR. DEROCHIE:** Yes; I think we did that very
14 clearly.

15 We had learnt an awful lot from 1993 --1996,
16 '97 when that came along, it was a -- it was another
17 indication that we -- although we had made some progress,
18 we still had to fix things up a bit. And I believe Chief
19 Repa took that on and accomplished that.

20 **MR. ENGELMANN:** All right. So this is 1999
21 -- the end of '99, in fact, when ---

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** --- when this is being put
24 in, but we have some cases afterwards where we see, again,
25 delay issues and other issues cropping up.

1 **MR. DEROCHIE:** Well, I think we see delay
2 issues. Yes, there are some delay issues, but beyond that,
3 I -- you know, there are some -- like I say, despite my
4 best effort, and I was involved in some of those
5 investigations, as alive as I was to that whole issue I
6 still found it very difficult at times to maintain the
7 standard.

8 **THE COMMISSIONER:** Tell me, sir, does the
9 professional standards division have some kind of protocol
10 for audits, for further audits now that you are gone?

11 **MR. DEROCHIE:** No, we have an auditor in
12 place, actually. We have a quality insurance inspector who
13 does compliancy audits.

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

15 **MR. DEROCHIE:** So that's done on a regular
16 basis. There's ---

17 **THE COMMISSIONER:** And that would include
18 verifying that the Standing Order is respected?

19 **MR. DEROCHIE:** Yeah. Well, this particular
20 Standing Order -- a Standing Order is in place only until
21 such time as the actual policy is amended to include it.

22 **THE COMMISSIONER:** Right.

23 **MR. DEROCHIE:** And it still does. It's
24 contained in our policy and, yes, he would do -- he would
25 do compliancy audits as well as the officer in charge of

1 the CID unit.

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

3 **MR. DEROCHIE:** He keeps -- and every now and
4 then I go in there as well and just have a look at it
5 because I like to keep my finger on it to make sure that
6 we're okay.

7 **THE COMMISSIONER:** I guess what I'm
8 concerned about is you eventually will have to retire.

9 **MR. DEROCHIE:** Yes, that's what they're
10 telling me.

11 **(LAUGHTER/RIRES)**

12 **THE COMMISSIONER:** And what I want to do is
13 make sure that institutionally that as many things are
14 built in because right now we've got on this order that you
15 will do random audits of such investigations.

16 **MR. DEROCHIE:** Yes, yes. No, there is a
17 schedule now for audits.

18 **THE COMMISSIONER:** Okay, which includes
19 checking to make sure that everything is reported on every
20 30 days?

21 **MR. DEROCHIE:** That would be part of it.

22 **THE COMMISSIONER:** Yeah.

23 **MR. DEROCHIE:** That would be part of it
24 certainly.

25 **THE COMMISSIONER:** Right.

1 **MR. DEROCHIE:** We are working -- we are
2 moving towards recognition by CALEA which is the -- which
3 is what to policing ISO is to -- the International
4 Standards Organization that businesses join and are
5 certified as, and we are in that process now of getting
6 accreditation for that unit. And the main requirement is
7 that your policies and procedures are up to date and that
8 they are tested by way of audits, by way of compliancy
9 audits.

10 So for the last -- at least since 2004 we
11 have been working steadily towards that.

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

13 Sorry, Mr. Engelmann.

14 **MR. ENGELMANN:** No problem.

15 Staff Sergeant Derochie, I'd like to now
16 turn you to the second aspect of the Landry matters if I
17 can. It's my understanding that you had a further or
18 second involvement in matters relating to him?

19 **MR. DEROCHIE:** With regards to Landry, yes.

20 **MR. ENGELMANN:** Yes, and the second
21 involvement, I believe, starts with something entitled
22 "Notes to File" that you prepare.

23 It's Document Number 740600, Madam Clerk --
24 740600.

25 **THE COMMISSIONER:** Thank you. Exhibit P-

1 1357 are notes to file.

2 --- EXHIBIT NO./PIÈCE NO. P-1357:

3 (740600) Notes To File by Garry

4 Derochie - 03 Mar 03

5 MR. DEROCHIE: Yes, part of my
6 responsibilities in Professional Standards was to be
7 liaison with regards to civil actions if the Service was
8 being named in a civil action that required some liaison
9 work between lawyers, insurance companies and the Service,
10 that I would provide that function.

11 MR. ENGELMANN: All right.

12 So we have talked about some of the catchall
13 roles that you had.

14 MR. DEROCHIE: Yes.

15 MR. ENGELMANN: Well, sorry, you have had
16 them generally but when you were a Professional Standards
17 officer one of them was monitoring the press coverage you
18 talked about?

19 MR. DEROCHIE: Yes.

20 MR. ENGELMANN: Another now is acting as a
21 liaison for the Force with your insurer should there be
22 civil actions?

23 MR. DEROCHIE: That's correct.

24 MR. ENGELMANN: All right.

25 So it appears that you became aware of a

1 civil action or the Chief informed you of a civil action
2 that had been brought on July -- you were informed about
3 this on July 31st, 2000?

4 MR. DEROCHIE: Yes.

5 MR. ENGELMANN: And sir, did you prepare
6 this document entitled "Notes to File"?

7 MR. DEROCHIE: I did. These were -- I was
8 trying to manage my notebooks a little bit more
9 efficiently. As you pointed out, I had an awful lot of
10 responsibilities, different areas of responsibilities. And
11 if you look at my notebooks for that period it becomes very
12 confusing trying to separate each individual issue. So I
13 was -- anything to do with -- I tried a new process where
14 anything to do with the civil action, which was really
15 pretty low on the totem pole as far as my note taking went
16 with regards to the detail I would take.

17 MR. ENGELMANN: All right.

18 So these particular Notes to File was
19 created by you as a result of the Chief informing you that
20 there was a civil action that had been brought?

21 MR. DEROCHIE: These were electronic notes
22 that we were keeping.

23 MR. ENGELMANN: Right. And this was as a
24 result of one of the victims of Earl Landry, Jr.?

25 MR. DEROCHIE: Yes.

1 **MR. ENGELMANN:** And his family had brought a
2 civil action against several institutions including ---

3 **MR. DEROCHIE:** Including us.

4 **MR. ENGELMANN:** --- Cornwall Police Service?

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

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

7 And you were first informed about this on
8 that date, July 31st, 2000?

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** And sir, I understand that
11 shortly thereafter -- just give me a moment, that shortly
12 thereafter you received an internal correspondence from
13 Chief Repa.

14 Document Number 731810, Madam Clerk.

15 **THE COMMISSIONER:** Thank you. Exhibit
16 number P-1358, Internal correspondence dated August 16th,
17 2000 to Staff Sergeant Derochie from Chief Repa re:
18 Statement of Claim.

19 --- **EXHIBIT NO./PIÈCE NO. P-1358:**

20 (731810) Internal Correspondence from
21 Chief A. Repa to Garry Derochie - 16
22 Aug 00

23 **MR. ENGELMANN:** So sir, this is after you
24 have been informed by the Chief. He is now sending you an
25 internal memo about this matter?

1 **MR. DEROCHIE:** Yes, there is information
2 within the Statement of Claim that suggested Earl Landry,
3 Sr., who was a former chief of the Cornwall Police Service,
4 had influenced the investigation.

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

6 That was one of the allegations in the
7 Statement of Claim?

8 **MR. DEROCHIE:** That was one of the ---

9 **MR. ENGELMANN:** Yes, and he is reminding you
10 in the memo about provincial guidelines ---

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** --- requiring police
13 officers who are investigating alleged wrongdoing by peace
14 officers to seek the assistance of the Regional Director of
15 Crown attorneys for appropriate legal advice?

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** And sir, did you in fact
18 consult with the Regional Director of Crown Attorneys at
19 the outset of your investigation?

20 **MR. DEROCHIE:** No, but he was talking in
21 terms of going to the regional Crown once charges were to
22 be laid or we were considering charges to be laid. That
23 was my understanding.

24 **MR. ENGELMANN:** But I thought -- the way
25 it's worded is "requiring police officers who are

1 investigating alleged wrongdoing" ---

2 **MR. DEROCHIE:** Yes.

3 **MR. ENGELMANN:** --- to seek assistance.

4 **MR. DEROCHIE:** I checked with policing
5 services on that issue and there was no such guidelines.

6 **MR. ENGELMANN:** Oh, okay, so the Chief was
7 mistaken.

8 **MR. DEROCHIE:** Yes, the Chief was of the
9 impression that -- well, the Chief was not mistaken. He
10 was of the impression that there were strict guidelines
11 with regards to that subject matter.

12 **MR. ENGELMANN:** All right. Well, we won't
13 get into semantics.

14 And sir, did you at any time during the
15 course of this investigation consult with a Regional
16 Director or outside Crown?

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

18 **MR. ENGELMANN:** And sir, the allegations
19 that you were specifically asked to investigate, as I
20 understand it they arose as a result of the Chief's review
21 of the Statement of Claim?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And he indicated to you that
24 some of the contents of that Statement of Claim may well be
25 criminal acts?

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: Or words to that effect?

3 MR. DEROCHIE: Words to that effect, yes.

4 MR. ENGELMANN: All right.

5 Madam Clerk, if the witness could be shown
6 Exhibit -- sorry, Document Number 731813?

7 (SHORT PAUSE/COURTE PAUSE)

8 MR. ENGELMANN: It says, "Statement of
9 Claim", 731813. I'm sorry, it's on the cross list.

10 THE COMMISSIONER: Thank you.

11 Exhibit Number 1359 is a statement of claim
12 dated June 30th, 2000.

13 --- EXHIBIT NO./PIÈCE NO. P-1359:

14 (731813) Statement of Claim - dated
15 June 30, 2000

16 MR. ENGELMANN: Sir, is this the statement of
17 claim in question?

18 MR. DEROCHIE: Yes, it appears to be.

19 MR. ENGELMANN: Right. And, sir, were the
20 concerns that Chief Repa had and wanted you to investigate,
21 would those be the concerns that are set out at the bottom
22 of page 5 and on to the top of page 6 of the claim?

23 MR. DEROCHIE: Yes, they are.

24 MR. ENGELMANN: And in fact, sir, I believe
25 you prepare a general occurrence report, or at least a

1 draft of a general occurrence report, that maybe sets this
2 out in an easier fashion to look at. If we could look at -
3 - Madam Clerk, it's Document Number 740568.

4 (SHORT PAUSE/COURTE PAUSE)

5 THE COMMISSIONER: Thank you.

6 Exhibit Number 1360 is a general occurrence
7 report that's dated the 31st July, 2000.

8 --- EXHIBIT NO./PIÈCE No. P-1360:

9 (740568) General Occurrence Report by
10 CPS Garry Derochie - June 30, 2000

11 MR. ENGELMANN: Sir, I'm not sure about the
12 date. I wanted to ask the witness that.

13 THE COMMISSIONER: Okay, well, I'm just
14 looking for ---

15 MR. ENGELMANN: Yeah.

16 THE COMMISSIONER: --- purposes of
17 identifying the document.

18 MR. ENGELMANN: Yeah. It does say, "Report
19 time ..."

20 THE COMMISSIONER: M'hm.

21 MR. ENGELMANN: "... July 31st, 2000", but
22 that's when you would have received your instructions from
23 the first -- from the Chief initially. Isn't that correct?

24 MR. DEROCHIE: Is that the date of the ---

25 MR. ENGELMANN: From your notes to file, yes.

1 MR. DEROCHIE: Yes, yes ---

2 MR. ENGELMANN: So you would have prepared
3 this report sometime well into your ---

4 MR. DEROCHIE: Well ---

5 MR. ENGELMANN: --- investigation?

6 MR. DEROCHIE: --- I would have created the
7 incident.

8 MR. ENGELMANN: Oh, I see. So it ---

9 MR. DEROCHIE: When I got the complaint ---

10 MR. ENGELMANN: All right.

11 MR. DEROCHIE: When I got the instructions,
12 I created the incident.

13 MR. ENGELMANN: All right. So that's when
14 the incident report was first created?

15 MR. DEROCHIE: That's correct.

16 MR. ENGELMANN: All right. Well, we can
17 keep that date.

18 This should be, sir, subject to a
19 publication ban. There are names of other victims set out
20 therein that are covered by a criminal ban.

21 For example, at the bottom of the third page
22 in, Bates page 7181273 ---

23 THE COMMISSIONER: Yes. Very well, so, yes,
24 there will be a stamp.

25 MR. ENGELMANN: And, sir, I believe at the

1 bottom of that page, just before the reference to the
2 paragraph with the publication ban, the one that starts:

3 "The statement of claim. Allegations
4 suggest that Landry Senior used his
5 influence"?

6 MR. DEROCHIE: Yes.

7 MR. ENGELMANN: That was what you were
8 investigating; correct?

9 MR. DEROCHIE: I'm sorry?

10 MR. ENGELMANN: That was what you were asked
11 to investigate?

12 MR. DEROCHIE: Yes.

13 MR. ENGELMANN: That allegation?

14 MR. DEROCHIE: More so the police officers
15 who would have been on active duty at that time, who would
16 have, you know -- Chief Landry was not a member of the
17 police service at ---

18 MR. ENGELMANN: No, but you were concerned
19 or your Chief was concerned that he used his influence as
20 serving or former Chief of Police ---

21 MR. DEROCHIE: Yes.

22 MR. ENGELMANN: --- to protect Landry Junior
23 from being charged?

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

25 MR. ENGELMANN: That was one of the things

1 you were investigating?

2 **MR. DEROCHIE:** Yes.

3 **MR. ENGELMANN:** Right. And, sir, just to be
4 clear, were you the author of this particular general
5 occurrence report?

6 **MR. DEROCHIE:** Yes, I was.

7 **MR. ENGELMANN:** All right. I'll come back to
8 it a bit later, but -- sir, you were concerned about
9 looking at whether or not he had used his influence and
10 whether or not your officers had in fact then acted
11 inappropriately?

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

13 **MR. ENGELMANN:** And, sir, it's my
14 understanding that a sergeant -- or police officer by the
15 name of Brian Snyder assisted you with this investigation?

16 **MR. DEROCHIE:** Yes he did. He, in fact, did
17 the investigation ---

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

19 **MR. DEROCHIE:** --- he was the one with the
20 experience, yes.

21 **MR. ENGELMANN:** And I understand he became
22 involved in mid-September of 2000 or thereabouts?

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** Fairly early on?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** Now, was he the lead
2 investigator or were you?

3 **MR. DEROCHIE:** Because it was a criminal
4 investigation -- I didn't do criminal investigations and
5 professional standards -- however, because the allegations
6 were against police officers, that's -- again, that's where
7 professional standards gets its mandate to oversee these
8 investigations. So he would have been the lead
9 investigator; I would have been the case manager.

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

11 **MR. DEROCHIE:** In major case terms.

12 **MR. ENGELMANN:** And were your notes kept in
13 dedicated notebooks at the time, sir?

14 **MR. DEROCHIE:** Not -- well, to this one?
15 No, not to this one, I don't believe. It was in -- be in
16 my regular duty book.

17 **MR. ENGELMANN:** All right. Perhaps we could
18 just enter those notebooks. I think it would just be
19 easier if I do them all ---

20 **MR. DEROCHIE:** Sure.

21 **MR. ENGELMANN:** --- at once, so that you have
22 them when you need them.

23 The first one is Document Number 740591.

24 And, Madam Clerk, the second one will be
25 740592. The third one 740593, followed by 740594 and

1 740595.

2 These are the notebooks, sir, that we were
3 able to find of your notes dealing with this matter.

4 **MR. DEROCHIE:** Okay.

5 **(SHORT PAUSE/CORTE PAUSE)**

6 **THE COMMISSIONER:** Thank you.

7 Exhibit Number 1361 is notebook number
8 002032 of G. Derochie. Date of first entry, 18th of August,
9 2000. Date of last entry, 26th of October, 2000.

10 **--- EXHIBIT NO./PIÈCE NO. P-1361:**

11 (740591) Notebook number 002032 of
12 Garry Derochie - from August 18, 2000
13 to October 26, 2000

14 **THE COMMISSIONER:** And then the next
15 exhibit, 1362, is notebook number 002253, notes of G.
16 Derochie, and date of first entry was the 26th of October
17 2000. Last date of entry, the 9th of February 2001.

18 **--- EXHIBIT NO./PIÈCE NO. P-1362:**

19 (740592) Notebook number 002253 of
20 Garry Derochie - from October 26, 2000
21 to February 9, 2001

22 **THE COMMISSIONER:** And we have more? Thank
23 you.

24 One-three-six-three (1363) is the next
25 exhibit. Number 002254 is the notebook number and the date

1 of the first entry is 9th of February '01. Date of last
2 entry, 31st of May, '01.

3 --- EXHIBIT NO./PIÈCE NO. P-1363:

4 (740593) Notebook number 002254 of
5 Garry Derochie - from October 26, 2000
6 to February 9, 2001

7 **THE COMMISSIONER:** And we have more.

8 Same with Exhibit 1364. These are notes of
9 Staff Sergeant Garry Derochie, and it's indicated from June
10 1st, '01 to January 24th, '02.

11 --- EXHIBIT NO./PIÈCE NO. P-1364:

12 (740594) Notes of Garry Derochie - from
13 June 1, 2001 to January 24, 2002

14 **THE COMMISSIONER:** One-three-six-five
15 (1365). Again, notes of Mr. Derochie, for a period of the
16 -- the 4th of March, '03.

17 --- EXHIBIT NO./PIÈCE NO. P-1365:

18 (740595) Notes of Garry Derochie - from
19 January 6, 2003 to July 27, 2003

20 **THE COMMISSIONER:** Actually it says the 6th
21 of January '03 to the 27th of July, '03.

22 Are we done?

23 **MR. ENGELMANN:** Yes. Thank you, sir.

24 Staff Sergeant Derochie, there is no
25 notebook, as you may have noted, between January 25th,

1 2002, to January 6th, 2003; can you tell us if nothing
2 happened on this matter between those dates?

3 **MR. DEROCHIE:** That's correct. There are
4 notebooks covering those periods of time but nothing
5 relevant to this is recorded in them.

6 **MR. ENGELMANN:** All right. The reference to
7 -- for example, on the first page of the -- of 1361, the
8 first page of notes, actually, so it's the second page of
9 the document, Bates page 7181323.

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** There's a reference to "pro
12 standards" or "PRO STDS1", "INC 1-1"; what does that
13 signify?

14 **MR. DEROCHIE:** That's a project.

15 **MR. ENGELMANN:** Your notes also refer to
16 CA01-00; what is that?

17 **MR. DEROCHIE:** Yes, that is the civil
18 action. It's the first civil action for the year 2000.

19 **MR. ENGELMANN:** All right. Sir, do you
20 recall at least from the outset any discussion that you
21 might have had with the Chief about asking an outside force
22 to investigate these allegations?

23 **MR. DEROCHIE:** I don't recall that we had
24 that conversation.

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

1 asked you to investigate it?

2 MR. DEROCHIE: That's correct.

3 MR. ENGELMANN: And did he suggest that you
4 have some help in doing that, as well, or ---

5 MR. DEROCHIE: Well, I asked ---

6 MR. ENGELMANN: --- did you do that?

7 MR. DEROCHIE: No, I asked for an
8 investigator to do it and that would have been the
9 understanding between he and I that ---

10 MR. ENGELMANN: And the allegations that the
11 Chief were concerned about, he referenced, would it be fair
12 to say, some kind of criminal conspiracy possibly?

13 MR. DEROCHIE: Yes.

14 MR. ENGELMANN: And perhaps an attempt to
15 obstruct justice?

16 MR. DEROCHIE: Yes.

17 MR. ENGELMANN: And would you agree those
18 are fairly serious allegations?

19 MR. DEROCHIE: Absolutely.

20 MR. ENGELMANN: All right. And especially
21 if they are made against police officers?

22 MR. DEROCHIE: Yes.

23 MR. ENGELMANN: And that an allegation in
24 the nature of conspiracy would not only implicate a former
25 chief, but could also implicate present and/or former

1 members of the Cornwall Police Service?

2 MR. DEROCHIE: It could have, yes.

3 MR. ENGELMANN: Yeah. And the -- just so
4 we're clear, the Chief draws this out of -- these
5 allegations out of the civil action that is filed against
6 your Service?

7 MR. DEROCHIE: That's correct. There was
8 independent or secondary complainant, as it were.

9 MR. ENGELMANN: So he's, in effect, the
10 complainant?

11 MR. DEROCHIE: That's correct.

12 MR. ENGELMANN: He's the one directing that
13 something be done?

14 MR. DEROCHIE: That we look into this.

15 MR. ENGELMANN: And, therefore, if there's
16 any conviction on an allegation of obstruct justice or some
17 kind of conspiracy, that could have a negative impact on
18 the CPS?

19 MR. DEROCHIE: Oh, oh yes.

20 MR. ENGELMANN: Not -- not only from a
21 public relations point of view but also in this litigation
22 that's ongoing, this civil litigation?

23 MR. DEROCHIE: Absolutely. Sure.

24 MR. ENGELMANN: And clearly, your notebooks
25 all contain references to both the criminal file and to the

1 civil action, which would suggest that you are involved in
2 both concurrently?

3 MR. DEROCHIE: Yes.

4 MR. ENGELMANN: And you've indicated to us
5 that you are managing the criminal investigation; although
6 you had a lead investigator, you were managing it?

7 MR. DEROCHIE: Yes.

8 MR. ENGELMANN: And with respect to the
9 civil action, that you were the contact person or the
10 liaison person with the lawyers?

11 MR. DEROCHIE: Yes.

12 MR. ENGELMANN: Thus, it appears you're
13 directly involved in both the criminal investigation and a
14 civil action?

15 MR. DEROCHIE: Yes.

16 MR. ENGELMANN: All right. And you -- you
17 write to the plaintiff's counsel, towards the beginning of
18 your criminal investigation; do you not?

19 MR. DEROCHIE: I do.

20 MR. ENGELMANN: And, Madam Clerk, if the
21 witness could be shown Document Number 740598.

22 (SHORT PAUSE/COURT PAUSE)

23 MR. ENGELMANN: Mr. Commissioner, it's a
24 letter dated August 24th, 2000, from Staff Sergeant
25 Derochie to a fellow by the name of Arthur Lust.

1 **THE COMMISSIONER:** Thank you. Exhibit 1366.

2 **--- EXHIBIT NO./PIÈCE NO P-1366:**

3 (740598) Letter from Garry Derochie to
4 Arthur Lust - 24 Aug 00

5 **MR. ENGELMANN:** Sir, this is the letter you
6 authored to the plaintiff's lawyer?

7 **MR. DEROCHIE:** It is.

8 It was -- I consulted our Force lawyer on
9 this; had her draft the letter for me.

10 **MR. ENGELMANN:** Okay. So you had some legal
11 advice in writing to their lawyer?

12 **MR. DEROCHIE:** Oh yes.

13 **MR. ENGELMANN:** All right. And would this
14 have been from the lawyer acting for you in the civil
15 action?

16 **MR. DEROCHIE:** No.

17 **MR. ENGELMANN:** Okay.

18 **MR. DEROCHIE:** No, I -- I consulted the
19 lawyer who I consulted on the *Police Act* issues on my -- my
20 mandate or my role as a Professional Standards Officer.

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

22 **MR. DEROCHIE:** She has expertise in that
23 area.

24 **MR. ENGELMANN:** All right. And in it you
25 were pointing out that there were serious allegations put

1 forward in the Statement of Claim?

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: Potentially obstruction of
4 justice ---

5 MR. DEROCHIE: Yes.

6 MR. ENGELMANN: --- and that you had
7 commenced a criminal investigation?

8 MR. DEROCHIE: Yes.

9 MR. ENGELMANN: And you're putting him on
10 notice that you're going to be contacting his clients in
11 the near future?

12 MR. DEROCHIE: Yes.

13 MR. ENGELMANN: And that you're seeking to
14 interview them?

15 MR. DEROCHIE: Correct.

16 MR. ENGELMANN: And you want him to help
17 facilitate that?

18 MR. DEROCHIE: Out of courtesy, I wanted to
19 approach him first before I approached them, yes.

20 MR. ENGELMANN: All right. And he responded
21 to that letter, did he not?

22 MR. DEROCHIE: He did, yes.

23 MR. ENGELMANN: That would be Document
24 Number 739942.

25 (SHORT PAUSE/COURTE PAUSE)

1 **MR. ENGELMANN:** It's a letter from Arthur
2 Lust to Staff Sergeant Derochie, dated August 30th, 2000,
3 sir.

4 **THE COMMISSIONER:** Thank you. Exhibit
5 Number 1367.

6 **--- EXHIBIT NO./PIÈCE NO P-1367:**
7 (739942) Letter from Arthur Lust to
8 Garry Derochie - 30 Aug 00

9 **MR. ENGELMANN:** Sir, is this the letter you
10 received from Mr. Lust responding to your letter?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** And you know he starts by
13 saying that he receives your letter of some surprise?

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** And he says:
16 "To that end, I'm curious as to why the
17 Cornwall Police Service would
18 investigate itself given the rather
19 severe nature of the allegations put
20 forward in the Statement of Claim.
21 Surely in this case, it is the Ontario
22 Provincial Police that ought to
23 investigate this matter if there are
24 any facts to ascertain whether there's
25 a potential for an obstruction of

1 justice charge."

2 Do you see that?

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

4 **MR. ENGELMANN:** All right. And so he's
5 concerned about the Cornwall Police effectively
6 investigating themselves in a case where his clients are
7 suing the Cornwall Police over these allegations?

8 **MR. DEROCHIE:** Pardon me? I'm sorry.

9 **MR. ENGELMANN:** He's concerned about the
10 Cornwall Police investigating itself in a criminal case
11 involving allegations that he's bringing forward in a
12 Statement of Claim against the Cornwall Police?

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** And he's suggesting fairly
15 forcefully that you should go see the OPP about this?

16 **MR. DEROCHIE:** Yes, that's his suggestion.

17 **MR. ENGELMANN:** And he did ---

18 **MR. DEROCHIE:** I'm sorry, he's -- I take by
19 the second paragraph, that he's viewing this as some sort
20 of an attempt on our part to stall the civil action, so I
21 didn't -- I read it with, you know ---

22 **MR. ENGELMANN:** Okay, but -- or perhaps it
23 could be read as an attempt for you to take advantage of a
24 ---

25 **MR. DEROCHIE:** That's what I'm saying, he's

1 -- he's -- that's what it sounds like he's doing to me, so
2 I didn't really ---

3 **MR. ENGELMANN:** You might be able to get
4 some information about the civil action through the
5 criminal process?

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

7 **MR. ENGELMANN:** So given that concern being
8 expressed right at the beginning, did you consult with the
9 OPP about possibly taking this over?

10 **MR. DEROCHIE:** No. I did not, no.

11 **MR. ENGELMANN:** Did you bring this up with
12 Chief Repa so that he could consider that?

13 **MR. DEROCHIE:** I probably would have.

14 I don't have an independent recollection of
15 that and I don't recall seeing a note to that effect.

16 **MR. ENGELMANN:** Did you understand his
17 point, sir?

18 **MR. DEROCHIE:** Yes, I understand this. I
19 understand what he is saying, yes.

20 **MR. ENGELMANN:** And did you not think it
21 prudent to perhaps go to the OPP or another force?

22 **MR. DEROCHIE:** It didn't occur to me. I'm
23 in Professional Standards. I investigate wrongdoing by
24 police officers and if it's a criminal allegation I get an
25 experienced investigator to do that part of it. I didn't

1 see that we couldn't do it.

2 And it was my practice to bring in oversight
3 at any time that I could. There are several SIU -- the
4 Special Investigations Unit in Ontario has a mandate to
5 investigate certain types of allegations made against
6 police officers. This is not one of them but it's my
7 practice to bring in SIU whenever I can for that extra
8 little bit of oversight so that I can, at the end of the
9 day, indicate that I did do that.

10 **MR. ENGELMANN:** Did you not, sir, see that
11 you were possibly being put in a conflict of interest
12 situation? Let me spell it out for you. You are being
13 asked to investigate criminal allegations that your Chief
14 says may be coming out of the Statement of Claim and you
15 are also the contact person for the Cornwall Police Service
16 in defending a claim with a lawyer. You don't ---

17 **MR. DEROCHIE:** Well, I don't have much of a
18 role with regards to the civil action. We have a lawyer
19 that represents the -- who was working on behalf of the
20 insurance companies. So really, I have nothing but
21 receiving and filing documents is what I do with regards to
22 the civil action.

23 **MR. ENGELMANN:** But aren't you the principal
24 contact person for their civil action?

25 **MR. DEROCHIE:** Well, the city -- the policy

1 -- the insurance policy is held by the City of Cornwall.

2 MR. ENGELMANN: Yes.

3 MR. DEROCHIE: The Chief Administrative
4 Officer is the person who actually is the contact person.
5 If there is documents to be served on the Cornwall Police
6 Service, if there is documents of interest specifically to
7 the Cornwall Police Service I would receive them and file
8 them.

9 But the only involvement I had other than
10 that in this whole incident was working for the Chief --
11 Chief Repa to get -- there was some question about
12 compensating former chief Earl Landry by the insurance
13 company. They were hesitant to pay for his defence, and I
14 did some work on that. But other than that I wouldn't have
15 a role to play.

16 MR. ENGELMANN: Okay, well, we'll go through
17 your notes.

18 MR. DEROCHIE: Yeah.

19 MR. ENGELMANN: And we'll talk about the
20 role, if any, as we see it.

21 MR. DEROCHIE: Okay.

22 MR. ENGELMANN: In fact, let's go there
23 right now.

24 MR. DEROCHIE: Just before we do, Mr.
25 Engelmann ---

1 **MR. ENGELMANN:** Yes.

2 **MR. DEROCHIE:** --- if I just might expand a
3 little bit more on that last thing, when you are in
4 Professional Standards that's thrown in your face all the
5 time. You know, "You're a police officer, investigating
6 police officer, and I am making a complaint against a
7 police officer. What chance do I have?"

8 So we're -- people in Professional Standards
9 are very alive to that and really exercise a lot of care.
10 That's the way our system works.

11 **MR. ENGELMANN:** No, I understand someone has
12 to investigate the complaints; don't get me wrong. And I
13 understand in the normal course if you have a complaint
14 against a police officer that is investigated by someone in
15 the Force or outside. But here we have two extra things;
16 we have a civil action where your Force is being sued and
17 you are acting as the contact person for the civil lawyers
18 in defending the claim.

19 **MR. DEROCHIE:** Yes.

20 **MR. ENGELMANN:** And at the same time your
21 Chief is saying, "Garry, I want you to go out and I want
22 you to investigate possible criminal actions as well."

23 **MR. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** In the same manner.

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** And they arise out of the
2 same issue. And I'm saying don't you think you were put in
3 a conflict of interest situation?

4 **MR. DEROCHIE:** Well, I guess police officers
5 are put into positions all the time that they have to work
6 through and whether -- there is always conflict. There is
7 always that in the back of your mind and therefore you have
8 to make sure you do your job properly so it will stand the
9 scrutiny that we are about to throw this under.

10 **MR. ENGELMANN:** But sir, it's not just you.
11 It's the Force that's ---

12 **MR. DEROCHIE:** It's the whole Force and
13 obviously the Chief is -- oh, I'm saying the Chief
14 shouldn't have made -- you are saying the Chief shouldn't
15 have made that decision.

16 **MR. ENGELMANN:** Well, I'm saying ---

17 **MR. DEROCHIE:** Or you're ---

18 **MR. ENGELMANN:** --- it would have been
19 prudent for someone else to be investigating this so that
20 conflict wouldn't arise.

21 **MR. DEROCHIE:** That may well be, and it may
22 well be that the best solution for all of these issues is a
23 certain independent investigative body that does this type
24 of thing and, quite right, we don't have that now. There
25 is legislation before the legislation right now with

1 regards to forming a type of SIU unit that would do -- that
2 would be independent of police departments, would have
3 independent investigators who then do all of these types of
4 investigations, but that's not the tool that we had at the
5 time.

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

7 Well, you had -- you could make arrangements
8 with the OPP.

9 **MR. DEROCHIE:** Oh, yes, we could have ---

10 **MR. ENGELMANN:** You had reciprocal
11 arrangements with them.

12 **MR. DEROCHIE:** --- went to the OPP. We
13 could have went to Ottawa. We could have went to a number
14 of different police services.

15 **MR. ENGELMANN:** Yes.

16 **MR. DEROCHIE:** But we chose not to do that.

17 **MR. ENGELMANN:** Right, and you could have
18 gone to the Crown to talk to them about that and you chose
19 not to do that.

20 **MR. DEROCHIE:** About the conflict?

21 **MR. ENGELMANN:** Yes.

22 **MR. DEROCHIE:** Yes, you're right.

23 **MR. ENGELMANN:** I am just trying to find the
24 page reference here. I apologize.

25 Yes, in Exhibit 1361, Bates page 7181331 --

1 and I believe these are notes made on September 25th, 2000 -
2 - do you have that page, sir?

3 MR. DEROCHIE: Yes, I do.

4 MR. ENGELMANN: At the bottom of the page it
5 says, "Re: CA01-00" That's the civil matter?

6 MR. DEROCHIE: Yes.

7 MR. ENGELMANN: "I told the Chief that in
8 my opinion CGU Insurance..."

9 Because that's your insurance company? Is
10 that ---

11 MR. DEROCHIE: I'm sorry, what page are you
12 on, sir?

13 MR. ENGELMANN: I'm at 7181331 right at the
14 bottom of the page.

15 MR. DEROCHIE: Oh, at the bottom. I'm
16 sorry, yes. Yes.

17 MR. ENGELMANN: And you are referring to
18 this civil matter.

19 MR. DEROCHIE: Yes.

20 MR. ENGELMANN: "Re: CA01-00: I told the
21 Chief that in my opinion CGU Insurance
22 and certain people at City Hall have
23 reached the conclusion that the
24 allegation made by the plaintiff i.e.
25 that Landry, Sr. used his influence as

1 chief or former chief to protect his
2 son from being charged. If that is the
3 case then we are at a point of conflict
4 with them, i.e. how can we be confident
5 that CGU will represent our interests
6 if they believe Landry, Sr. was
7 involved in some sort of misconduct?
8 They cannot accuse Landry, Sr. without
9 involving or accusing the investigators
10 which in turn would involve everyone
11 else, i.e. Chief Shaver, Inspector
12 Trew, et al. I discussed this concern
13 with the Chief and he agrees that we
14 have a problem and that I should
15 consult a lawyer."

16 **MR. DEROCHIE:** Yes.

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

18 So you are suggesting that others may be in
19 a conflict?

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** In other words the insurer.

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

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

24 **MR. DEROCHIE:** The insurance company was
25 balking at paying Landry's legal bills.

1 **MR. ENGELMANN:** But I think we are before
2 that here, aren't we, sir? We are talking -- I mean that
3 comes up later.

4 **MR. DEROCHIE:** Yes, that's what is leading -
5 - that's what's leading up to it.

6 **MR. ENGELMANN:** Okay. Well, this is near
7 the beginning of your investigation though, sir. This is
8 September of 2000. We are not talking about his legal fees
9 yet, are we, surely?

10 **MR. DEROCHIE:** Well, there was some
11 discussion very early with regards to that. It should
12 become apparent, I would think, as we read on.

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

14 **MR. DEROCHIE:** There is something making me
15 believe this because I am writing it in my notes.
16 Therefore it's got to have -- it has to be an issue at this
17 point.

18 **MR. ENGELMANN:** I think at this point it's a
19 question as to whether or not they are also going to be
20 responding on behalf of Earl Landry, Sr. or not and whether
21 he needs his own lawyer. Isn't that what's going on here,
22 the whole issue of the indemnification of legal fees is ---

23 **MR. DEROCHIE:** Yes. No, he needs his own
24 lawyer. Who is going to pay for the lawyer?

25 And that -- the Chief would have had a

1 contract with the board that would have covered off or that
2 was the thought at the time, that the Chief would have had
3 -- Chief Landry we're talking about now, would have had
4 something in his contract and of course the *Police Services*
5 *Act* which protects him from torts. So I would suspect that
6 that's what we are dealing with, who is going to pay for
7 this lawyer if not the insurance company? He'll have to
8 get a lawyer.

9 **MR. ENGELMANN:** Well, it's whether or not he
10 needs his own lawyer; isn't it, first and foremost?

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** Isn't that what we are
13 talking about?

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

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

16 And likewise, at Bates page 7181340 -- sorry
17 -- 17th of October, 2000. And this is again under a caption
18 dealing with CA01-00 at 9:55?

19 **THE COMMISSIONER:** Hold on a second.

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

21 **MR. DEROCHIE:** I'm sorry. Could you give me
22 that Bates page again, please?

23 **MR. ENGELMANN:** Yes, 340 are the last three
24 digits.

25 **MR. DEROCHIE:** Three-four-zero (340)?

1 MR. ENGELMANN: Yes.

2 MR. DEROCHIE: Yes, 9:55.

3 MR. ENGELMANN: You are receiving a -- you
4 are returning a -- received a -- it says:

5 "Received a return telephone call from
6 Danielle."

7 Is she someone with the insurer?

8 MR. DEROCHIE: No, that's Aline Daniele.
9 She is a clerk with the City of Cornwall.

10 MR. ENGELMANN: All right.

11 MR. DEROCHIE: She is their coordinator for
12 civil actions.

13 MR. ENGELMANN: All right.

14 "I told her I had serious concerns with
15 the way CGU is dealing with this
16 matter."

17 MR. DEROCHIE: Yes.

18 MR. ENGELMANN: "Explained that in my
19 opinion CGU is accepting the
20 complainant's position that Landry, Sr.
21 did something wrong..."

22 MR. DEROCHIE: Yes.

23 MR. ENGELMANN: --- et cetera, and then that
24 goes on to the next page. I wonder what's being said here:

25 "I told her I was uncomfortable dealing

1 with anyone other than a lawyer on this
2 matter; that I had information which is
3 valuable to our defence but that I was,
4 given Cara's position, hesitant to give
5 it to her."

6 Who's Cara?

7 **MR. DEROCHIE:** Cara is a claims adjustor, a
8 claims ---

9 **THE COMMISSIONER:** Examiner -- claims
10 examiner?

11 **MR. DEROCHIE:** Yes, for the insurance
12 company.

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

14 **MR. DEROCHIE:** And I thought we should be
15 dealing with a lawyer not with a claims -- because, you
16 know, up until the point where there's a lawsuit filed, we
17 should be dealing with a lawyer after that point.

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

19 "I explained that if she is of the
20 opinion that Landry Sr. did something
21 improper that she was in fact..."

22 **MR. DEROCHIE:** Conceding.

23 **MR. ENGELMANN:** "...conceding that the
24 investigators likewise were involved.
25 How could I trust her to represent our

1 best interests in that case?"

2 All right. So it appears you're again
3 involved in a civil case?

4 MR. DEROCHIE: Yes.

5 MR. ENGELMANN: And you're concerned about
6 whether your insurer might have a conflict?

7 MR. DEROCHIE: Yes.

8 MR. ENGELMANN: And I'm just wondering if
9 you're not seeing that as well with respect to your role;
10 your own conflict?

11 MR. DEROCHIE: It's never occurred to me
12 that I've been -- I was in a conflict, you know, it's -- I
13 don't conduct myself in that way. I wouldn't and whatever
14 I would -- what I would do, I would expect it would be
15 scrutinized and I would be comfortable with that scrutiny.
16 So could someone come to that conclusion? Certainly. You
17 -- you know.

18 MR. ENGELMANN: Well, I'm just asking you,
19 sir ---

20 MR. DEROCHIE: Yes.

21 MR. ENGELMANN: --- now looking back ---

22 MR. DEROCHIE: Yeah.

23 MR. ENGELMANN: --- if you don't come to
24 that conclusion yourself

25 MR. DEROCHIE: Well, yes, it would -- well,

1 possibly. I don't come to that conclusion, but I could see
2 where someone could come to that conclusion.

3 I am comfortable with what I do and I
4 document what I do very, very well for that very reason
5 and, you know, I'm here to be questioned on that. I am
6 here to be cross-examined ---

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

8 **MR. DEROCHIE:** --- forcefully, hopefully on
9 these issues.

10 **MR. ENGELMANN:** All right. Next page, 42,
11 again it's under the caption, "CA0100 Meeting with Richard
12 Allaire and Aline Danielle". Who are they?

13 **MR. DEROCHIE:** Richard Allaire was the chief
14 executive officer of the City of Cornwall. Danielle --
15 Aline Danielle is that clerk I told you about that ---

16 **MR. ENGELMANN:** Oh yes, right.

17 And again you're talking about CGU being
18 predisposed to accepting the plaintiff's allegation?

19 **MR. DEROCHIE:** Yes.

20 **MR. ENGELMANN:** And then a little later
21 down:

22 "To accept that Landry Sr. is culpable
23 is to say that the investigators and
24 several other members of the CPS were
25 part of any wrongdoing"?

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

2 **MR. ENGELMANN:** Again, you're very concerned
3 about this. This is now about the third time you're
4 writing something about this in your notes?

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** Okay. And what -- I can't
7 read a name down here:

8 "My concern is that ..." ---
9 Fagan?

10 **MR. DEROCHIE:** Yes, Fagan -- F-A-G-A-N.

11 **MR. ENGELMANN:** Who's that?

12 **MR. DEROCHIE:** Fagan is the -- that's Cara
13 Fagan.

14 **MR. ENGELMANN:** Oh, Cara Fagan, okay.

15 **MR. DEROCHIE:** Cara Fagan.

16 **MR. ENGELMANN:** "... may have lost her
17 objectiveness and is not in a position
18 to represent the best interests of the
19 CPS or that of the City."

20 **MR. DEROCHIE:** Yes. That's what I write.

21 **MR. ENGELMANN:** All right. Now, did you
22 have discussions with -- and I don't want to get into the
23 advice or anything else -- but were you having discussions
24 during this period of time with a lawyer representing the
25 City?

1 **MR. DEROCHIE:** No, not at this time.

2 **MR. ENGELMANN:** All right. And did you have
3 discussions with the lawyers representing the City in
4 defending the civil action, sir?

5 **MR. DEROCHIE:** I was at a mediation meeting.
6 I met him there. As far as having discussions with him,
7 no, I didn't discuss the merits of the action.

8 **MR. ENGELMANN:** Were you providing counsel
9 with information from time-to-time?

10 **MR. DEROCHIE:** I suspect that I would have
11 been providing something, but I don't recall now what it
12 was. If it's not in my notebooks ---

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

14 **MR. DEROCHIE:** --- I didn't provide them
15 anything.

16 **MR. ENGELMANN:** Well, what I'm going to
17 suggest to you, sir, is that since you're investigating
18 allegations that arise from a statement of claim that
19 inevitably information you're going to be giving to the
20 civil lawyer will be the same information that you're
21 investigating from a criminal point of view?

22 **MR. DEROCHIE:** Well, Sergeant Snyder's
23 investigating ---

24 **MR. ENGELMANN:** Fair enough.

25 **MR. DEROCHIE:** --- the allegation, the

1 criminal allegation.

2 MR. ENGELMANN: But you're involved?

3 MR. DEROCHIE: And if the -- yes, and I
4 believe there's something in my notes. I remember
5 discussing this with our lawyer with regards to the duty to
6 disclose. If I come across something with regards to the
7 civil action, am I required to disclose it per the criminal
8 -- per a criminal investigation, so that certainly was on
9 my mind and I was dealing with that whole issue of
10 disclosure, what my responsibilities were to disclose to
11 the plaintiffs.

12 MR. ENGELMANN: And was the lawyer in the
13 civil action a fellow by the name of Peter Cronyn?

14 MR. DEROCHIE: Cronyn, yes.

15 MR. ENGELMANN: If we look at Exhibit 1362,
16 Bates page 7181351. Do you have that page, sir?

17 MR. DEROCHIE: Yes, I do.

18 MR. ENGELMANN: About the middle of the page

19 ---

20 MR. DEROCHIE: Yes.

21 MR. ENGELMANN: --- "20th of November, 7:45
22 on duty".

23 MR. DEROCHIE: There you have it. Yes.

24 MR. ENGELMANN: "Re: ..."

25 And you've got the civil action:

1 "...working on getting information
2 together for Cronyn."

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

4 **MR. ENGELMANN:** Okay. So you were putting
5 stuff together for him?

6 **MR. DEROCHIE:** Yes, I was.

7 **MR. ENGELMANN:** All right. And, sir, then
8 on the following page, this is now November 21st, 2000,
9 after the blackouts:

10 "Working on CA0100, package completed
11 and sent to Cronyn."

12 So again you're working on something and
13 you're sending it off to the lawyer in the civil action?

14 **MR. DEROCHIE:** Yes, that would have been
15 from the previous day, yeah.

16 **MR. ENGELMANN:** All right. Sir, I'm going
17 to suggest as well that you would have assisted in
18 responding to a demand for particulars. Do you remember
19 that?

20 **MR. DEROCHIE:** I don't remember doing it but
21 ---

22 **MR. ENGELMANN:** I can take you ---

23 **MR. DEROCHIE:** --- it may well be what I was
24 doing.

25 **MR. ENGELMANN:** --- to the note if you would

1 like. It's in 1361, Bates page 718139 ---

2 **MR. DEROCHIE:** Thirteen-sixty-one (1361)?

3 **MR. ENGELMANN:** Yes, 1361, Staff Sergeant
4 Derochie, these are your notes from August 18th to ---

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** --- October 26th.

7 **MR. DEROCHIE:** And the Bates page again was?

8 **MR. ENGELMANN:** Sorry. It's 7181339. I'm
9 not sure if you assisted or if you just reviewed or what
10 you did, but let's take a look at it.

11 It's the bottom of that page. It's the only
12 part that's not blacked out.

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** You appear to be reviewing a
15 response to demands for particulars from a lawyer by the
16 name of McClelland?

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** And was it Ron McClelland
19 from Cornwall that was acting Earl Landry Sr.?

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

21 **MR. ENGELMANN:** So you would have reviewed
22 something he prepared on behalf on Earl Landry Sr.
23 responding to a demand for particulars?

24 **MR. DEROCHIE:** I wouldn't have been working
25 on anything for McClelland that I can think of ---

1 **MR. ENGELMANN:** No, no, but as part of your
2 work on the civil action, we've got the civil file number
3 there, CA0100 ---

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** --- we also have the
6 criminal matter referenced. You appear to be reviewing his
7 response.

8 **MR. DEROCHIE:** Well, I would suspect that we
9 would all get a copy of the response from each of the
10 different defendants.

11 **MR. ENGELMANN:** Yes.

12 **MR. DEROCHIE:** And I would have received
13 that and stuck it in the file. I would assume that's what
14 that says.

15 **MR. ENGELMANN:** All right. And then on
16 Bates page 7181344, you're receiving some documents. CAS
17 statement of defence and cross claim against its co-
18 defendants?

19 **MR. DEROCHIE:** Yes.

20 **MR. ENGELMANN:** Just looking at the middle
21 of the page, you have a reference to the civil file number
22 again.

23 **MR. DEROCHIE:** Again, I would have got -- we
24 would have -- the police service as a defendant would have
25 got a copy of everybody else's responses and ---

1 MR. ENGELMANN: Right.

2 MR. DEROCHIE: --- I received it.

3 MR. ENGELMANN: And likewise at 713 --
4 sorry, 7181346, again you have a reference, October 23rd, to
5 receiving statement of defence and cross-claim of Landry
6 Sr.

7 MR. DEROCHIE: Correct.

8 MR. ENGELMANN: Okay. And you would have
9 seen the statement of defence and cross-claim of the CPS
10 board in the City?

11 MR. DEROCHIE: I imagine I would have.

12 MR. ENGELMANN: And that's Document Number
13 739934.

14 (SHORT PAUSE/COURTE PAUSE)

15 THE COMMISSIONER: We'll be looking to break
16 around three o'clock, Mr. Engelmann.

17 MR. ENGELMANN: Okay.

18 THE COMMISSIONER: Thank you.

19 Exhibit number 1368 is a Statement of
20 Defence. All right; and it's dated ---

21 MR. ENGELMANN: November 3rd.

22 THE COMMISSIONER: November 3rd.

23 MR. ENGELMANN: November 3rd, 2000.

24 THE COMMISSIONER: November 3rd, yes, thank
25 you.

1 --- EXHIBIT NO./PIÈCE No. P-1368:

2 (739934) Statement of Defence - 3 Nov

3 00

4 MR. ENGELMANN: Sir, do you know if you
5 would have reviewed a draft of that, before it was
6 finalized?

7 MR. DEROCHIE: Would I have reviewed this
8 before it was ---

9 MR. ENGELMANN: Yes.

10 MR. DEROCHIE: --- signed off?

11 MR. ENGELMANN: Yes.

12 MR. DEROCHIE: I don't have a recollection
13 of that. Again, if I did, it would be somewhere in my
14 notes, but I don't think that I would have been asked to --
15 -

16 MR. ENGELMANN: Right. Sir, did you attend
17 mediation in this matter ---

18 MR. DEROCHIE: I did.

19 MR. ENGELMANN: --- on behalf of the
20 Cornwall Police Service?

21 MR. DEROCHIE: Yes.

22 MR. ENGELMANN: And did you report back to
23 the Chief and the Board on your attendance there?

24 MR. DEROCHIE: I did; I submitted a report,
25 I believe.

1 **MR. ENGELMANN:** Yes.

2 Would you have been involved in the
3 preparation for the mediation, as well? Because there was
4 a brief prepared and ---

5 **MR. DEROCHIE:** I don't think that I was; I
6 may have been consulted or I might have been asked a few
7 questions, but I don't recall participating in preparing
8 anything for the mediation brief.

9 **MR. ENGELMANN:** Sir, do you recall upon
10 receipt of instructions from Chief Repa, seeking and
11 obtaining the authorization from the Cornwall Police
12 Services Board to indemnify Earl Landry, Sr. for his
13 outstanding legal costs?

14 **MR. DEROCHIE:** Yes, I was involved in that.

15 **MR. ENGELMANN:** And sir, just briefly,
16 Exhibit 1363, your notes at Bates page 7181364.

17 You make a reference on that Bates page,
18 again under the civil action that the Chief is tasking you
19 with preparing the report, so that we can make
20 representation to the CEO to urge CGU -- I guess that's the
21 insurer, to pick up Landry, Sr.'s costs.

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And you go in there about
24 some of the costs that he had covered, correct?

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

1 Well, it seems to me that it's -- the
2 insurance company ultimately decided that they were going
3 to cover his costs, but they were going to cover it only to
4 a maximum and we were dealing with topping that up, so we
5 could -- the Board would top it up.

6 **MR. ENGELMANN:** And you made a report to the
7 Board?

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

9 **MR. ENGELMANN:** And that, in fact, was done.

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

11 **THE COMMISSIONER:** So I guess, looking back
12 on it, some people might say, "Well, you're advocating to
13 have the ex-chiefs legal costs covered. You're supposed to
14 be managing an investigation that might lead to criminal
15 charges against the same man, and you're also dealing with
16 being involved in the mediation of -- by settling a civil
17 dispute."

18 **MR. DEROCHIE:** Yes. I was present at the
19 mediation. I didn't have an active role in that mediation.
20 I was just there to listen to what the lawyers were saying.

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

22 **MR. DEROCHIE:** That's all my role was. Yes,
23 and if I might, Mr. Commissioner, the whole idea of
24 compensation for Earl Landry was a matter of fairness, I
25 thought. He was -- it could have applied to me, somewhere

1 down the road if I ever get involved in a civil action.

2 **THE COMMISSIONER:** The merits of it is
3 irrelevant to me, I think.

4 **MR. DEROCHIE:** Well, the appearance you're -
5 --

6 **THE COMMISSIONER:** It's the appearance that
7 you're advocating for him. You're telling the insurance
8 company, "Hey, wait a minute. You're assuming that he did
9 something wrong."

10 **MR. DEROCHIE:** Yes.

11 **THE COMMISSIONER:** "You're advocating for
12 him, there." Some people might see it as you advocating
13 for them -- for him.

14 **MR. DEROCHIE:** There's no question that some
15 people will see wrong in everything that an individual
16 does, if they're ---

17 **THE COMMISSIONER:** I ---

18 **MR. DEROCHIE:** --- prejudiced, you know.

19 **THE COMMISSIONER:** --- I'm getting a taste
20 of that, but in this circumstance, though, right ---

21 **MR. DEROCHIE:** Yes.

22 **THE COMMISSIONER:** --- don't you think it's
23 a little murky there, as to the appearances?

24 **MR. DEROCHIE:** I didn't see it then. I'm
25 sorry, Mr. Commissioner. And I really don't see it now. I

1 can -- a whole -- you know, I ---

2 MR. ENGELMANN: But at the time ---

3 MR. DEROCHIE: --- go ---

4 MR. ENGELMANN: At the time, sir.

5 MR. DEROCHIE: Yes.

6 MR. ENGELMANN: We're in 2000.

7 MR. DEROCHIE: I'm sorry?

8 MR. ENGELMANN: We're in the year 2000.

9 MR. DEROCHIE: Yes.

10 MR. ENGELMANN: Lust brings up a concern.

11 MR. DEROCHIE: Yes.

12 MR. ENGELMANN: You're concerned about the
13 conflict of the insurance company.

14 MR. DEROCHIE: Yes.

15 MR. ENGELMANN: You don't go to an outside
16 police force; you don't go to an outside Crown.

17 And just before then, in the fall of 1999,
18 when your Force is concerned about possible criminal action
19 on the part of Perry Dunlop and you go through the same
20 process, about initiating some kind of an investigation,
21 you go to an outside Crown.

22 MR. DEROCHIE: Oh yes, but I think I was --
23 I hope I've explained that with regards to all of the
24 perceptions that were in the community at that time, that
25 we were out persecuting Perry Dunlop and also, that we were

1 defendants in a civil suit, involving -- that Perry Dunlop
2 had started against us.

3 I see that as being entirely different from
4 this; I honestly do.

5 **MR. ENGELMANN:** Really?

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

7 **MR. ENGELMANN:** And the letter -- and we
8 looked at it earlier, is a letter from Mr. Garson, Exhibit
9 1326.

10 And I just -- I don't -- maybe you can point
11 out why it would be different. The bottom of page 5 of
12 that letter, onto page 6, he says:

13 "Our preliminary observation in this
14 matter is that it would be a potential
15 conflict for your police service to
16 commence any form of criminal
17 investigation into this matter."

18 **THE COMMISSIONER:** Page 5?

19 **MR. ENGELMANN:** Bottom of page 5, onto page
20 6.

21 **THE COMMISSIONER:** Last paragraph, last
22 sentence of the ---

23 **MR. ENGELMANN:** "Our preliminary
24 observation in this matter is that it
25 would be a potential conflict for your

1 police service to commence any form of
2 criminal investigation into this
3 matter, given the history of events
4 that have occurred. Accordingly,
5 should you decide that this issue
6 merits such investigation, in other
7 words, a criminal investigation, we
8 would recommend that you contact an
9 external policing agency to conduct
10 same."

11 And of course, at this point, Dunlop is a
12 member of the Cornwall Police Service. He hasn't -- he's
13 still on strength. This is November of 1999.

14 **MR. DEROCHIE:** Yes, yes. Yes, he does.

15 **MR. ENGELMANN:** Yeah.

16 **MR. DEROCHIE:** And -- but he premised -- he
17 starts that off by saying, "In light of the history that's
18 here..."

19 **MR. ENGELMANN:** Yes.

20 **MR. DEROCHIE:** You know, "...between
21 yourselves and Dunlop that it would be -- there would be
22 perceptions that you're after Dunlop, again. This is just
23 another, you know, fishing expedition."

24 **MR. ENGELMANN:** But again, in that case, it
25 wasn't someone else coming to you saying, "Dunlop committed

1 perjury" or "Dunlop attempted to obstruct justice." It was
2 something that you were initiating within the Cornwall
3 Police Service; you were concerned about it, and you were
4 bringing it to the attention of an outside Crown to get
5 advice ---

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** --- and they're saying to
8 you, "If you want this investigated, it isn't you who
9 should be investigating. It's an outside police service."

10 **MR. DEROCHIE:** That's correct. And -- but
11 it was brought to our attention by different people.

12 **MR. ENGELMANN:** Well, fair enough.

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** And so, you've got a
15 Statement of Claim less than a year later, where your Chief
16 thinks that the Statement of Claim is setting out criminal
17 activity and suggesting that you initiate an investigation
18 into your former chief and current officers, and you don't
19 go outside.

20 **MR. DEROCHIE:** No, we don't and I don't make
21 that recommendation. The Chief doesn't have that concern;
22 the lawyer that we consult doesn't have that concern; and
23 quite frankly, I thought we were able to do that.

24 **MR. ENGELMANN:** But you didn't consult Mr.
25 Garson, to ask him if his view would be any different.

1 **MR. DEROCHIE:** Oh no, but we did -- you're
2 right; you're right, I'm sorry. Yes, you're right.

3 But I don't think Mr. Garson was going to
4 act as our personal counsel for all of these other issues;
5 he was specifically dedicated to Dunlop, not to Earl Landry
6 or ---

7 **MR. ENGELMANN:** Fair enough.

8 **MR. DEROCHIE:** --- anything like that.

9 **MR. ENGELMANN:** The Regional Director in
10 Ottawa?

11 **MR. DEROCHIE:** Okay, yes. Yes.

12 **MR. ENGELMANN:** You didn't go there?

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

14 **THE COMMISSIONER:** I mean, at some point you
15 must -- you know, in 1999 whether you're comparing the
16 Dunlop story -- or allegations and this one, you're facing
17 two allegations of possible cover-ups, right, in the Landry
18 and in the Dunlop, of your police force by your police
19 force?

20 **MR. DEROCHIE:** Well, by this time Mr.
21 Commissioner, we've had several, you know? There was also
22 Antoine.

23 **THE COMMISSIONER:** Yes.

24 **MR. DEROCHIE:** There was a number of them,
25 yes, and in this one, I just -- we just -- we didn't see it

1 in Antoine. We didn't see it in this one. We went ahead
2 and did the investigations.

3 **MR. ENGELMANN:** Okay. But Antoine, sir,
4 wasn't an investigation of alleged criminal activity by a
5 former chief or members of your force?

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** It was an administrative
8 review where you were concerned about case management of an
9 investigation?

10 **MR. DEROCHIE:** Yes, but certainly when you
11 do an administrative review, if you find criminal
12 wrongdoing you certainly pay attention to that and there
13 was a suggestion in the media report that started the whole
14 Antoine thing that there exactly was that.

15 **MR. ENGELMANN:** That there could have been.

16 **MR. DEROCHIE:** That there could have been.

17 **MR. ENGELMANN:** What I would suggest to you,
18 sir, is if during the course of an administrative review
19 that became apparent to you, that that would have been a
20 time to seek some outside help.

21 **MR. DEROCHIE:** In the Antoine investigation?

22 **MR. ENGELMANN:** For example, if it had
23 occurred to you that there had been criminal activity by a
24 member of your force that that would have been a time to
25 seek outside help just to be consistent.

1 **MR. DEROCHIE:** I have laid -- I have laid
2 criminal charges against police officers in my service and
3 I have had no problems with it. I just don't -- I just
4 didn't see it. I'm sorry.

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

6 **THE COMMISSIONER:** No, and we'll leave it at
7 that. I don't see where there's a problem if you are
8 laying charges against police officers.

9 **MR. DEROCHIE:** Yes.

10 **THE COMMISSIONER:** It's when you don't that
11 you are open to criticism.

12 **MR. DEROCHIE:** You're quite right, Mr.
13 Commissioner. We are open to criticism and hopefully
14 what's going to happen in the future will eliminate that
15 with this new legislation that's before the Parliament in
16 Ottawa or in Toronto, rather, right now.

17 **THE COMMISSIONER:** Okay.

18 **MR. ENGELMANN:** Maybe we should take a
19 break, sir.

20 **THE COMMISSIONER:** Yes, thank you. Let's
21 take the afternoon break.

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

24 The hearing will resume at 3:15.

25 --- Upon recessing at 3:03 p.m. /

1 L'audience est suspendue à 15h03

2 --- Upon resuming at 3:25 p.m. /

3 L'audience est reprise à 15h25

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

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

7 **THE COMMISSIONER:** Okay, Mr. Engelmann.

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

9 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
10 **ENGELMANN: (continued/suite):**

11 **MR. ENGELMANN:** Staff Sergeant Derochie, now
12 you've told us with respect to the investigation of the
13 criminal allegations that your Chief was in effect the
14 complainant?

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** And that you were the case
17 manager and Brian Snyder was the lead investigator?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** And as I understand it, you
20 and Officer Snyder would have spoken to a number of
21 witnesses?

22 **MR. DEROCHIE:** I recall speaking
23 specifically to Willis and Lefebvre and briefly to Claude
24 Shaver over the telephone to make arrangements for him to
25 be interviewed.

1 **MR. ENGELMANN:** And the interviews that you
2 would have had with Willis and Lefebvre, would Staff
3 Sergeant Snyder have been present?

4 **MR. DEROCHIE:** Yes, he would have been.

5 **MR. ENGELMANN:** All right. Most of these
6 questions then will be for him. I have a few questions for
7 you.

8 **MR. DEROCHIE:** Okay.

9 **MR. ENGELMANN:** Do you recall when you met
10 with both Officers Willis and Lefebvre whether you would
11 have asked them in effect some set questions?

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

13 **MR. ENGELMANN:** All right. And those
14 questions would have been prepared by you and/or Officer
15 Snyder?

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** Together?

18 **MR. DEROCHIE:** Together probably.

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

20 **MR. DEROCHIE:** I don't recall exactly.

21 **MR. ENGELMANN:** And, in effect, when you are
22 interviewing them presumably they are suspects?

23 **MR. DEROCHIE:** Yes.

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

25 **MR. DEROCHIE:** Yes.

1 MR. ENGELMANN: Well, I mean ---

2 MR. DEROCHIE: Yes. Yes, they were, yes.

3 MR. ENGELMANN: Okay.

4 MR. DEROCHIE: Yes.

5 MR. ENGELMANN: And did you believe your set
6 questions were designed to be probing in nature?

7 MR. DEROCHIE: Yes.

8 MR. ENGELMANN: And you believed they were
9 designed to elicit enough information as possible?

10 MR. DEROCHIE: Yes.

11 MR. ENGELMANN: Do you know if they were
12 sent to these alleged -- or the suspects in advance?

13 MR. DEROCHIE: I'm sorry?

14 MR. ENGELMANN: Do you know if they were
15 sent to the suspects in advance?

16 MR. DEROCHIE: No, I don't believe so.

17 MR. ENGELMANN: All right. I just want to
18 read some of them to you if I can.

19 And I'll look at, for example -- let me just
20 find one.

21 (SHORT PAUSE/COURTE PAUSE)

22 MR. ENGELMANN: We'll take a look at the
23 witness statement of Stanley Willis. It's Document Number
24 740579. It's a witness statement dated January 4th, 2001.

25 THE COMMISSIONER: Thank you. Exhibit P-

1 1369.

2 --- EXHIBIT NO./PIÈCE NO. P-1369:

3 (740579) Witness Statement of Stanley
4 Willis - January 4, 2001

5 **MR. ENGELMANN:** Staff Sergeant Derochie, if
6 we look down near the bottom of the first page we have some
7 of what I would call the set questions. So, for example,
8 it's about 10 lines up, it says:

9 "Staff Sergeant Derochie: Did Claude
10 Shaver who was the current -- who was
11 the Chief of Police at the time in
12 1985, ask or instruct you to show
13 preferential consideration to Earl
14 Landry, Jr. during the course of the
15 investigation?"

16 All right. That was one of the set
17 questions?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** The next question:

20 "Did Shaver, Landry, Sr. or anyone else
21 interfere in any way with the
22 investigation?"

23 That was again one of the set questions?

24 **MR. DEROCHIE:** Yes.

25 **MR. ENGELMANN:** "Did you feel compelled in

1 any way to suspect..." -- sorry:
2 "Did you feel compelled in any way to
3 show preferential consideration to
4 Landry, Jr. during the investigation
5 given that his father was the former
6 Chief of the Cornwall Police Service?"

7 That again was one of the set questions?

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** And:

10 "Did you show preferential
11 consideration in any way to Earl
12 Landry, Jr. during the course of the
13 investigation?"

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** All right. So those were
16 samples of the set questions. Those questions were also
17 asked, as I understand it, of Ron Lefebvre?

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

19 **MR. ENGELMANN:** And, sir, did you believe
20 that -- well, sir, would you agree with me that those might
21 be questions that would have a fairly obvious answer to a
22 suspect?

23 **MR. DEROCHIE:** Yes, if they were going to --
24 yes, if they were going to deny the ---

25 **MR. ENGELMANN:** Yeah.

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** And is that -- are those the
3 types of questions that you would normally ask of a
4 suspect, questions of that nature?

5 **MR. DEROCHIE:** I would. In my limited
6 experience as an investigator, I'd run them by Sergeant
7 Snyder. Together we had developed these questions as I
8 recall. I didn't see anything particularly a problem with
9 those questions.

10 **MR. ENGELMANN:** It just would seem that if
11 someone simply wanted to say "no" that's what they would
12 say ---

13 **MR. DEROCHIE:** You have to bear in mind ---

14 **MR. ENGELMANN:** --- and it wouldn't go any
15 further.

16 **MR. DEROCHIE:** --- I had already interviewed
17 these people prior with regards to the administrative
18 review the previous fall.

19 **MR. ENGELMANN:** Yes.

20 **MR. DEROCHIE:** So I had a lot of information
21 prior to going into this interview.

22 **MR. ENGELMANN:** All right. So you thought
23 that those questions were probing enough for this
24 investigation?

25 **MR. DEROCHIE:** Yes, I thought so.

1 **MR. ENGELMANN:** Now, in the Lefebvre notes,
2 if we could look at those for a minute -- just one moment,
3 sir.

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

5 **MR. ENGELMANN:** Just before we leave Exhibit
6 1369, again on page 2, Bates page 7181292, at about two-
7 thirds of the way down the page:

8 "Staff Sergeant Derochie: Do you
9 recall if anything -- if there was any
10 follow-up done with regards to the
11 checking back?

12 Constable Willis: Not by me, no."

13 Now, what this was with respect to was his
14 change of heart ---

15 **MR. DEROCHIE:** I'm sorry, I'm not -- I can't
16 find you here.

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

18 **MR. DEROCHIE:** Three-quarters of the way
19 down?

20 **MR. ENGELMANN:** Yeah, about three-quarters
21 of the way down.

22 **MR. DEROCHIE:** And where does the question
23 start?

24 **MR. ENGELMANN:** It starts with:

25 "Do you recall if anything -- if there

1 was any follow-up done with regards to
2 the checking back?"

3 But if you want, just for context, go a
4 little higher.

5 **MR. DEROCHIE:** Are we on 292, Bates page?

6 **MR. ENGELMANN:** We are 292, but let's go a
7 little further just to the middle of the page:

8 "Staff Sergeant Derochie: In your
9 notes you indicate on June 27th, 1985
10 you received a telephone call from
11 Landry, Sr. relative to arrangements
12 made the previous day for Landry, Jr.
13 to take a polygraph test."

14 Do you recall, sir, there had been an
15 arrangement made for ---

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** --- Landry, Jr. to take a
18 polygraph?

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

20 **MR. ENGELMANN:** And then Landry, Sr. phones
21 the next day after having spoken with the Chief?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** Right?

24 **MR. DEROCHIE:** Oh, I'm sorry, after speaking
25 with the Chief?

1 **MR. ENGELMANN:** Yes. You're not aware of
2 that?

3 **MR. DEROCHIE:** Well, I -- I'm sorry, you're
4 saying ---

5 **MR. ENGELMANN:** Landry, Sr. phones Willis
6 the morning of the 27th?

7 **MR. DEROCHIE:** Yes, I'm aware of that.

8 **MR. ENGELMANN:** You're not aware that he
9 spoke to Chief Shaver before then?

10 **THE COMMISSIONER:** "He", being?

11 **MR. ENGELMANN:** "He", being Landry, Sr.

12 **MR. DEROCHIE:** Oh, when Chief Shaver called
13 him that day, the day before? Yes, yes ---

14 **MR. ENGELMANN:** Right.

15 **MR. DEROCHIE:** --- yes, I was aware of that.

16 **MR. ENGELMANN:** They had spoken on the 26th,
17 then on the 27th Landry, Sr. is calling Willis to say, "My
18 son's not coming in for a polygraph"?

19 **MR. DEROCHIE:** Yes.

20 **MR. ENGELMANN:** All right. So -- and you're
21 asking Willis about that and you're saying you:

22 "Received a telephone call from Landry,
23 Sr. relative to arrangements made the
24 previous day for Landry, Jr. to take a
25 polygraph test."

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** In your conversation with
3 Landry, Sr., your notes indicate:

4 "That although Landry, Jr. would not
5 take the test as previously arranged,
6 that he might consider and take the
7 test at a future date. What efforts
8 did you make to follow-up on that
9 possibility or do you recall that at
10 all?"

11 **MR. DEROCHIE:** Okay, yes.

12 **MR. ENGELMANN:** "No, the only part I
13 recall..." --

14 it goes on and it says:

15 "All I -- and I really recall as him
16 saying..." --

17 "him" being Senior, no doubt:

18 "...Earl is not going to take the test;
19 things are moving too fast. And that
20 was the end of the conversation. I
21 don't know anything about him taking it
22 in the future or anything like that. I
23 -- that was basically the end of our
24 conversation. That's all he said, he's
25 not taking it. I remember him using

1 the sentence, 'Things are moving too
2 fast'."

3 You say:

4 "Your notebooks do indicate, however,
5 that he does. If you look at that
6 right down there where it says right at
7 the very bottom, it says 'polygraph' --
8 oh, maybe again I don't remember that,
9 but if I wrote it, it was a short
10 conversation."

11 Then:

12 "Staff Sergeant Derochie: Do you
13 recall, if anything, if there was any
14 follow-up done with regards to the
15 checking back?"

16 Not by me, no."

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** Okay, you see that?

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

20 **MR. ENGELMANN:** All right. Was that
21 followed up by you in any way?

22 **MR. DEROCHIE:** During this interview?

23 **MR. ENGELMANN:** Or later?

24 **MR. DEROCHIE:** I believe we may have asked
25 the same questions of Ron Lefebvre

1 **MR. ENGELMANN:** Right.

2 **MR. DEROCHIE:** And I don't recall ---

3 **MR. ENGELMANN:** Did you ever get an
4 explanation?

5 **MR. DEROCHIE:** No. No, never did.

6 **MR. ENGELMANN:** But on the top of the next
7 page -- and I don't know if this is an explanation -- just
8 give me a moment. Sorry, not at the top of the page, on
9 the next page, just one other thing, near the bottom of the
10 page, sir ---

11 **MR. DEROCHIE:** Of ninety -- 293?

12 **MR. ENGELMANN:** Yes, exactly. You're
13 saying:

14 "To your recollection, at the time that
15 this investigation was conducted, who
16 was the Chief of Police here?"

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** "Constable Willis: Shaver,
19 I think. Yeah, it would be Shaver
20 because Earl, whenever he phoned that
21 morning, he phoned me from his house so
22 it's the Chief that phoned the office
23 and I never went in the Chief's office,
24 Shaver, to talk to him about this.
25 Like I have no idea except that I don't

1 know how I got involved in this because
2 it wasn't a big, top priority-type
3 thing. I didn't -- I don't remember --
4 I got a good memory. That's all I can
5 tell you. I don't cover things up."

6 All right? So apparently Willis is telling
7 you here that this wasn't a big priority-type thing or
8 words to that effect?

9 MR. DEROCHIE: For him, yes.

10 MR. ENGELMANN: Yeah. Do you know why he
11 would have said that to you?

12 MR. DEROCHIE: No, but I understand that it
13 was Ron Lefebvre that was called into his office -- called
14 into Chief Shaver's office and that Ron Lefebvre had
15 approached Willis to go with him when they were intending
16 to pick up Landry, Jr.

17 MR. ENGELMANN: And the reason he wanted
18 Willis to go with him because he thought it was a high
19 priority thing, didn't ---

20 MR. DEROCHIE: Well, he -- he knew that
21 Willis knew the family, knew the the Landry family.

22 MR. ENGELMANN: Yes.

23 MR. DEROCHIE: He thought that -- his -- his
24 explanation to me was that if Earl Jr. was going to -- if
25 somebody could get something out of Earl Jr., it would be

1 Stan. That's why he -- that's what his explanation to me
2 was and that -- that made sense to me.

3 MR. ENGELMANN: Did you follow up with him,
4 though, and ask him how he -- why he could have said that,
5 that it wasn't a high priority-type of thing? I mean,
6 we've got ---

7 MR. DEROCHIE: Yes, he meant that for --
8 well, I didn't follow up in the interview, but I understood
9 him to say that he wasn't involved in the investigation
10 beyond that, it was just a matter of him going with Ron
11 Lefebvre to pick Earl up.

12 MR. ENGELMANN: All right. So he's not
13 referring to the fact that ---

14 MR. DEROCHIE: Not -- not the ---

15 MR. ENGELMANN: --- that the former Chief's
16 son is -- is a suspect in an historical sexual abuse?

17 MR. DEROCHIE: Well, certainly that wasn't
18 the impression I ---

19 MR. ENGELMANN: Okay.

20 MR. DEROCHIE: --- I ever had.

21 MR. ENGELMANN: All right. I was just ---

22 MR. DEROCHIE: I mean, he would recognize
23 that as being a very significant event, you know.

24 MR. ENGELMANN: Well, you would agree that
25 it should have been -- the investigation should have been a

1 high priority-type of thing. You would agree?

2 MR. DEROCHIE: I agree to that.

3 MR. ENGELMANN: Now, just briefly then with
4 respect to Ron Lefebvre, if we can.

5 THE COMMISSIONER: Mr. Engelmann, will you
6 be covering the conversation with Chief Shaver in -- later
7 on or...

8 MR. ENGELMANN: The conversation with Chief
9 Shaver?

10 THE COMMISSIONER: Chief Shaver had with
11 Earl Landry, Sr.

12 MR. ENGELMANN: Yes, we'll certainly be
13 asking Chief Shaver about that.

14 THE COMMISSIONER: Okay, but what about his
15 information about that?

16 MR. ENGELMANN: I'll touch upon it briefly.

17 THE COMMISSIONER: Okay, thank you.

18 MR. ENGELMANN: Let's go there right now,
19 sir.

20 MR. DEROCHIE: Okay.

21 MR. ENGELMANN: You say you received a call
22 from Chief Shaver?

23 MR. DEROCHIE: No -- I -- sorry?

24 THE COMMISSIONER: Go ahead.

25 MR. DEROCHIE: No, I originally -- I

1 originally called Chief Shaver to -- he was living in
2 Florida by this time and I wanted to make arrangements for
3 him to be interviewed and I arranged for him to be in
4 contact with Sergeant Snyder and Sergeant Snyder
5 subsequently travelled to Brockville and interviewed Chief
6 Shaver.

7 I would have seen the results of that
8 interview. It was my understanding that Shaver -- is that
9 where you want me to go?

10 **MR. ENGELMANN:** Yes.

11 **MR. DEROCHIE:** That Shaver called Earl
12 Landry ---

13 **THE COMMISSIONER:** Senior?

14 **MR. DEROCHIE:** Senior, I'm sorry, yes,
15 Senior, on the day that Earl Jr. was arrested.

16 He -- as they brought him into the office,
17 he made the call to Earl Landry, Sr. to advise him that his
18 son had been arrested.

19 **THE COMMISSIONER:** Is that a normal kind of
20 thing to do?

21 **MR. DEROCHIE:** Not -- not with a normal
22 suspect, no, I wouldn't -- it wouldn't be a normal thing to
23 do.

24 Chief Shaver, my understanding is, did it
25 out of a courtesy, one chief to another chief.

1 **MR. ENGELMANN:** All right. Well, let's just
2 be clear, though. You didn't speak to Chief Shaver ---

3 **MR. DEROCHIE:** No.

4 **MR. ENGELMANN:** --- about his role?

5 **MR. DEROCHIE:** No. This is my understanding
6 of it.

7 **MR. ENGELMANN:** So this would be something
8 that we'll get from Brian Snyder?

9 **MR. DEROCHIE:** And Chief Shaver I would
10 assume, yes.

11 **MR. ENGELMANN:** Yes, yes. And, in fact,
12 sir, if you have a quick look at Document Number 740052.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **THE COMMISSIONER:** Thank you.

15 Exhibit 1370 is a statement or question-and-
16 answers from Chief -- former Chief Shaver and it's dated
17 02/02/2001 by someone -- some other handwriting at the
18 back.

19 **MR. DEROCHIE:** That's Shaver's signature,
20 you know ---

21 --- **EXHIBIT NO./PIÈCE NO. P-1370:**

22 (740052) Questions and Answers by
23 Claude Shaver - February 2, 2001

24 **MR. ENGELMANN:** So, sir, it's my
25 understanding that Sergeant Snyder went out to Brockville

1 to meet with former Chief Shaver?

2 MR. DEROCHIE: Yes.

3 MR. ENGELMANN: And did he take a statement
4 from him at that time or did Chief Shaver ask to be left
5 with a list of questions to be answered?

6 MR. DEROCHIE: It would appear that he was
7 asked to -- to -- he was left -- it appears that he asked
8 for a list of questions or they discussed these things and
9 ---

10 MR. ENGELMANN: All right.

11 MR. DEROCHIE: --- he had made notes from it
12 and -- I really don't know.

13 MR. ENGELMANN: Well, is it true, sir, that
14 he was allowed to answer these questions in writing and
15 submit them to the Cornwall Police Service?

16 MR. DEROCHIE: Yes. It appears that way.

17 MR. ENGELMANN: And Exhibit 1370 is Chief
18 Shaver's work in that regard?

19 MR. DEROCHIE: Yes. I think you'd have to
20 compare it to Snyder's notes ---

21 MR. ENGELMANN: All right.

22 MR. DEROCHIE: --- to see how it ---

23 MR. ENGELMANN: And, sir, it's my
24 understanding that your phone call with Chief Shaver if we
25 look at 1362, your notes? It's Bates page 7181348.

1 MR. DEROCHIE: No.

2 MR. ENGELMANN: There is a reference to the
3 fact that you received a call from him on November 14th,
4 2000.

5 MR. DEROCHIE: Yes.

6 MR. ENGELMANN: And that he will be in
7 Brockville after December 16th and would meet with you then?

8 MR. DEROCHIE: Yes, yes.

9 MR. ENGELMANN: All right.

10 MR. DEROCHIE: I must have called him prior
11 to that. This is quite right.

12 MR. ENGELMANN: All right.

13 But in any event we are talking about an
14 interview with Sergeant Snyder that would have been perhaps
15 very late in the year 2000 and then we have 1370 which is
16 former Chief Shaver's response to questions?

17 MR. DEROCHIE: Yes.

18 MR. ENGELMANN: And where he is saying, for
19 example -- and sir, you know from your knowledge of the
20 investigation that this investigation was tasked on June
21 25th, 1985, the original investigation?

22 MR. DEROCHIE: 1985, yes.

23 MR. ENGELMANN: June 25th ---

24 MR. DEROCHIE: Yes.

25 MR. ENGELMANN: --- 1985?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** And that effectively the
3 notes on the investigation end at seven o'clock on June 27th
4 when there is a note saying that Senior has called and said
5 Junior is not coming for the polygraph?

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** And there is no notes of any
8 further investigation after that?

9 **MR. DEROCHIE:** No, I had been assured that
10 there was but there is no evidence of it.

11 **MR. ENGELMANN:** Oh, we have got 45 hours
12 that we have some notes for.

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** And when you say you're
15 assured that there was something else done, what else would
16 you have been told was done beyond those 45 hours?

17 **MR. DEROCHIE:** There had been a consultation
18 with the Crown attorney that there had been communications
19 with CAS on it and worked with CAS on it.

20 **MR. ENGELMANN:** Well, there was one
21 reference in a CAS note that it came up in another
22 investigation, we talked about it from your administrative
23 review.

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

25 **MR. ENGELMANN:** That was a note on July 8th.

1 And there is a note in Claude Shaver's written statements
2 at Exhibit 1370 that he refers to a fellow by the name of
3 Alain Ain or Ain.

4 MR. DEROCHIE: Alain Ain.

5 MR. ENGELMANN: Alain Ain?

6 MR. DEROCHIE: Ain, A-I-N.

7 MR. ENGELMANN: Okay, meeting him at a
8 social function.

9 MR. DEROCHIE: Yes.

10 MR. ENGELMANN: Sir, we haven't been able to
11 find any record of any consultation with the Crown to help
12 us pin down a date.

13 MR. DEROCHIE: You're right. I ---

14 MR. ENGELMANN: The only reference is this
15 note in Claude Shaver's written response.

16 MR. DEROCHIE: Yes, I was taken to -- if I
17 recall, I was taken to a point in Sergeant Lefebvre's notes
18 where he said that he must have, when he was consulting
19 with the Crown attorney on the other suspect involved in
20 that investigation.

21 MR. ENGELMANN: Well, he does have a
22 reference in his notes and you have a reference in your
23 notes to him consulting with this Crown on three other
24 matters, not on this one.

25 MR. DEROCHIE: Yes, that's right. That's

1 right.

2 MR. ENGELMANN: All right.

3 MR. DEROCHIE: And he said it must have.

4 MR. ENGELMANN: All right.

5 And in this note Claude Shaver is actually
6 saying in 1370 that he spent several hours with the Chief.
7 He says:

8 "I may have spent several hours with
9 the Chief but this was only to console
10 him as he was very distraught over the
11 complaint. We did not discuss the
12 criminal matter further."

13 Sir, this is apparently on the 26th of June.

14 MR. DEROCHIE: Yes. I thought that was in
15 reference ---

16 MR. ENGELMANN: Because that's the day they
17 speak.

18 MR. DEROCHIE: Yes, I'm sorry to interrupt
19 you.

20 I thought that was in reference to the
21 telephone call he made. You are right. Did he spend the
22 time personally? Are you saying it was face to face, or --
23 -

24 MR. ENGELMANN: I don't know. I'm just
25 reading what it ---

1 **MR. DEROCHIE:** Okay.

2 **MR. ENGELMANN:** --- says:

3 "I may have spent several hours with
4 the Chief but this was only to console
5 him as he was very distraught over the
6 complaint. We did not discuss the
7 criminal matter further."

8 **MR. DEROCHIE:** Yes, it was my understanding
9 that was done over the telephone.

10 **THE COMMISSIONER:** Okay. But, sir, you are
11 in charge of the -- the watchdog for the Cornwall Police
12 Service.

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

14 **THE COMMISSIONER:** Right?

15 **MR. DEROCHIE:** Yes.

16 **THE COMMISSIONER:** So you have a fellow
17 coming in, Earl Landry, Jr. and the job of the police force
18 when there is someone -- a suspect is to try to get as much
19 evidence out of him as possible.

20 **MR. DEROCHIE:** Yes.

21 **THE COMMISSIONER:** And one of the things is
22 to offer up, in those days or whatever, the polygraph.

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

24 **THE COMMISSIONER:** And he said at the
25 beginning, "I'll do it."

1 **MR. DEROCHIE:** "I'll take it."

2 **THE COMMISSIONER:** Okay. So don't you think
3 it's like an end run -- some people could see it that way -
4 - is the chief of police or someone in the police phones up
5 the father and says, "Hey, look it, your son has just been
6 arrested and we're going to give him a polygraph test," all
7 right?

8 Now, I don't know but would you not agree
9 that most -- if you went and seen a lawyer or something
10 like that, most of them would say, "Don't give him a
11 polygraph test"?

12 **MR. DEROCHIE:** Oh, absolutely, a lawyer
13 would certainly say that.

14 **THE COMMISSIONER:** And that maybe his father
15 would do the same thing?

16 **MR. DEROCHIE:** Absolutely his father would
17 do the same thing.

18 **THE COMMISSIONER:** So don't you think that
19 that phone call was out of place, from a Professional
20 Standards ---

21 **MR. DEROCHIE:** Well, I don't know what the
22 timing of that phone call was, whether there was
23 communication. My understanding of the matter was that
24 these two things were being done in isolation from each
25 other. While they were -- while the investigators were

1 investigating or talking to Earl Landry, Jr. -- in my
2 understanding that took some hours to do that; they were
3 interrogating him for some hours.

4 **THE COMMISSIONER:** About two and a half
5 hours, I guess.

6 **MR. DEROCHIE:** Yes, and as I understand, the
7 phone call was being made at the same time. So there was
8 no -- there was no discussion between them.

9 **THE COMMISSIONER:** I know, sir, but to the
10 public, right?

11 **MR. DEROCHIE:** Yes.

12 **THE COMMISSIONER:** If my son is being
13 interrogated by you people, will someone from the police
14 force -- and I'm an adult.

15 **MR. DEROCHIE:** Yes.

16 **THE COMMISSIONER:** Right, not a youth.

17 **MR. DEROCHIE:** Yes.

18 **THE COMMISSIONER:** Are they going to phone
19 up my dad and say, "Hey, by the way your son is being
20 questioned right here" and the very next day after he has
21 accepted to do a polygraph, Senior phones up and says he's
22 not doing it. Doesn't that sound a little ---

23 **MR. DEROCHIE:** It certainly does.

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

25 **MR. ENGELMANN:** So just quickly with respect

1 to Ron Lefebvre and your statement from him, it's this one
2 -- by the way, the one with Willis was it taped?

3 **MR. DEROCHIE:** It was.

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

5 And the one with Ron Lefebvre was taped as
6 well?

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

8 **MR. ENGELMANN:** And I think we have a
9 transcript of that at 740344.

10 **THE COMMISSIONER:** I'm sorry, Mr. Engelmann,
11 I am going to have to go back.

12 From a Professional Standards' position,
13 right, if a fellow police officer would have phoned up the
14 father and said, "Listen, you should know that your son is
15 at the station right now" wouldn't that be a breach of a
16 police investigation? Wouldn't it be a breach of letting
17 some pertinent confidential information getting out and
18 possibly compromising an investigation?

19 **MR. DEROCHIE:** It has that potential, yes,
20 it does.

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

22 Sorry, Mr. Engelmann, I'll leave you alone
23 now.

24 **MR. ENGELMANN:** Let's just deal very briefly
25 with the witness statement from Ron Lefebvre, sir. Do you

1 have it in front of you?

2 **THE COMMISSIONER:** No, it's coming now.

3 **MR. ENGELMANN:** Okay. It's says, "Will Say
4 statement March 29th, 01."

5 **THE COMMISSIONER:** Thank you, Exhibit P-
6 1371.

7 --- **EXHIBIT NO./PIÈCE NO. P-1371:**

8 (740344) Will Say Statement by Cst.

9 Lefebvre with CPS Garry Derochie - 29

10 Mar 01

11 **MR. ENGELMANN:** And Staff Sergeant Derochie,
12 you will see on the third page in 7180104 several of those
13 questions I would have taken you through, the set
14 questions.

15 Do you see them there?

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** What I am really curious
18 about is on the following page, 105, you know after you
19 asked the question -- and this was a set question too:

20 "Explain why no charges were laid
21 against Earl Landry, Jr. at the
22 conclusion of your investigation in
23 1985."

24 Okay. That was one of your set questions?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** And he says:

2 "Well, if memory serves me correctly,
3 at one point I know I had consulted
4 with a Crown."

5 Okay, and so there is a reference to
6 consulting with a Crown:

7 Again, if memory serves me correctly,
8 and I'm pretty sure that's the case, I
9 recall that the probability of
10 conviction at the trial -- the kid at
11 the time was mentally challenged. I'm
12 trying to think back about the photo
13 line up as well. I don't -- I can't
14 say 100 percent that he could not
15 identify Earl Landry in the picture but
16 there is something about the photo line
17 up that was -- again did not help the
18 investigation at all. There just
19 wasn't enough to go ahead with the
20 charge -- enough evidence to go ahead
21 with the charge."

22 Now, sir, by this point in time you would
23 have been aware, would you not, of Sergeant Snyder's
24 investigation that took place in 1997?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** And presumably you would
2 have been aware of the fact that Ron Lefebvre would have
3 prepared a Will Say? There would have been a Will Say
4 Statement from Ron Lefebvre in that matter?

5 **MR. DEROCHIE:** Yes.

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

7 And in that Will Say Statement he talks
8 about a positive ID. There is no issue about a problem
9 with identification, and you and Snyder are interviewing
10 him here three years later and all of a sudden.

11 **MR. DEROCHIE:** Are we talking about the the
12 same case?

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

14 **MR. DEROCHIE:** I know there was a transcript
15 of a tape in that investigation where he was -- where he
16 was identified but I don't recall that. Could you bring me
17 to that segment?

18 **MR. ENGELMANN:** Well, I can bring you the
19 witness statement. I haven't given notice on it and if we
20 go here ---

21 **THE COMMISSIONER:** No, no, there is
22 someplace else as well where it said -- I read it today --
23 where identification is not a problem. Is that what you're
24 ---

25 **MR. ENGELMANN:** Yeah. It's -- well, it's in

1 his '85 notes but it's also in the 1997 witness statement,
2 which presumably is part of the Crown brief, where -- and
3 we'll take Sergeant Lefebvre through this but it says:

4 "A photo line-up was subsequently made.

5 I returned to the..." --

6 this is the house. I don't want to mention the name:

7 "...where he was positively identified.

8 Due to the unusual circumstances

9 surrounding the suspect, I requested

10 the presence of Staff Sergeant Willis

11 for the interview with Mr. Landry,

12 which occurred within days of positive

13 identification."

14 So, again, in the witness statement that's

15 been given, the Will Say with Sergeant Snyder on the

16 criminal allegations, positive identification -- three

17 years later when you're looking at your own criminal

18 investigations, all of a sudden there's some doubt. Is

19 that -- there's no -- and there's no questioning here of

20 Lefebvre about why he's changing his story on that or why

21 he's not so sure anymore and Sergeant Snyder must have been

22 aware of that and presumably, sir, you would have had some

23 knowledge of the criminal file that ---

24 **MR. DEROCHIE:** Well, no, beyond the -- when

25 I was doing the review, the administrative review of that,

1 I was looking at just at the timelines. I was -- I wasn't
2 looking ---

3 **MR. ENGELMANN:** Okay.

4 **MR. DEROCHIE:** --- at the merits of the
5 investigations. I don't -- that wouldn't have stuck out to
6 me. I don't know if I would have known that.

7 I was always under the belief that the
8 identity of the -- of Earl Landry, Jr. was at question.

9 **MR. ENGELMANN:** Well, in fact, I'm just
10 wondering how that could have been?

11 **MR. DEROCHIE:** I don't know.

12 **MR. ENGELMANN:** We'll ask Sergeant Lefebvre
13 about that.

14 Sir, very briefly, there was another person
15 that you received a statement from, not just former Chief
16 Shaver, there was a fellow by the name of Brisson that you
17 received a statement from?

18 **MR. DEROCHIE:** Oh yeah, I received a
19 telephone call. I subsequently had Snyder take a
20 statement, yes.

21 **MR. ENGELMANN:** Okay. So after receiving a
22 telephone call, I believe it was on October 19th, you got a
23 statement from a fellow by the name of Paul-Guy Brisson on
24 October 20th?

25 **MR. DEROCHIE:** He's our -- he was a civilian

1 photographer ---

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

3 **MR. DEROCHIE:** --- attached to the Forensic
4 Identification Unit at the time.

5 **MR. ENGELMANN:** And it's Document
6 Number 739986.

7 **(SHORT PAUSE/COURTE PAUSE)**

8 **THE COMMISSIONER:** Thank you.

9 Exhibit Number 1372 is internal
10 correspondence, October 20th, 2000, to Sergeant Garry
11 Derochie from Paul-Guy Brisson.

12 --- **EXHIBIT NO./PIÈCE NO. P-1372:**

13 (739986) Internal Correspondence from
14 Mr. Paul-Guy Brisson to Garry Derochie
15 - October 20, 2001

16 **MR. DEROCHIE:** Yes. It may be that I
17 received this statement and had Sergeant Snyder do the
18 follow-up to ---

19 **MR. ENGELMANN:** Yes.

20 **MR. DEROCHIE:** --- to track things down,
21 yeah. So actually I must have told him to give me a
22 statement to that effect.

23 **MR. ENGELMANN:** Sir, just so you can refresh
24 your memory, if you look at Exhibit 1361, that is the 1361,
25 your notes, the reference on October 19th, 2000, Bates page

1 7181343, right at the bottom of the page:

2 "Received info from Mr. G. P. Brisson.
3 He recalls the Landry, Jr. matter being
4 investigated. He looked for notes and
5 negatives."

6 Was he -- he was in I.D.?

7 **MR. DEROCHIE:** He was in Forensic
8 Identification, yes.

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

10 "He found none. Will Say to be
11 submitted."

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** Then on October 20th, you get
14 1372 from him?

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** And then you ask Snyder to
17 follow up?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** If you look at your notes,
20 at the bottom of page 7181344?

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

22 **MR. ENGELMANN:** "Received a statement as
23 follow-up to my conversation with Mr.
24 Brisson. He indicates that in the late
25 '70s/early '80s, he recalls that

1 Sergeant Masson investigated an
2 allegation against Landry, Jr."

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** "Spoke to Snyder and
5 instructed him to follow up with
6 Brisson and Masson."

7 Do you know if Snyder, in fact, did that?

8 **MR. DEROCHIE:** He did.

9 **MR. ENGELMANN:** With both of them or just
10 with one of them?

11 **MR. DEROCHIE:** I would assume he would
12 follow up with both of them.

13 **MR. ENGELMANN:** All right. We'll ask him.
14 Sir, the other witnesses, I'll -- we'll have
15 some questions for Sergeant Snyder about.

16 Did you -- you then prepared -- and we
17 looked at this earlier -- Exhibit 1360. It is entitled
18 "General Occurrence Report"?

19 **MR. DEROCHIE:** Yes.

20 **MR. ENGELMANN:** Would you agree with me,
21 sir, that that is a draft?

22 **MR. DEROCHIE:** It is, yes.

23 **MR. ENGELMANN:** All right. Was it ever
24 finalized, to your knowledge? We didn't see a final
25 occurrence report.

1 **MR. DEROCHIE:** I don't -- it would have been
2 finalized in the supplement report. The investigation
3 would -- oh, you mean this particular?

4 I think that was a synopsis I put together
5 in anticipation that we -- if we recovered any evidence, we
6 would be going to the Crown with, but ---

7 **MR. ENGELMANN:** Okay. So this Document 1360
8 is a draft? Because it says, for example, at the front it
9 says, "Text of report being prepared". Do you see that?

10 **MR. DEROCHIE:** Yes, when I open the incident
11 number, I open the incident number with a -- with just a
12 one-liner on the general occurrence report which was
13 exactly that, "Text of the General Occurrence Report is
14 being prepared" and this was -- I was preparing this report
15 ---

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

17 **MR. DEROCHIE:** --- as we went -- as we got
18 the information.

19 **MR. ENGELMANN:** And just on the last page,
20 it says:

21 "Insert results of Malloy's inquiries
22 with the Crown."

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

24 **MR. ENGELMANN:** That never happened, right?
25 Or did it?

1 **MR. DEROCHIE:** I didn't insert it, no, but
2 we did get follow-up from that.

3 **MR. ENGELMANN:** All right. Because I'm just
4 wondering if this report was ever finalized, that's what
5 I'm saying. It doesn't appear like ---

6 **MR. DEROCHIE:** No, this would have been --
7 this would have been the synopsis I would have used under -
8 - to prepare a Crown brief for the Crown, that's why it
9 says "Synopsis" on the top of it.

10 And you're quite right, it was never
11 finished because it never went to the Crown.

12 **MR. ENGELMANN:** It was never a Crown brief?

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

14 **MR. ENGELMANN:** All right. And would you
15 have prepared this document on your own or would Sergeant
16 Snyder have assisted?

17 **MR. DEROCHIE:** I would have -- I would have
18 prepared the document with possibly input from Snyder.

19 **MR. ENGELMANN:** I just have a couple of
20 questions on it and I'm just going to just be one minute.

21 **(SHORT PAUSE/CAUSE PAUSE)**

22 **MR. ENGELMANN:** There's a reference -- and I
23 think we've looked at this earlier -- on Bates page
24 7181273?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** It says, "The Statement of
2 Claim allegation suggests"?

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** Is that your view, sir?
5 You're saying that -- that civil allegations could equate
6 to those particular criminal charges. At the time, that
7 was your view?

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** And on the following page,
10 sir, there's a reference about four paragraphs up from the
11 bottom:

12 "There's evidence to suggest that the
13 investigator continued making inquiries
14 in an attempt to obtain corroborating
15 evidence."

16 And I'm just wondering, sir, what, if any,
17 evidence is being referred to there?

18 Because, as I said, we don't see anything at
19 all past a reference on June 27th, 1985 to an indication
20 that a polygraph is not going to be done.

21 **MR. DEROCHIE:** It escapes me right now. I
22 don't know what I was referring to there.

23 **MR. ENGELMANN:** It's an important point
24 though; isn't it sir?

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

1 **MR. ENGELMANN:** It's an important point; is
2 it not?

3 **MR. DEROCHIE:** Yes, and I -- the only thing
4 that comes to my mind at the top of the head is Lefebvre
5 pointing to that whole idea of speaking with Alan Ain and
6 working with the CAS, so ---

7 **MR. ENGELMANN:** All right. But again, the
8 only reference anywhere in any notes to any conversation
9 with Alain -- Alan Ain is the social encounter that Shaver
10 has.

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

12 **MR. ENGELMANN:** And I'm wondering you know,
13 again, making inquiries in an attempt to obtain
14 corroborating evidence; that wouldn't be speaking to the
15 Crown presumably?

16 **MR. DEROCHIE:** No, I don't know why ---

17 **MR. ENGELMANN:** This suggests that something
18 happened after June 27th and aside from a reference in a
19 meeting where we have a victim who has two perpetrators,
20 and the CAS is looking at it and comes up, I mean, we don't
21 see any reference to anything further being done to
22 corroborate and we know how this was left. This was -- it
23 was suggested that these allegations back in 1985 were
24 unfounded.

25 **MR. DEROCHIE:** Yes, exactly. I'm sorry; I

1 haven't got an explanation for that.

2 MR. ENGELMANN: All right. I mean there is
3 not any evidence to suggest that the investigator asked
4 either the victim or his mother for the names of other boys
5 that frequented the park.

6 MR. DEROCHIE: I have no evidence of that.

7 MR. ENGELMANN: No. Or that they spent time
8 -- other boys spent time with Earl Landry, Jr.?

9 MR. DEROCHIE: You're right, I have no -- I
10 never found any evidence to that.

11 MR. ENGELMANN: Did you find any evidence
12 that the investigators asked other park staff for names of
13 other boys that frequented the park and spent time with
14 Earl Landry, Jr.?

15 MR. DEROCHIE: I didn't get the first part
16 of it?

17 MR. ENGELMANN: Did you find any evidence
18 that the investigators asked other park staff for the names
19 of other boys that frequented the park and might have spent
20 time with Earl Landry, Jr.?

21 MR. DEROCHIE: They did speak to other
22 employees of the park; I don't know what the extent of
23 their -- I can't recall what the extent of their
24 questioning would have been.

25 MR. ENGELMANN: And so there was no evidence

1 to suggest that there was any surveillance conducted; was
2 there?

3 MR. DEROCHIE: Surveillance of the park?

4 MR. ENGELMANN: Yes.

5 MR. DEROCHIE: No, other than that one visit
6 they made to get the picture; that's the only thing that I
7 found.

8 MR. ENGELMANN: Was there any evidence that
9 the investigators suggested any form of medical examination
10 of the victim?

11 MR. DEROCHIE: No. It's my understanding
12 that did take place though. Was that something they
13 discussed with CAS, I ---

14 MR. ENGELMANN: Yes. Well, it does come up
15 as a result of the CAS.

16 MR. DEROCHIE: Yeah. But at the time,
17 Lefebvre is working with CAS and its victim.

18 MR. ENGELMANN: And sir ---

19 MR. DEROCHIE: He may have said something to
20 me; I don't recall.

21 MR. ENGELMANN: All right. A little further
22 down on that same page, second-last paragraph from the
23 bottom:

24 "Lefebvre and CAS case worker John
25 Dupuis..."

1 I'm not sure if I am pronouncing that
2 correctly.

3 **THE COMMISSIONER:** Yeah.

4 **MR. ENGELMANN:** "...worked together on
5 this particular investigation during
6 at least some of the time when the
7 Landry, Jr. investigation was still
8 active."

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** Well, again, we talked about
11 that. They weren't really working in any kind of joint
12 capacity on Earl Landry, Jr. It was on this other fellow.

13 **MR. DEROCHIE:** Yes, that's what the notes
14 are all about, yes. But they were -- they had to be
15 working together because they referenced in the letters is
16 with regards to Earl Landry -- I'm talking about the letter
17 from Dr. Park now ---

18 **MR. ENGELMANN:** The letter that ---

19 **MR. DEROCHIE:** --- that does reference the
20 both of them. It was apparent to me that they were working
21 together although there was no -- they were sharing
22 information obviously.

23 **MR. ENGELMANN:** But yet, you told us that
24 that information wasn't shared with the CPS, the medical
25 letter.

1 **MR. DEROCHIE:** Well, part of it was. I did
2 -- no, you're right. I didn't -- I saw the letter in 1998,
3 '99 when I was doing the review. Whether Ron Lefebvre saw
4 that; I can't recall if he told me he did or not.

5 **MR. ENGELMANN:** It would have been very
6 helpful to see a letter of that nature at the time.

7 **MR. DEROCHIE:** Yeah, and I don't -- I
8 wouldn't be able to explain why that information wasn't
9 shared, you know. That's why it's obvious to me that it
10 probably was but I shouldn't make -- I can't -- there is no
11 evidence of it, you're quite right, getting back to your
12 question.

13 **MR. ENGELMANN:** All right. And some of this
14 may have been covered in the discussion with the
15 Commissioner, so I may just touch upon it but let me just
16 find the reference here.

17 Yes, the final page, 278, this paragraph:
18 "There remains the allegation that
19 Landry, Sr. influenced the
20 investigation in his capacity as former
21 chief of police. There exists but one
22 fact which one could suggest supports
23 this theory: Landry, Sr. did call
24 Willis on Thursday, June 27th, '85 and
25 informed him that Landry, Jr. would not

1 be submitting to a polygraph test.
2 This is the only instance uncovered
3 where Landry, Sr. played any kind of a
4 role in the '85 investigation. That
5 involvement would not appear to
6 constitute a criminal act."

7 Well sir, as a matter of fact, you know that
8 Earl Landry, Sr. spoke to the chief, Claude Shaver, on June 26th,
9 1985.

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** So there wasn't just the one
12 interaction, there were two at the very least; correct?

13 **MR. DEROCHIE:** Correct.

14 **MR. ENGELMANN:** All right. And sir, you
15 agree that a suspect may refuse to take a polygraph test?

16 **MR. DEROCHIE:** Oh, sure.

17 **MR. ENGELMANN:** Sir, you know that -- was it
18 of any significance to you that it was Earl Landry, Sr. who
19 called Staff Sergeant Willis and not the suspect himself?

20 **MR. DEROCHIE:** No.

21 **MR. ENGELMANN:** Was it of any significance
22 to you that Earl Landry, Sr. had learned of the complaint
23 directly from Chief Shaver during the course of the
24 investigation; during those 45 hours?

25 **MR. DEROCHIE:** No, I didn't see anything

1 sinister in that, personally.

2 MR. ENGELMANN: Was it at all significant
3 sir that Earl Landry, Sr. communicated with Staff Sergeant
4 Willis who had not only worked under him but was a friend
5 of the family?

6 MR. DEROCHIE: No.

7 MR. ENGELMANN: Sir, would you agree that
8 the fact that the call came from the former chief could
9 have had some influence?

10 MR. DEROCHIE: On Stan Willis?

11 MR. ENGELMANN: Yes.

12 MR. DEROCHIE: No.

13 MR. ENGELMANN: And Staff Sergeant Willis
14 essentially said nothing further was done after the call;
15 fair enough?

16 MR. DEROCHIE: Fair enough.

17 MR. ENGELMANN: There's no indication that
18 he looked beyond this advice given by Earl Landry, Sr. and
19 looked into it?

20 MR. DEROCHIE: The advice to who? Earl,
21 Jr.?

22 MR. ENGELMANN: The advice that was given to
23 your Force that he wasn't going to take the polygraph after
24 he had agreed earlier.

25 THE COMMISSIONER: I'd change the word

1 "advice" ---

2 MR. ENGELMANN: Okay.

3 THE COMMISSIONER: --- because advice
4 purports to ---

5 MR. DEROCHIE: Yeah, it was ---

6 MR. ENGELMANN: Certainly.

7 MR. DEROCHIE: Yeah, no, I didn't, no.

8 MR. ENGELMANN: And there is no indication
9 that anyone ever talked to Earl Landry, Sr.; is there sir?

10 THE COMMISSIONER: Senior or Junior?

11 MR. ENGELMANN: Senior.

12 MR. DEROCHIE: Senior.

13 THE COMMISSIONER: Senior, okay.

14 MR. DEROCHIE: No.

15 MR. ENGELMANN: And neither you nor Sergeant
16 Snyder did in the course of your investigation either; did
17 you ---

18 MR. DEROCHIE: No.

19 MR. ENGELMANN: --- to ask him whether he'd
20 influenced or tried to influence any of your members?

21 MR. DEROCHIE: No.

22 MR. ENGELMANN: Would you agree, sir, that
23 he could have been a suspect given the nature of the
24 complaint that was initiated by Chief Repa?

25 MR. DEROCHIE: Had we found any evidence

1 whatsoever that there was any kind of a suggestion that he
2 may have, then certainly we would have interviewed him.
3 But ---

4 **MR. ENGELMANN:** Why wouldn't you have just
5 interviewed him?

6 **MR. DEROCHIE:** We were satisfied that
7 nothing had occurred. I was satisfied to that effect.
8 Brian Snyder was satisfied to that effect and ultimately, I
9 guess, Chief Repa was satisfied.

10 **MR. ENGELMANN:** Did you ever try and speak
11 Earl Landry, Jr. about it?

12 **MR. DEROCHIE:** No. I'd have to look at the
13 list of witnesses. I know his wife was interviewed by
14 Snyder but I ---

15 **MR. ENGELMANN:** I didn't see any reference
16 to either Senior or Junior being interviewed by either you
17 or Sergeant Snyder.

18 **MR. DEROCHIE:** Didn't see it in the
19 occurrence report, the list of supplement reports or
20 witness statements?

21 **MR. ENGELMANN:** I didn't, sir, but I could
22 be mistaken. I saw a reference to ---

23 **MR. DEROCHIE:** And I don't recall seeing it
24 specifically. It seems to me that I remember seeing the
25 wife's name and ---

1 **MR. ENGELMANN:** Oh, okay.

2 **MR. DEROCHIE:** --- but I don't recall -- I'm
3 just trying to think now.

4 **MR. ENGELMANN:** Are you talking about the
5 criminal investigation back in 1997 or are you talking
6 about your investigation in the year 2000-2001?

7 **MR. DEROCHIE:** I'm not sure now.

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

9 **MR. DEROCHIE:** I'm not sure that we didn't
10 use some of those.

11 **MR. ENGELMANN:** All right. Because I just -
12 - I didn't see any reference to your ---

13 **MR. DEROCHIE:** Yeah.

14 **MR. ENGELMANN:** --- you or Sergeant Snyder
15 trying not talk to either of the Landry's, either Senior or
16 Junior.

17 **MR. DEROCHIE:** Again, I may be confusing the
18 two, but Snyder was ideal for this investigation simply ---

19 **MR. ENGELMANN:** We can ask him.

20 **MR. DEROCHIE:** Yeah. And -- simply because
21 he had investigated the successful prosecution or the
22 allegations that were ultimately, successfully prosecuted.
23 So he had an awful lot of insider information ---

24 **MR. ENGELMANN:** We'll ask him.

25 **MR. DEROCHIE:** And could have -- yes.

1 this out or ---

2 MR. DEROCHIE: Oh, no, this would be -- you
3 know, if he was preparing -- he was preparing a criminal
4 investigation. He would include it. I would -- he would
5 include himself as a witness and he would produce a Will
6 Say. A statement.

7 MR. ENGELMANN: All right. Okay. So this
8 is something he wrote out for you?

9 MR. DEROCHIE: Well, yes.

10 MR. ENGELMANN: All right. It's not -- you
11 didn't sit down and interview him and he gave you these
12 answers? This is something he wrote out and ---

13 MR. DEROCHIE: Oh, no, he's the investigator
14 and he's putting in his Will Say to a criminal
15 investigation as to what ---

16 MR. ENGELMANN: Fair enough.

17 MR. DEROCHIE: --- he did.

18 MR. ENGELMANN: All right.

19 THE COMMISSIONER: And there should be a
20 stamp on this document as well with respect to publication
21 ---

22 MR. ENGELMANN: Yes, that's right.

23 The name appears right in the first
24 paragraph, sir. I apologize.

25 THE COMMISSIONER: M'hm.

1 **MR. ENGELMANN:** Now, he appears to conclude
2 for his last investigative step -- I'm looking at Bates
3 page 7181305. It would be on March 9th, 2001.

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** Is that correct?

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** All right. And, sir, your
8 last notes on this, if I can turn back to your notes in
9 1363, you have a note on the last page, Bates page 7181372,
10 that you received Snyder's notes and Will Say of someone
11 else? As well, there's a name mentioned there. That's May
12 25th, 2001; correct?

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

14 **MR. ENGELMANN:** And then in your next series
15 of notes, 1364, your last note on this matter, and that's
16 all it really is, is a note and there are several things
17 blacked out before, so I'm assuming there might have been
18 some solicitor-client privilege issues. The very last note
19 is, "Derochie got a reference August 16th, '01".

20 I'm not sure if that's dealing with the
21 criminal matter or the civil matter?

22 **MR. DEROCHIE:** It's a civil matter.

23 **MR. ENGELMANN:** All right. So then your
24 last note on the criminal matter would appear to have been
25 in May of 2001.

1 Then, sir, there is a very brief
2 supplementary occurrence report, and it's Doc Number
3 740561. It's dated February 12th, 2002.

4 **THE COMMISSIONER:** Thank you.

5 Exhibit 1374, I'm sorry, is a supplementary
6 occurrence report and it's dated the sixth -- the 30th of
7 the sixth month, 2000.

8 **--- EXHIBIT NO./PIÈCE NO. P-1374:**

9 (740561) Supplementary Occurrence Report -
10 February 12, 2002

11 **MR. DEROCHIE:** I'm sorry? The ---

12 **THE COMMISSIONER:** Exhibit 1374 is the ---

13 **MR. ENGELMANN:** This is this matter again,
14 sir, is it not?

15 **MR. DEROCHIE:** It is. But the date that you
16 quoted, sir?

17 **MR. ENGELMANN:** February 12th?

18 **THE COMMISSIONER:** No, I -- 1374? I've got
19 the 30th of May, I guess, 2000. That ---

20 **MR. ENGELMANN:** Oh, I'm sorry, that's the
21 date of the occurrence, sir.

22 **THE COMMISSIONER:** All right.

23 **MR. ENGELMANN:** It's suggested actually,
24 that would be June 30th I think, 2000?

25 **THE COMMISSIONER:** Okay.

1 **MR. ENGELMANN:** But the actual timing of
2 this ---

3 **THE COMMISSIONER:** Well, it's just ---

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

5 **MR. ENGELMANN:** Mr. Derochie would be -- you
6 prepared this on February 12th, 2002?

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

8 **THE COMMISSIONER:** Sorry, okay.

9 And that's where you determined that the
10 investigation was determined to be unfounded?

11 **MR. ENGELMANN:** I'm just wondering, sir, you
12 have virtually no references in the preceding year. You
13 have a minor note on May 25th, 2001 and then it's two months
14 before then. I think it's back in March when there's an
15 occurrence report entered. This is now February of 2002.

16 **MR. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** Do you know why such a
18 delay, sir?

19 **MR. DEROCHIE:** I do not.

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

21 **MR. DEROCHIE:** Other than possibly we're
22 waiting for the results of the civil action.

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

24 **MR. DEROCHIE:** Possibly.

25 **MR. ENGELMANN:** You weren't waiting for a

1 Crown because that ---

2 MR. DEROCHIE: No. No, we -- no.

3 MR. ENGELMANN: Okay. And, sir, earlier on
4 you were referred to a note that -- where the Chief was
5 reminding you about provincial guidelines ---

6 MR. DEROCHIE: Yes.

7 MR. ENGELMANN: --- requiring police
8 officers who are investigating alleged wrongdoing by peace
9 officers to seek the assistance of regional Crowns for
10 appropriate legal advice.

11 I understand that you called the Policing
12 Standards Advisor ---

13 MR. DEROCHIE: Policing Services Advisor.

14 MR. ENGELMANN: All right. And that was --
15 let me just find the note for you. It's Exhibit 1362.

16 THE COMMISSIONER: M'hm.

17 MR. ENGELMANN: I believe there's a
18 reference; I'm just going to find it.

19 It's Bates page 7181354. This is a note
20 from ---

21 MR. DEROCHIE: Yes.

22 MR. ENGELMANN: --- December 18th of 2000?

23 MR. DEROCHIE: Yes.

24 MR. ENGELMANN: And you called a fellow by
25 the name of Paul Sweet?

1 MR. DEROCHIE: That's correct.

2 MR. ENGELMANN: And he's you're ---

3 MR. DEROCHIE: Policing Services ---

4 MR. ENGELMANN: --- Consultant?

5 MR. DEROCHIE: Correct.

6 MR. ENGELMANN: You asked him if there was a
7 provincial direction re sending briefs to Regional Crown
8 attorney when serious allegations of criminal misconduct on
9 the part of the PS -- of a police officer is alleged?

10 MR. DEROCHIE: Yes.

11 MR. ENGELMANN: Regardless as to the merits
12 of the allegation?

13 MR. DEROCHIE: Right.

14 MR. ENGELMANN: "He told me there were no
15 guidelines in place".

16 MR. DEROCHIE: Right.

17 MR. ENGELMANN: "However, he felt that it
18 would be a good practice to do so".

19 MR. DEROCHIE: Yes.

20 MR. ENGELMANN: So you did get that advice
21 as well?

22 MR. DEROCHIE: Let the Crown make the
23 decision, yeah.

24 MR. ENGELMANN: Sorry?

25 MR. DEROCHIE: Was -- let the Crown make

1 that decision.

2 MR. ENGELMANN: Right.

3 MR. DEROCHIE: You know, cover yourself, let
4 the Crown make it.

5 MR. ENGELMANN: But you did not do that?

6 MR. DEROCHIE: No. There was no -- there
7 was absolutely no evidence to support the preparing a brief
8 for a Crown.

9 MR. ENGELMANN: All right. Do you recall
10 that it says, "Let the Crown" and then it just sort of ---

11 MR. DEROCHIE: Yeah, it ---

12 MR. ENGELMANN: Can you help us out there?

13 MR. DEROCHIE: I think it was let the Crown
14 make the call, you know.

15 MR. ENGELMANN: All right.

16 MR. DEROCHIE: Why bother -- why you? You
17 know, protect yourself; let the Crown make the call.

18 MR. ENGELMANN: All right.

19 So the Chief's suggesting you do it, the
20 consultant suggesting you do it, the regional Crown that
21 you consulted on the Dunlop matter says do it, but you
22 don't do it.

23 MR. DEROCHIE: There is no evidence of a
24 criminal act.

25 MR. ENGELMANN: Yeah, but they are saying

1 regardless of the merits you should do it.

2 **MR. DEROCHIE:** Yeah, but it's deflecting the
3 responsibility that I have as a police officer, as an
4 investigator to form R&PGs to at least produce some
5 evidence for a Crown attorney. If I produce a brief for a
6 Crown attorney that says we didn't find anything are you
7 going to agree with that, that that seems to be a little
8 pointless for a Crown to do that?

9 **MR. ENGELMANN:** No, I would have thought
10 that you would do that right at the outset or soon after
11 the outset just to make sure that there is no suggestion,
12 no apparent conflict; nothing.

13 **MR. DEROCHIE:** No, sorry, didn't do that.

14 **MR. ENGELMANN:** And sir, you don't recall if
15 there was a relationship between the ending of the civil
16 matter and the conclusion of the criminal investigation;
17 the timing?

18 **MR. DEROCHIE:** No, the investigation was
19 completed when Snyder submitted his Will Say. That would
20 be the actual stop -- he is reporting on what he had done.

21 **MR. ENGELMANN:** Okay, but ---

22 **MR. DEROCHIE:** So that would have been, as
23 you said, I think it was March 9th, 2001.

24 Yes, you're right, did we finally classify
25 the incident; no. We waited.

1 **MR. ENGELMANN:** Right.

2 **MR. DEROCHIE:** I am suggesting that that was
3 a possibility that we waited until the civil action was
4 done to see if some other information came forward.

5 **MR. ENGELMANN:** Okay, all right.

6 Just be a moment.

7 **(SHORT PAUSE/COURTE PAUSE)**

8 **MR. ENGELMANN:** It was pointed out to me,
9 sir, that there were a few areas in your evidence that I
10 did not get to dealing with some of the disclosure issues
11 post-2000. I'd like to just deal with them very quickly.
12 So we are changing tracks completely. We are not dealing
13 with Earl Landry, Jr. anymore; just a few areas maybe that
14 we can cover about some of the disclosure issues between
15 you and the Crown and you and the OPP involving essentially
16 Dunlop documents.

17 **MR. DEROCHIE:** Subsequent to ---

18 **MR. ENGELMANN:** 2000.

19 **MR. DEROCHIE:** --- May of 2000?

20 **MR. ENGELMANN:** Yes.

21 **MR. DEROCHIE:** Okay.

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

23 So I understand, for example, as early as
24 January of 2000 you were receiving requests from a Crown
25 attorney by the name of Shelley Hallett for materials

1 pertaining to Project Truth files that had been produced by
2 Perry Dunlop. Do you recall that, sir?

3 **MR. DEROCHIE:** Yes, after I issued him order
4 I did ---

5 **MR. ENGELMANN:** Exactly, right after you
6 issued the order.

7 **MR. DEROCHIE:** Yes.

8 **MR. ENGELMANN:** You received this request
9 and she would have written you a letter to that effect and
10 then you would have had a meeting, as I understand it, with
11 her and two OPP officers in April of 2000.

12 **MR. DEROCHIE:** Oh, yes; yes.

13 **MR. ENGELMANN:** Genier and Dupuis.

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

15 **MR. ENGELMANN:** And that was in order for
16 them to review, as I understand it, nine banker boxes of
17 potential disclosure.

18 **MR. DEROCHIE:** Yes, she came in to see what
19 these nine banker boxes were all about.

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

21 **MR. DEROCHIE:** She wanted an idea of what
22 physically they were.

23 **MR. ENGELMANN:** And in fact, sir, at that
24 time did you have a tenth box that had some material of
25 your own?

1 **MR. DEROCHIE:** Yes, there was some -- there
2 was some confusion here whether there was nine or ten
3 boxes.

4 **MR. ENGELMANN:** And the tenth box would have
5 contained what, sir?

6 **MR. DEROCHIE:** The tenth box were
7 photocopies of everything that had been disclosed to me,

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

9 **MR. DEROCHIE:** And I had subsequently given
10 that box to Detective Desrosiers to make sure, just you
11 know as an abundance of caution to go through it for the
12 Lalonde trial.

13 **MR. ENGELMANN:** And sir, had you reviewed
14 all of the material prepared by Mr. Dunlop yourself or had
15 you assigned someone else that task?

16 **MR. DEROCHIE:** I assigned -- I assigned
17 Detective Desrosiers to look through that and he was
18 working with Genier. Genier had knowledge of Project Truth
19 files. So between the two of them if there was anything
20 new we should have -- it was just an extra step we had
21 taken.

22 **MR. ENGELMANN:** So the two of them reviewed
23 the boxes?

24 **MR. DEROCHIE:** They reviewed my tenth box,
25 yes.

1 **MR. ENGELMANN:** Oh, okay. Did they review
2 the other nine boxes as well, sir, to your knowledge?

3 **MR. DEROCHIE:** Not in my presence certainly
4 but they did take -- I turned those boxes over to them and
5 they took them away and I understand that they were to
6 review them.

7 **MR. ENGELMANN:** All right.
8 And these boxes were turned over to the OPP?

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

10 **MR. ENGELMANN:** And I understand that they
11 would have had them for approximately two years?

12 **MR. DEROCHIE:** They had them for some --
13 until Project Truth was done, yes.

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

15 **(SHORT PAUSE/COURTE PAUSE)**

16 **MR. ENGELMANN:** I will just be a moment,
17 sir.

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

19 **(SHORT PAUSE/COURTE PAUSE)**

20 **MR. ENGELMANN:** Madam Clerk, if the witness
21 could be shown -- it's Document Number 738472?

22 These are your notes, Staff Sergeant
23 Derochie, from January 25th, 2002 to June 19th, 2002.

24 **THE COMMISSIONER:** Thank you, Exhibit No. P-
25 1375.

1 **MR. ENGELMANN:** Thank you.

2 **--- EXHIBIT NO./PIÈCE NO. P-1375:**

3 (738472) Officer's notes of Garry

4 Derochie - 19 Jun 02

5 **MR. ENGELMANN:** Staff Sergeant Derochie, if
6 you could just turn -- it's a very brief reference, Bates
7 page 7168117. It's most of the way through the document,
8 about four pages from the back.

9 **MR. DEROCHIE:** I'm there.

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

11 And it appears that you are noting the fact
12 that these files are being returned to you.

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

14 **MR. ENGELMANN:** On June 4th of 2002?

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

16 **MR. ENGELMANN:** My understanding is they
17 would have been given to -- I'll just be a moment.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MR. ENGELMANN:** It would have been asked for
20 at least at the time of the meeting on April 18th, 2000.

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

22 **MR. ENGELMANN:** Or turned over at that time?

23 **MR. DEROCHIE:** They would have had them
24 until this time.

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

1 And sir, the work that Mr. Dunlop had done
2 while he was off on sick leave ---

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** --- did you view that work
5 as the property of the Cornwall Police Service?

6 **MR. DEROCHIE:** I did.

7 **MR. ENGELMANN:** And did you explain that
8 position to Shelley Hallett and the OPP at the time you
9 met?

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

11 **MR. ENGELMANN:** And although I believe your
12 position was that although his activities at the time were
13 not known to you and unauthorized, that he remained a
14 police officer employed by you and therefore you felt the
15 notes were CPS property?

16 **MR. DEROCHIE:** Yes, there was consensus on
17 that I think from a number of sources.

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

19 Now, as I understand it -- I'll just be a
20 moment.

21 As well, at or about that time you received
22 information from the OPP, in particular Inspector Hall,
23 about the names of some potential victims of a fellow by
24 the name of Brian Dufour?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** I may be mispronouncing the
2 last name, Dufour?

3 **MR. DEROCHIE:** Dufour, that's right.

4 **MR. ENGELMANN:** And sir, just by way of
5 background, it's Exhibit 1341.

6 **MR. DEROCHIE:** Yes, the last page?

7 **MR. ENGELMANN:** Yes.

8 And can you give us a sense as to -- when
9 you received this information from Officer Hall, it's my
10 understanding that they were -- were they asking you to
11 investigate this, sir, you being the Cornwall Police
12 Service?

13 **MR. DEROCHIE:** Yes, they were providing this
14 information. They were saying that their dealings with
15 this matter were complete but that there were allegations
16 made here that might be of interest to us.

17 **MR. ENGELMANN:** And these were allegations
18 at a local group home known as Laurencrest?

19 **MR. DEROCHIE:** I don't know what the
20 substance of the allegations were. I just passed it on to
21 Staff Sergeant Carter, as you can see it there.

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

23 You don't recall that Mr. Dufour had been
24 employed at this group home?

25 **MR. DEROCHIE:** Oh, yes. Yes, I'm sorry, I

1 knew that, yes.

2 **MR. ENGELMANN:** Okay.

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** And that the allegations
5 were that he had abused some residents there?

6 **MR. DEROCHIE:** I assume. I don't know what
7 the substance of the allegations were.

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

9 But you turned that information over to one
10 of your colleagues by the name of Sergeant Carter?

11 **MR. DEROCHIE:** He was an acting inspector at
12 the time.

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

14 **MR. DEROCHIE:** Acting Inspector Carter --
15 Richard Carter.

16 **MR. ENGELMANN:** And asked him to look into
17 it and investigate?

18 **MR. DEROCHIE:** Yes.

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

20 **MR. DEROCHIE:** It seems to me, by reviewing
21 these notes, that we're talking about -- oh, no, you're
22 quite right. That's at the very start, yes.

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

24 **MR. DEROCHIE:** No, no, I'm -- I was reading
25 something else into it. There's nothing there.

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

2 To your knowledge, sir, did Staff Sergeant
3 Carter -- or Inspector Carter investigate these
4 allegations?

5 **MR. DEROCHIE:** I don't know what he
6 investigated, to tell you the truth, because it appears to
7 me that the complaint is against the three other
8 individuals that are named there on that page. If we read
9 the -- I might have just read it out of context here.

10 **MR. ENGELMANN:** I meant the -- I think --
11 sorry, I think by this time Mr. Dufour had died.

12 **MR. DEROCHIE:** Yes, they were interested in
13 Mr. Dufour ---

14 **MR. ENGELMANN:** Right.

15 **MR. DEROCHIE:** --- and they were passing
16 this information on to us and saying that this particular
17 individual ---

18 **MR. ENGELMANN:** Yes.

19 **MR. DEROCHIE:** --- made allegations against
20 these three individuals. You might ---

21 **MR. ENGELMANN:** As well?

22 **MR. DEROCHIE:** Yes. You might want to look
23 at those.

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

25 Okay. I want to ask you then a little bit

1 about contact with Assistant Crown Attorney Claudette
2 Wilhelm, and you'll recall that she was prosecuting the
3 Marcel Lalonde matter?

4 MR. DEROCHIE: Yes.

5 MR. ENGELMANN: And I believe you told us
6 already that you sought her assistance in preparing your
7 January 10th order -- January 10th, 2000 order for Perry
8 Dunlop?

9 MR. DEROCHIE: I presented a draft to her
10 for her comments.

11 MR. ENGELMANN: And did you have other
12 meetings or follow up with her, sir?

13 MR. DEROCHIE: It seems to me she faxed me
14 back a copy of the order with some proposals -- with some
15 proposed changes.

16 MR. ENGELMANN: Sir, in addition, as I
17 understand it, you provided her with some notes regarding
18 your activities obtaining disclosure from Constable Dunlop.
19 I'd just like to refresh your memory by showing you a
20 document, if I may.

21 MR. DEROCHIE: Yes, please.

22 MR. ENGELMANN: Document 728235. It's dated
23 August 17th, 2000. It's a letter from Staff Sergeant
24 Derochie to Claudette Wilhelm.

25 (SHORT PAUSE/COURTE PAUSE)

1 **THE COMMISSIONER:** Thank you.

2 Exhibit Number 1376.

3 **--- EXHIBIT NO./PIÈCE NO. P-1376:**

4 (728235) Letter from S/Sgt. Derochie to
5 Claudette Wilhelm - August 17, 2000

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** Does that refresh your
8 memory about what ---

9 **MR. DEROCHIE:** It does. I would have
10 produced a will-say statement ---

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

12 **MR. DEROCHIE:** --- for disclosure purposes.

13 **MR. ENGELMANN:** And when you say a will-say
14 statement for disclosure purposes, a will say talking about
15 the efforts that you had made ---

16 **MR. DEROCHIE:** Exactly.

17 **MR. ENGELMANN:** --- to disclose documents?

18 **MR. DEROCHIE:** Yes, it was in anticipation
19 of me probably or likely being called as a witness.

20 **MR. ENGELMANN:** Yes, there was a criminal
21 trial, I think, later -- well, within a month of that date.

22 **MR. DEROCHIE:** Yes.

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

24 Sir, in 2001, in February, do you recall
25 receiving a telephone call from Crown Attorney Shelley

1 Hallett concerning Justice Colin McKinnon?

2 MR. DEROCHIE: I do.

3 MR. ENGELMANN: All right.

4 My understanding is this is something that
5 took place on February 19th, 2001 and it was a situation
6 where Justice McKinnon wanted to refresh his memory in
7 regards to work he had done for the Cornwall Police Service
8 relevant to Perry Dunlop.

9 MR. DEROCHIE: Yes.

10 MR. ENGELMANN: Okay. If the witness could
11 be shown Document 738470?

12 THE COMMISSIONER: One-three-seven-seven
13 (1377) are notes, number 002254 of G. Derochie, Staff
14 Sergeant; the date of first entry is the 5th of February '01
15 with the last entry 31 May '01.

16 --- EXHIBIT NO./PIÈCE NO. P-1377:

17 (738470) Notes of Garry Derochie -
18 February 9, 2001 to May 31, 2001

19 MR. DEROCHIE: The 9th of February, Mr.
20 Commissioner?

21 THE COMMISSIONER: What did I say?

22 MR. DEROCHIE: I thought you said the 5th.

23 THE COMMISSIONER: The 9th.

24 Just checking to see if you were listening,
25 sir.

1 **MR. DEROCHIE:** I was paying attention.

2 **MR. ENGELMANN:** Oh boy.

3 Staff Sergeant Derochie, I think the
4 relevant portion starts on -- it ends with 12, but you've
5 got -- well, if you go the previous page, Bates page
6 7168011, right at the bottom:

7 "Re: Leduc trial. Telephone call from
8 Crown Hallett."

9 **MR. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** So this is where she's
11 calling asking about making arrangements for Justice
12 McKinnon to look at some documents?

13 **MR. DEROCHIE:** Yes.

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

15 And did you in fact take care of this?

16 **MR. DEROCHIE:** I did.

17 **MR. ENGELMANN:** And can you just tell us
18 briefly what happened?

19 **MR. DEROCHIE:** Yes. Justice McKinnon was
20 being challenged at the hearing with regards to his having
21 a conflict.

22 **MR. ENGELMANN:** So he was being asked to
23 recuse himself, sir?

24 **MR. DEROCHIE:** He was.

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

1 **MR. DEROCHIE:** And he hadn't -- he had no
2 recollection of him dealing with us on the Dunlop matter
3 and wanted to refresh his memory as to exactly what role
4 did he play in the early Dunlop matters. This would be the
5 1994 era.

6 **MR. ENGELMANN:** And can you ---

7 **MR. DEROCHIE:** He was in private practice at
8 that time, of course.

9 **MR. ENGELMANN:** Right. And so did he in
10 fact attend at the Cornwall Police Services offices to
11 review documents?

12 **MR. DEROCHIE:** I'm sorry; yes, he did.

13 **MR. ENGELMANN:** And would it have been on
14 that day, February 19th, 2001?

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** And were you present when he
17 reviewed documents, sir?

18 **MR. DEROCHIE:** I was.

19 **MR. ENGELMANN:** Do you recall what kinds of
20 documents he reviewed?

21 **MR. DEROCHIE:** Not specifically. I don't
22 recall what those documents were.

23 **MR. ENGELMANN:** And do you recall having any
24 discussions with him about issues surrounding his
25 involvement with the CPS and Dunlop?

1 **MR. DEROCHIE:** I don't believe there was a
2 discussion. He made comments that he was surprised by the
3 extent of his involvement with Mr. Dunlop and us.

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

5 And he'd been involved, sir, in the handling
6 of the matter in one of the *Police Service Act* charges?

7 **MR. DEROCHIE:** Yes, is my understanding
8 because he drew up the charge sheets.

9 **MR. ENGELMANN:** And ---

10 **MR. DEROCHIE:** He would have been working
11 with Inspector Wells, then Staff Sergeant Wells, to draw up
12 the charge sheets.

13 **MR. ENGELMANN:** In 1994, sir?

14 **MR. DEROCHIE:** In 1994.

15 **MR. ENGELMANN:** Yes. And he attended with a
16 couple of law clerks, as I understand it?

17 **MR. DEROCHIE:** Yes, one from the -- one
18 representing the Crown, one representing the defence.

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

20 And documents were provided to him?

21 **MR. DEROCHIE:** Yes, they were.

22 **MR. ENGELMANN:** And were they also provided
23 to the Defence and the Crown?

24 **MR. DEROCHIE:** I believe they were.

25 **MR. ENGELMANN:** And what steps, if any, did

1 you take following this meeting with Justice McKinnon.

2 MR. DEROCHIE: Well, subsequent to that, he
3 had asked for a letter waiving the privilege ---

4 MR. ENGELMANN: Right.

5 MR. DEROCHIE: --- that were attached so
6 that he could get his whole file from his previous law
7 firm, and the Chief accommodated him.

8 MR. ENGELMANN: So you would have spoken to
9 Carl Johnston who was then the Chief?

10 MR. DEROCHIE: No, I would have spoken to --
11 I was told that the privilege belonged to the current
12 Chief, which was Tony Repa, and Tony Repa provided us with
13 the release.

14 MR. ENGELMANN: All right.

15 Yes, February 19th, 2001. And so after Chief
16 Repa provided that release ---

17 MR. DEROCHIE: Yes.

18 MR. ENGELMANN: --- do you know if you
19 provided any other documents to Justice McKinnon?

20 THE COMMISSIONER: So Justice McKinnon
21 called you -- just so I have the sequence correct, Justice
22 McKinnon comes in with two law clerks?

23 MR. DEROCHIE: That's correct.

24 THE COMMISSIONER: Law students.

25 MR. DEROCHIE: Yes.

1 **THE COMMISSIONER:** All right.

2 Then later that night he calls you at home?

3 **MR. DEROCHIE:** Yes. He was going to make a
4 decision the following morning, so I had left him my home
5 phone number in case he wanted something other, something
6 else.

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

8 It suggests at least on page 7168013 that
9 you provided copies of the relevant documents to Defence,
10 Crown, et cetera. You called Carl Johnston, asked him if
11 he recalled McKinnon's suggestion relative to the Board of
12 Inquiry hearing.

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** You got some advice about
15 that?

16 **MR. DEROCHIE:** Yes. That was the whole
17 issue of we wouldn't prosecute but we'd turn it over to the
18 Public Complaints Commissioner, they would hold a hearing.

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

20 **MR. DEROCHIE:** That advice came from Mr.
21 McKinnon -- or Justice McKinnon.

22 **MR. ENGELMANN:** I'm looking at Bates page
23 7168014. Justice McKinnon was also asked to see the fresh
24 amended Statement of Claim ---

25 **MR. DEROCHIE:** Oh yes.

1 **MR. ENGELMANN:** --- and Statement of
2 Defence?

3 **MR. DEROCHIE:** Yes.

4 **MR. ENGELMANN:** Do you know why he was
5 interested in that?

6 **MR. DEROCHIE:** It escapes me now why he was
7 interested in that.

8 **MR. ENGELMANN:** Do you know if he was
9 involved in that in any way?

10 **MR. DEROCHIE:** No, and he's referring now to
11 Dunlop's action against us.

12 **MR. ENGELMANN:** Yes.

13 **MR. DEROCHIE:** Yeah. No, I don't believe he
14 was involved in that whatsoever.

15 **MR. ENGELMANN:** And you say at the bottom of
16 that page:

17 "Prior to leaving and knowing that the
18 judge would be making a decision in the
19 morning, I provided him my home
20 number."

21 **MR. DEROCHIE:** Yes, that's right. That's
22 where I got that from, yes.

23 **MR. ENGELMANN:** And then you've got a
24 reference on the following page to the fact that he called
25 you at 7:30 the night before; correct?

1 **MR. DEROCHIE:** Yes, that's correct, yes.

2 **MR. ENGELMANN:** Can you tell us a little bit
3 about that call?

4 **MR. DEROCHIE:** Yes. He called and that was
5 the time when he said that it occurred to him now that
6 there was privilege attached to the documents and that he
7 was going to make comments on those documents and requested
8 that the privilege be waived.

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

10 And you're noting that that in fact was done
11 just a bit later on that page?

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

13 **MR. ENGELMANN:** Then you received a call in
14 the morning from the Crown prosecutor?

15 **MR. DEROCHIE:** Yes, at 8:50, yes.

16 **MR. ENGELMANN:** What was she calling about?

17 **MR. DEROCHIE:** She wanted an account of what
18 Mr. McKinnon was involved with with Mr. Dunlop, again,
19 circa 1994.

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

21 And this carries on on Bates page 7168016?

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And can you just tell us
24 what happens that day?

25 **MR. DEROCHIE:** Yes. I went to Mr.

1 McKinnon's or Justice McKinnon's chambers and advised him
2 that the Chief had waived the privilege, and subsequently I
3 was in the courtroom when I heard him -- he would not hear
4 the application of the stay of proceedings.

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

6 So he did recuse himself at that time?

7 **MR. DEROCHIE:** He did at that time, I guess
8 with the proviso that if the argument didn't go, that he
9 would resume. There had been some considerable testimony
10 given at that time, as I recall.

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

12 So was it that the application for a stay
13 would be heard by Justice Chadwick, but if the case was not
14 stayed, he decided he would continue to hear the evidence
15 at the trial?

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

17 **MR. ENGELMANN:** And your notes indicate at
18 Bates page 7168023 that you had further contact with
19 Justice McKinnon? And I'm looking at the reference on --
20 it's either February 24th or 25th.

21 **MR. DEROCHIE:** It would have been the -- on
22 023?

23 **MR. ENGELMANN:** Yes.

24 **MR. DEROCHIE:** This would have been February
25 26th.

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

2 Can you tell us why it is that there was
3 some further contact between you?

4 **MR. DEROCHIE:** He wanted a letter sent to
5 the manager of his previous law firm that would give him
6 that access to the file so that he could -- that we were
7 waiving privilege and that he could in fact do the trial --
8 use the information in his file.

9 **MR. ENGELMANN:** So this was -- he wanted
10 something in writing after the fact to confirm that that
11 privilege had been waived?

12 **MR. DEROCHIE:** Yes. He wanted me to go up
13 there and search his files. I think that's what it was.

14 **MR. ENGELMANN:** Oh, he wanted you to do
15 further work yet, sir?

16 **MR. DEROCHIE:** I can't recall now whether I
17 went up there and looked at his files or that if he just
18 received the -- I shouldn't -- I can't recall, but there
19 was a request for the letter so that he could have access
20 to the file.

21 For some reason, I think I went up there,
22 but it would be in my notes if I did.

23 I remember we faxed the original -- we faxed
24 the letter to the gentleman that he had identified.

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

1 **MR. ENGELMANN:** Sir, I'd just like you to
2 turn to some other notes, if I can.

3 It's, Madam Clerk, 738471.

4 These are notes from June 1st, 2001 to
5 January 24th, 2002.

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

7 **THE COMMISSIONER:** So what's ---

8 **MR. ENGELMANN:** It's a different set of
9 notes. I think I can work off the old one. Let me just
10 check.

11 No, they're from the same timeframe, Madam
12 Clerk, but they are different. The other one was specific
13 to Earl Landry, Jr.

14 **THE COMMISSIONER:** All right.

15 So Exhibit Number 1378 are notes from
16 Detective Sergeant Garry Derochie detailing events from
17 June 1st, 2001 to January 24th, 2002.

18 --- **EXHIBIT NO./PIÈCE NO. P-1378:**

19 (738471) Notes of D/Sgt. Garry Derochie
20 from June 1, 2001 to January 24, 2002

21 **MR. ENGELMANN:** Sir, it's my understanding
22 that on or about January 24th, 2002, you attended at the
23 Long Sault Detachment of the OPP, and the purpose of that
24 attendance was to retrieve your file on the 1993 internal
25 investigation that you had conducted.

1 Do you recall that, sir?

2 **MR. DEROCHIE:** Yes, I recall going and
3 receiving my file, yes.

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

5 And do you recall, sir, why it was -- it's
6 at Bates page 7168070, bottom of the page:

7 "OPP Long Sault picked up my file;
8 given to Insp. Hall on January 19th,
9 2000."

10 And, sir, these notes refer to C-8, so if
11 they could have a publication ban?

12 **THE COMMISSIONER:** Yes, certainly.

13 **MR. ENGELMANN:** Do you recall what -- you
14 apparently had given Inspector Hall this file back in
15 January of 2000. Do you recall, sir, why two years later
16 you were going to retrieve it?

17 **MR. DEROCHIE:** No, I don't. They were
18 through with it. They were done with it.

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

20 Do you recall what the file contained, sir?

21 **MR. DEROCHIE:** It would have contained those
22 documents we spoke of in 1993, that I had received in
23 November of -- or October of 1993 -- yes, '93, when I
24 detailed those -- I had an accordion file.

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

1 **MR. DEROCHIE:** And all of those documents
2 were in there. They had been turned over to Professional
3 Standards. They had been turned over to ---

4 **MR. ENGELMANN:** These are your -- these are
5 the notes we went through in some detail?

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** Okay.

8 **MR. DEROCHIE:** Yes, the package, all those
9 documents.

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

11 Now, on the following page in these set of -
12 - in this set of notes, you refer to a telephone call from
13 Pat Hall and you also refer to a Crown prosecutor by the
14 name of Lorne McConnery?

15 **MR. DEROCHIE:** Yes.

16 **MR. ENGELMANN:** Do you recall, sir, why it
17 was they were seeking to meet with you or Mr. McConnery was
18 seeking to meet with you?

19 **MR. DEROCHIE:** Well, he had -- it has to be
20 because of the ongoing cases that are before the court. I
21 thought he was involved in Project -- the Charlie MacDonald
22 prosecution. I believe he was.

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

24 And he's -- fair enough.

25 He was involved in the -- sorry, the

1 prosecution of Father MacDonald, Mr. McConnery?

2 MR. DEROCHIE: Yes, I believe that's
3 correct. I think he took over from Shelley Hallett, if I'm
4 not mistaken.

5 MR. ENGELMANN: And, sir, do you recall, in
6 fact, just a few days after that being issued a subpoena to
7 attend at a criminal proceeding dealing with Father Charles
8 MacDonald ---

9 MR. DEROCHIE: Yes.

10 MR. ENGELMANN: --- on March 18th, 2002 in
11 Cornwall?

12 MR. DEROCHIE: Yes, I remember getting a
13 subpoena, yes.

14 MR. ENGELMANN: All right.

15 Do you recall if you in fact testified then
16 or whether it was put off?

17 MR. DEROCHIE: Was that the -- no, it was
18 put off, I believe, at that time.

19 MR. ENGELMANN: All right.

20 Sir, if you want to look at your notes,
21 Exhibit 1375, Bates page 7168088?

22 MR. DEROCHIE: Yes, sir.

23 MR. ENGELMANN: Would you have been advised
24 on or about April the 8th, 2002 that there was going to be
25 an 11(b), a Charter challenge brought under 11(b) ---

1 **MR. DEROCHIE:** I was.

2 **MR. ENGELMANN:** --- in the MacDonald matter?

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

4 **MR. ENGELMANN:** And it would concern -- did
5 this concern Mr. Dunlop?

6 **MR. DEROCHIE:** It did.

7 **MR. ENGELMANN:** And in what way, sir?

8 **MR. DEROCHIE:** His dealing with the
9 witnesses and, to some degree, our dealings with Mr.
10 Dunlop.

11 **MR. ENGELMANN:** And Inspector Hall was
12 wanting to know who would be answering for the Cornwall
13 Police Service in this regard?

14 **MR. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** And you were indicating that
16 it was probably going to be you?

17 **MR. DEROCHIE:** It was probably going to be
18 me.

19 **MR. ENGELMANN:** All right.
20 And I understand, sir, that on May 1st, 2002
21 you in fact did testify in that matter?

22 **MR. DEROCHIE:** I did testify, yes.

23 **MR. ENGELMANN:** And you testified about
24 issues of disclosure as it related to Mr. Dunlop and the
25 OPP Project Truth investigation?

1 **MR. DEROCHIE:** Yes.

2 **MR. ENGELMANN:** Can you give us a general
3 sense of what you were asked about, the theme of the
4 questions, from your recollection?

5 **MR. DEROCHIE:** My recollection is that it
6 was concerning the efforts made to get disclosure, the
7 efforts that the Cornwall Police Service made to direct Mr.
8 Dunlop to provide disclosure. It was disclosure issues.

9 **MR. ENGELMANN:** I'm going to ask you a
10 little bit about correspondence or contact you may have had
11 with Mr. Dunlop and/or his solicitors.

12 **MR. DEROCHIE:** Ms. Pink, yes, Yvonne Pink?

13 **MR. ENGELMANN:** Yes, dealing with return of
14 these boxes that we've talked about, these bankers' boxes.

15 **MR. DEROCHIE:** That's right. She wrote
16 asking for those banker boxes.

17 **THE COMMISSIONER:** I'm sorry, who wrote?

18 **MR. DEROCHIE:** Ms. Yvonne Pink on behalf of
19 Mr. Dunlop.

20 **THE COMMISSIONER:** Right.

21 **MR. ENGELMANN:** And, sir, if I could have
22 you look at Document Number 738473, these are notes from
23 June 20th, 2002 to January 6th, 2003.

24 **THE COMMISSIONER:** Exhibit 1379.

25 **--- EXHIBIT NO./PIÈCE NO. P-1379:**

1 (738473) Notes S/Sgt. Garry Derochie -
2 June 20, 2002 to January 6, 2003

3 **MR. ENGELMANN:** Bates page 7168133, your
4 note would indicate that you received a letter from an
5 Yvonne Pink.

6 **MR. DEROCHIE:** Yes, Yvonne Pink, yes.

7 **MR. ENGELMANN:** Sir, do you recall receiving
8 that letter and a request made for the return of these nine
9 boxes?

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

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

12 And how did you respond at that time, sir?

13 **MR. DEROCHIE:** At that time I wrote a letter
14 -- I had -- I forwarded the letter to our solicitor and
15 asked her to draft a letter to Ms. Pink indicating that
16 they were work product and we intended to inventory and
17 identify what was work product and what was not work
18 product.

19 **MR. ENGELMANN:** Sir, did you later, in
20 September, task a fellow by the name of Paquin?

21 **MR. DEROCHIE:** I had originally tasked
22 Paquin, but he never actually got into the work. I
23 subsequently had Detective Constable Robert Ouellette do an
24 inventory and prepare a registry, a document registry.

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

1 And if you could just have a look then at
2 Document Number 728000 for a moment.

3 **THE COMMISSIONER:** Just a minute. You were
4 called in to the Chief's office at one point to speak about
5 the letter, right?

6 **MR. DEROCHIE:** Yes, we had a meeting with
7 regards to -- this was going to be a pretty significant
8 job, this undertaking, and we were looking to decide who
9 best could do it.

10 Mr. Paquin, as I indicated, was the media
11 relations officer. He also had a role to play. He was
12 divvied up, as it were, with CID. He did some work for us,
13 some work for the Chief, obviously, almost like an
14 executive or an assistant to the Chief, and this would have
15 occupied way too much of his time. That was the decision,
16 if that's what you're referring to, Mr. Commissioner.

17 **THE COMMISSIONER:** No. Well, I'm sorry; I
18 may have. I was just looking flipping through here where I
19 just saw the note that you were called in to the Chief's
20 office.

21 Oh, right here, okay. Page 135. Is that
22 what you were referring to?

23 **MR. DEROCHIE:** Exactly.

24 **THE COMMISSIONER:** Okay. Sorry. Exhibit
25 1376 is a letter dated August 17th, 2000 to Claudette

1 Wilhelm from Staff Sergeant Derochie.

2 Is this what you wanted ---

3 **MR. ENGELMANN:** Yes.

4 **THE COMMISSIONER:** --- as an exhibit --
5 okay.

6 **MR. ENGELMANN:** Sorry.

7 **THE COMMISSIONER:** This is your next
8 exhibit?

9 **MR. ENGELMANN:** Seven-two-eight-zero-zero-
10 zero (728000).

11 **THE COMMISSIONER:** No -- 728000?

12 **MR. ENGELMANN:** It should be an ---

13 **THE COMMISSIONER:** I'm sorry.

14 **MR. ENGELMANN:** --- email from Garry
15 Derochie to Ron Laverty.

16 **THE COMMISSIONER:** Sorry. Sorry.

17 Exhibit 1380 ---

18 **MR. ENGELMANN:** Right.

19 **THE COMMISSIONER:** --- is an email exchange
20 dated September 26th, 2002.

21 --- **EXHIBIT NO./PIÈCE NO. P-1380:**

22 (728000) E-mail fr. Garry Derochie to
23 Ron Laverty - September 26, 2002

24 **MR. ENGELMANN:** Staff Sergeant Derochie,
25 this appears to be -- there's a couple of emails. The

1 email -- sorry, the email from you to Ron Laverty -- and
2 who was Ron Laverty at that time?

3 **MR. DEROCHIE:** Ron Laverty was the Deputy
4 Chief of Police.

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

6 You say that:

7 "Mr. Paquin has been directed to
8 withdraw any document, audio, visual,
9 tape or picture which may relate to a
10 criminal act."

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** "He will produce an
13 inventory of each box and all articles
14 not related to a criminal act will be
15 returned to Mr. Dunlop along with a
16 list and description of those items
17 that we have retained."

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** So what is it that you're
20 asking him to do? He's a civilian, isn't he?

21 **MR. DEROCHIE:** But he's a -- he was a former
22 police officer.

23 **MR. ENGELMANN:** Okay.

24 **MR. DEROCHIE:** He had something -- he had
25 quite a few years of experience as a police officer.

1 MR. ENGELMANN: Okay.

2 MR. DEROCHIE: A very smart, very articulate
3 man.

4 MR. ENGELMANN: All right.

5 MR. DEROCHIE: He could certainly handle
6 this.

7 MR. ENGELMANN: I didn't realize that he was
8 a former police officer.

9 MR. DEROCHIE: Oh, I'm sorry, yes.

10 MR. ENGELMANN: You'd said he was a
11 civilian.

12 So ---

13 MR. DEROCHIE: Yes.

14 THE COMMISSIONER: I'm sorry; let's clear
15 that up. What was his function as a civilian?

16 MR. DEROCHIE: He was the media relations
17 officer, but he also had -- and he remains the media
18 relations officer.

19 THE COMMISSIONER: Was he -- and when did he
20 become a media relations officer; do you know?

21 MR. DEROCHIE: Oh, I wouldn't know.

22 THE COMMISSIONER: Okay. In any event ---

23 MR. ENGELMANN: So what did you mean by
24 "withdraw any document which may relate to a criminal act"?

25 MR. DEROCHIE: Well, anything that could be

1 construed as work product, anything that was associated to
2 a criminal investigation.

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

4 So you wanted to keep any of the work he had
5 done on any criminal investigation, whether active duty or
6 not?

7 **MR. DEROCHIE:** Exactly. There was a --
8 these boxes were -- there was a number of these boxes, but
9 quite frankly a lot of the information and a lot of the
10 documentation was in those boxes with just newspaper
11 clippings. There was a very large media file. There was
12 all of Mr. Dunlop's *Police Services Act* material which were
13 of no interest to us.

14 **MR. ENGELMANN:** So you were asking him to
15 separate and then ---

16 **MR. DEROCHIE:** Exactly.

17 **MR. ENGELMANN:** --- send the stuff back that
18 was of no interest?

19 **MR. DEROCHIE:** Exactly.

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

21 And then that work later got tasked, as you
22 said, to someone else?

23 **MR. DEROCHIE:** To Mr. ---

24 **MR. ENGELMANN:** A fellow by the name of
25 Robert Ouellette?

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

2 **MR. ENGELMANN:** And I understand that that
3 task was started in March of 2003 and finished sometime in
4 May ---

5 **MR. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** --- of 2003?

7 **MR. DEROCHIE:** Yes.

8 **MR. ENGELMANN:** And did you write to Ms.
9 Pink in or around May of 2003?

10 **MR. DEROCHIE:** I did. I indicated that we
11 had completed the task and whoever was to pick the boxes up
12 could now do so.

13 **MR. ENGELMANN:** And was that done, sir?

14 **MR. DEROCHIE:** No, she wrote me back asking
15 for the copy of the document log. I sent her the document
16 log and those boxes remained in my custody and they're
17 still here today.

18 **MR. ENGELMANN:** And so you offered to send
19 them and they didn't take you up on it?

20 **MR. DEROCHIE:** Exactly, yes.

21 **MR. ENGELMANN:** Is that what you're saying?

22 **MR. DEROCHIE:** They asked -- instead they
23 asked for the document log, yes.

24 **MR. ENGELMANN:** And did you send a copy of
25 the document log, sir?

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

2 **MR. ENGELMANN:** And what is the document
3 log?

4 **MR. DEROCHIE:** The document log is a
5 substantial document that identifies each document that was
6 in the nine banker boxes and indicated whether or not we
7 had retained that document. So we were telling her which
8 documents were available to Mr. Dunlop and which documents
9 we considered to be work product.

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

11 Now, sir, at or about that time, in March of
12 2003 -- sorry, March of 2003, just before this, did you
13 write a memo to then Chief Repa about Mr. Dunlop and
14 concerns you had about his obstruction of justice?

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

16 **MR. ENGELMANN:** If the witness could be
17 shown document number 731864?

18 **THE COMMISSIONER:** Exhibit number 1381 is a
19 document dated March 12th, 2003. It is an internal
20 correspondence to Chief Repa from Detective Sergeant Garry
21 Derochie.

22 --- **EXHIBIT NO./PIÈCE NO. P-1381:**

23 (731864) Internal Correspondence from
24 Chief Repa to D/Sgt. Garry Derochie -
25 March 12, 2003

1 **MR. ENGELMANN:** I'm sorry; sir, I missed the
2 number.

3 **THE COMMISSIONER:** It's 1381.

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

5 **MR. ENGELMANN:** Sir, have you had a chance
6 to review this now?

7 **MR. DEROCHIE:** Yes.

8 **MR. ENGELMANN:** Okay. This is a note you
9 write. The caption is "Perry Dunlop, Obstruction of
10 Justice". You're writing to Chief Repa in March of 2003.

11 **MR. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** What is it that has you
13 write such a memo at that time?

14 **MR. DEROCHIE:** Well, these issues were still
15 outstanding. There had been testimony given at the 11(b)
16 hearing to the effect that there had been a withholding --
17 a willful -- he had willfully withheld disclosure. There
18 were always these issues that were brought to our attention
19 with regards to other activity that Mr. Dunlop had done or
20 had been involved in during the whole Project Truth
21 investigation period.

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

23 Well, you say in the second paragraph:

24 "There have been suggestions, both
25 subtle and not so subtle, to the effect

1 that Mr. Dunlop's actions have crossed
2 over the line on several occasions and
3 may have been criminal in nature."

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** So what are you referring to
6 there and who's making the suggestions?

7 **MR. DEROCHIE:** Certainly Inspector Hall has
8 informed us that there was some activity. He never gave me
9 specifics about it, but there was a situation where Mr.
10 Dunlop was present when he -- and I believe I testified to
11 this already, where Mr. Dunlop was present where one of the
12 complainants or one of the victims had purported to be a
13 police officer, identified himself as an OPP officer. That
14 was one issue.

15 There was also the issue of his continuous
16 involvement in the investigations subsequent to the order
17 being given. There was a, in my mind at least, an
18 indication that he was in large part -- played a role in
19 the 11(b) -- the 11(b) argument being successful. So there
20 were all of those issues out there that had to be
21 finalized, I guess, for want of a better word.

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

23 Well, you do refer to the fact that he had
24 already been investigated for perjury and counselling
25 perjury.

1 MR. DEROCHIE: Yes.

2 MR. ENGELMANN: And that was at your Force's
3 initiative?

4 MR. DEROCHIE: Yes.

5 MR. ENGELMANN: It was investigated by the
6 Ottawa Police Service, and then that investigation was
7 shared with a Crown prosecutor; correct?

8 MR. DEROCHIE: Yes.

9 MR. ENGELMANN: Who had said there was no
10 reasonable prospect for conviction?

11 MR. DEROCHIE: That's correct.

12 MR. ENGELMANN: So nothing was followed up
13 on there.

14 And why are you doing this now at this time?

15 MR. DEROCHIE: There was quite a bit more
16 information that came forward, you know, that was -- and I
17 imagine if we review my notes, that will become apparent,
18 these different pieces of information that were coming
19 forward to suggest that there was more than just the
20 perjury -- the whole issue of perjury. And you recall that
21 perjury was with regards to the Marcel Lalonde
22 investigation.

23 MR. ENGELMANN: Yes. This is now an
24 obstruct justice ---

25 MR. DEROCHIE: Yes.

1 **MR. ENGELMANN:** --- allegation?

2 **MR. DEROCHIE:** Yes.

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

4 And you do refer to, at the bottom of that
5 page, to the fact that again you've had advice from others
6 that your Force should not be investigating this?

7 **MR. DEROCHIE:** Yes.

8 **MR. ENGELMANN:** And you list all the people
9 that have given you this advice?

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** And you're saying that that
12 could happen or that you could still investigate this
13 yourself?

14 **MR. DEROCHIE:** We could if the Chief chose
15 to go against the popular opinion that it should be
16 somebody else.

17 **MR. ENGELMANN:** And in this particular case,
18 you think that the optics are consistent with the popular
19 opinion, if I can say that, and it should be done by
20 someone else?

21 **MR. DEROCHIE:** Yeah. Yes.

22 **MR. ENGELMANN:** Now, there is some further
23 communication between you and the Chief about a month
24 later, on April 10th, 2003, and it's Document Number 731867.

25 **THE COMMISSIONER:** I'll need to take a break

1 in a few minutes, Mr. Engelmann.

2 **MR. ENGELMANN:** Yes. I'm happy to say, sir,
3 that I am almost done.

4 **THE COMMISSIONER:** That's good.

5 **MR. ENGELMANN:** I've said that before.

6 **THE COMMISSIONER:** So 1382 is an internal
7 correspondence dated April 10th, 2003 to Chief Repa from
8 Staff Sergeant Garry Derochie.

9 --- **EXHIBIT NO./PIÈCE NO. P-1382:**

10 (731867) Internal Correspondence from
11 Chief Repa to Garry Derochie - April
12 10, 2003

13 **MR. ENGELMANN:** And again, sir, I'm informed
14 by my colleague there should be a publication ban in there
15 for C-8.

16 **THE COMMISSIONER:** So ordered. Well, just
17 put the stamp on.

18 **MR. ENGELMANN:** Boy, that's fast.

19 Sir, what's happening here now? We're in
20 April of 2003. You're still awaiting some form of
21 direction. Is that true, sir?

22 **MR. DEROCHIE:** Yes. We had always been
23 advised that there would be information coming to us once
24 the -- once Project Truth was over with that we could look
25 at this now in earnest, as it were.

1 **MR. ENGELMANN:** And looking at what in
2 earnest, sir?

3 **MR. DEROCHIE:** Mr. Dunlop's involvement and
4 what impact it had on the Project Truth investigations.

5 **MR. ENGELMANN:** And was it simply for that
6 purpose or were you again considering some form of criminal
7 investigation?

8 **MR. DEROCHIE:** Just give me a second,
9 please?

10 **MR. ENGELMANN:** Yes.

11 **(SHORT PAUSE/COURTE PAUSE)**

12 **MR. DEROCHIE:** Yes, I had said "Let's bring
13 it to an order -- let's bring it to a head. Once and for
14 all, either we're told to -- there's no point in doing
15 this, let's consult."

16 **MR. ENGELMANN:** So just explain to us what's
17 going on here, why you're writing to the Chief and what the
18 concerns?

19 **MR. DEROCHIE:** Other than what's stated here
20 ---

21 **MR. ENGELMANN:** Well, if you want to just
22 paraphrase that for us, that's fine.

23 **MR. DEROCHIE:** Oh.

24 **MR. ENGELMANN:** Without mentioning C-8.

25 **MR. DEROCHIE:** Well, we had spoken on and

1 off about this over a number of years as we've looked at
2 those documents, and I was pushing him to get this
3 information and we were being told ---

4 **MR. ENGELMANN:** "We were pushing" who?

5 **MR. DEROCHIE:** Mr. Hall, Pat Hall.

6 **MR. ENGELMANN:** Okay. Yes.

7 **MR. DEROCHIE:** And Pat Hall was of the
8 opinion that we should wait or that the suggestion was that
9 we wait until the ---

10 **MR. ENGELMANN:** Project Truth prosecutions
11 were finished?

12 **MR. DEROCHIE:** Of Leduc be -- were finished.

13 **MR. ENGELMANN:** And that was the last one?

14 **MR. DEROCHIE:** Mr. Leduc was the last one.

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

16 And Inspector Hall wanted you to wait before
17 you commenced any kind of an investigation into criminal
18 activity on the part of Mr. Dunlop?

19 **MR. DEROCHIE:** That was his suggestion. I
20 don't know if that was his -- you know, it came from him or
21 it came from someone else. I don't know.

22 **MR. ENGELMANN:** And you were, in fact,
23 telling him at this time that you were anxious to have this
24 matter dealt with?

25 **MR. DEROCHIE:** Yes, we really wanted to get

1 on life, you know, to get over this.

2 MR. ENGELMANN: Well, why was it important
3 for you to have him investigated and prosecuted at this
4 point in time?

5 MR. DEROCHIE: Well, I think that was
6 expected of us. There was always an indication that people
7 expected. They were providing us information for some
8 reason. They were ---

9 MR. ENGELMANN: Who was it that was
10 expecting it of you, of you being the Cornwall Police
11 Service?

12 MR. DEROCHIE: Specifically, I don't know,
13 but the information was coming from Pat Hall that there was
14 Crowns that were suggesting this. He was working with
15 various Crown attorneys, so I would assume that that was --
16 that they were the ones.

17 MR. ENGELMANN: All right.

18 And did you make a recommendation to your
19 Chief at that time about what action you should take?

20 MR. DEROCHIE: Yes, I thought we should
21 write a letter to Mr. Stewart, the Regional Crown, and get
22 direction from him.

23 MR. ENGELMANN: And did that, in fact,
24 happen, sir?

25 MR. DEROCHIE: Yes, I'm sure it did.

1 **THE COMMISSIONER:** Mr. Engelmann, do you
2 think we could stop for 15 minutes? I'm sorry; I just need
3 a break.

4 Thank you.

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

7 This hearing will resume at 5:35.

8 --- Upon recessing at 5:22 p.m./

9 L'audience est suspendue à 17h22

10 --- Upon resuming at 5:40 p.m./

11 L'audience est reprise à 17h40

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

14 This hearing is now resumed. Please be
15 seated. Veuillez vous asseoir.

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

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

19 **MR. DEROCHIE:** Are we still on this
20 document, Mr. Engelmann?

21 **MR. ENGELMANN:** Sorry, which one, sir?

22 **MR. DEROCHIE:** That's the last exhibit,
23 1382.

24 **MR. ENGELMANN:** I was about to move on, but
25 if there's something else you wanted to say about it?

1 **MR. DEROCHIE:** Well, I'm just wondering if
2 you wanted more explanation. There appears to be a
3 reference to Inspector Hall having an issue with C-8 that
4 he was bringing to our attention as well. I just -- I
5 don't know what the context of that is. I'd have to look
6 at my notes, but if you don't think it's of any ---

7 **MR. ENGELMANN:** Just give me a moment.

8 **(SHORT PAUSE/COURTE PAUSE)**

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

10 Well, essentially, what he's saying at this
11 point in time is he wants to wait until the matter is
12 concluded.

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

14 **MR. ENGELMANN:** All right. Let's -- we'll
15 follow some up and hopefully I'll cover what it is and
16 there are a number of other lawyers anxious to ask you some
17 questions, so why don't -- I'm sure they will.

18 As I understand it, later -- I'm sorry.

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

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

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

23 **MR. ENGELMANN:** I'm sorry, is this 1382 on
24 the screen?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** All right. Well. I put a
2 1382 on another document; I apologize.

3 Document 731875. It's the document I wanted
4 you to look at, sir. And I don't think that I've entered
5 it yet then, so I'm ahead of myself with my exhibits.

6 Because I understand that at some point
7 later, in or around September of 2003, you wrote to then
8 Deputy Chief, Danny Aikman, about Dunlop -- ongoing Dunlop
9 matters?

10 **MR. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** Now, I'd just like you to
12 take a look at that document if you could?

13 **THE COMMISSIONER:** Thank you.

14 Exhibit 1383 dated September 8th, 2003 as
15 indicated. Thank you.

16 **---EXHIBIT NO./PIÈCE NO. P-1383:**

17 (731875) Internal Correspondence from
18 Garry Derochie to Deputy Chief D.
19 Aikman - September 8, 2003

20 **MR. ENGELMANN:** Is this a follow-up, sir,
21 that you would have then had with Detective Inspector Hall?

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

23 **MR. ENGELMANN:** Okay. So can you just tell
24 us briefly what was going on at or about this time?

25 **MR. DEROCHIE:** Yes, we were -- he was to

1 produce a Will Say statement for me which would be the
2 catalyst or the complaint to start a criminal investigation
3 against Mr. Dunlop, if that indeed was what we were going
4 to do.

5 MR. ENGELMANN: And that would have been on
6 some form of obstruct or attempt to obstruct justice ---

7 MR. DEROCHIE: Yes, yes.

8 MR. ENGELMANN: --- dealing with disclosure
9 issues?

10 MR. DEROCHIE: Absolutely, yes.

11 MR. ENGELMANN: And did that, in fact,
12 happen then in the fall of 19 ---

13 MR. DEROCHIE: No, it did not.

14 MR. ENGELMANN: --- I'm sorry 2003?

15 MR. DEROCHIE: I'm sorry? No, it did not.
16 He explained it that Mr. Dunlop might well be called as a
17 witness and the thoughts -- the thinking of the day was
18 that we'll just wait and hold off until the Leduc matter is
19 totally finished.

20 MR. ENGELMANN: All right. And then just by
21 way of a follow-up, did he ever provide anything to you of
22 this nature?

23 MR. DEROCHIE: No.

24 MR. ENGELMANN: Even after the Leduc matters
25 were concluded?

1 **MR. DEROCHIE:** No. Well, shortly after
2 that, the Inquiry was called and I think everything was put
3 on hold at that point.

4 **MR. ENGELMANN:** All right. And, sir, just
5 by way of follow-up then, did you receive some
6 correspondence in the spring of 2004 from a Crown
7 prosecutor by the name of Lidia Narozniak ---

8 **MR. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** --- concerning the Dunlop
10 material?

11 **MR. DEROCHIE:** Yes, she wanted to know if I
12 still had the nine banker boxes. I confirmed that I did,
13 but that I had sent a letter to Mr. Dunlop's lawyer
14 indicating that that was available so that at any time they
15 may well have walked in and got that.

16 **MR. ENGELMANN:** All right. If you could
17 just take a quick look at a letter, it's Document Number
18 728130.

19 **THE COMMISSIONER:** You weren't prepared to
20 release the whole nine boxes?

21 **MR. DEROCHIE:** No, no. Exactly. I think
22 that I explained that to her that the work product was safe
23 ---

24 **THE COMMISSIONER:** Okay.

25 **MR. DEROCHIE:** --- and that would be secure.

1 **THE COMMISSIONER:** That's fine. I'm sorry,
2 Mr. Engelmann?

3 **MR. ENGELMANN:** If the witness could look
4 quickly at a letter. It's Document Number 728130. It's a
5 letter from Ms. Narozniak to him, May 17th, 2004.

6 **THE COMMISSIONER:** Thank you.
7 Exhibit Number 1384.

8 **---EXHIBIT NO./PIÈCE NO. P-1384:**

9 (728130) Letter from Lidia Narozniak to
10 Garry Derochie - May 17, 2004

11 **MR. ENGELMANN:** Sir, do you recall receiving
12 this letter?

13 **MR. DEROCHIE:** I do. I believe it was
14 subsequent to a telephone conversation that I had with her.

15 **MR. ENGELMANN:** All right. So she says that
16 both her and the defence counsel have had a change to
17 review the nine boxes; correct?

18 **MR. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** And she is now asking for
20 notebooks in their original form?

21 **MR. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** And she is saying, "I
23 understand they are still in the possession of your police
24 service"?

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** Is that correct?

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

3 **MR. ENGELMANN:** And approximately how many
4 were there, sir?

5 **MR. DEROCHIE:** I believe there was five.

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

7 **MR. DEROCHIE:** I'm not sure, but it would be
8 detailed in my notes.

9 **MR. ENGELMANN:** And did you give those to
10 Detective Constable Steve Seguin?

11 **MR. DEROCHIE:** I did or to someone, either
12 Genier or Seguin, one of the two.

13 **MR. ENGELMANN:** And did you also give them a
14 copy of the duty book record?

15 **MR. DEROCHIE:** I did. I gave them the
16 originals as I recall.

17 **MR. ENGELMANN:** All right. And, sir, if we
18 could just take a look at -- again, just to follow-up on
19 this Document Number 728133. Just to confirm what it was
20 you provided to the OPP.

21 **THE COMMISSIONER:** Thank you.

22 **---EXHIBIT NO./PIÈCE NO. P-1385:**

23 (728133) Note re: Items received from
24 Garry Derochie to Det. Cst. S. Seguin -
25 19 May, 04

1 **MR. ENGELMANN:** Sir, does that outline the
2 documents then that you had turned over?

3 **MR. DEROCHIE:** Exactly.

4 **MR. ENGELMANN:** And those are the duty
5 notebooks that you would have given?

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

7 **MR. ENGELMANN:** There are five of them?

8 **MR. DEROCHIE:** There were five of them.

9 **MR. ENGELMANN:** All right. Was that sort of
10 standard practice to get confirmation of what you had
11 delivered?

12 **MR. DEROCHIE:** Well, I would make a notation
13 of it in my notebook. I can't recall if I prepared this or
14 if they prepared this receipt. I would -- it would appear
15 that I probably prepared it as a receipt for turning these
16 documents over.

17 **MR. ENGELMANN:** All right. And then, sir,
18 if I could have you have a quick look at -- it's Document
19 Number 705737. These are some notes of yours at the time,
20 sir.

21 **THE COMMISSIONER:** Thank you.

22 Exhibit 1386.

23 **---EXHIBIT NO./PIÈCE NO P-1386:**

24 (705737) Notes of Garry Derochie

25 **MR. ENGELMANN:** Sir, I'm interested in --

1 it's Bates page 7022304. It makes a reference on the 19th
2 of May that Sergeant G. Lefebvre was assigned to search two
3 boxes of documents removed from Dunlop's nine banker boxes.

4 **MR. DEROCHIE:** Yes.

5 **MR. ENGELMANN:** To locate and remove all
6 notes made by Dunlop.

7 Do you know why it was that he was assigned
8 simply to look at two boxes of the nine?

9 **MR. DEROCHIE:** Well, the two boxes of the
10 nine would have been the -- would have been the documents
11 that we retained as work product and he was looking for
12 notes and compliance. I had gone -- maybe I was about to
13 provide more than they had actually asked for. They asked
14 for the notebooks and I knew that there were notes made by
15 Dunlop in those boxes.

16 **MR. ENGELMANN:** All right. And, in fact,
17 were some of those notes then provided in that document we
18 just looked at that listed ---

19 **MR. DEROCHIE:** No, I believe we offered them
20 but they declined indicating that they already had them,
21 thanks.

22 **MR. ENGELMANN:** Yes, sir, if you want to
23 flip on to the following page. You, in fact, say that:

24 "He was offered the originals of notes,
25 made by Dunlop when he was working on

1 allegations, while off on sick leave,
2 but indicated that the Crown only asked
3 for the duty books."

4 Is that the reference?

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

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

7 Sir, did the prosecutor in the Leduc matter,
8 Ms. Narozniak, request that the Cornwall Police Service
9 retain the nine banker boxes until the completion of the
10 Jacques Leduc trial?

11 **MR. DEROCHIE:** She did.

12 **MR. ENGELMANN:** And did you, in fact, do
13 that, sir?

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

15 **MR. ENGELMANN:** And just later, in May, do
16 you recall if she and Officer Seguin, from the OPP,
17 examined the contents of those nine boxes?

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

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

20 And were you also then later asked by her or
21 through Detective Constable Genier to make those boxes
22 available to the Defence in the Leduc matter.

23 **MR. DEROCHIE:** Yes we were asked that and we
24 did.

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

1 And one of your officers was present there?

2 MR. DEROCHIE: Yes, I wasn't able to be
3 present that day and the detective -- Detective Constable
4 Emma Wilson-King.

5 MR. ENGELMANN: And sir, were you ever
6 served with a subpoena to appear as a witness in the
7 Jacques Leduc matter?

8 MR. DEROCHIE: I believe I was.

9 MR. ENGELMANN: And do you recall if you
10 testified?

11 MR. DEROCHIE: I did not testify.

12 MR. ENGELMANN: Sir, you've talked about at
13 least three matters that you investigated, where you
14 discovered some systemic problems, and those were the
15 Silmsler investigation, the Antoine investigation, and the
16 Earl Landry Jr. investigation.

17 MR. DEROCHIE: Yes.

18 MR. ENGELMANN: In all of those cases there
19 were also allegations either of some form of cover-up ---

20 MR. DEROCHIE: Yes.

21 MR. ENGELMANN: -- in a part of the Cornwall
22 Police Service or some form of improper conduct was
23 alleged.

24 MR. DEROCHIE: Yes.

25 MR. ENGELMANN: Sir, to your knowledge, are

1 those the only cases of those kind -- of that kind, or like
2 cases, that you are aware of?

3 **MR. DEROCHIE:** I can't think of any others.

4 **MR. ENGELMANN:** Okay. Staff Sgt. Derochie,
5 you've been on the witness stand for a long time.

6 **MR. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** Those are all the technical
8 questions I have for you; I have two other questions I'd
9 like to put to you. I hope you've had some time to reflect
10 on them.

11 One is -- you were involved in this matter
12 for many, many years.

13 **MR. DEROCHIE:** Yes.

14 **MR. ENGELMANN:** In particular -- when I say
15 this matter -- you were involved in dealing with concerns
16 involving Perry Dunlop ---

17 **MR. DEROCHIE:** Yes.

18 **MR. ENGELMANN:** --- from 1993 on through
19 2004.

20 **MR. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** And you've also been
22 involved in a number of other matters that you've described
23 for us in your evidence.

24 And I want to just to ask you, as a police
25 officer and as someone who was assigned to do many, many

1 things over this period of time, if having to deal with
2 these kinds of allegations in this context -- and these
3 kinds of allegations, when I'm talking about the
4 allegations in the Silmsler matter, in the Antoine matter,
5 in the Earl Landry Junior matter -- if that has had any
6 affect on you or if it's posed you any difficulty, whether
7 those investigations or your dealings with Mr. Dunlop?

8 **MR. DEROCHIE:** Well, yes, we deal with -- as
9 police officers we deal with a lot of issues that are, at
10 times, emotional, involve a lot of emotion.

11 This was rather unique. I've commented on
12 that before; the whole idea of this is unprecedented, in my
13 knowledge anyways. Everything about it is different. And
14 it certainly caused myself, personally, as well as a member
15 of the Cornwall Police Service, a lot of discomfort to
16 think that at least some people in our community thought
17 that we were involved, or could have been involved, in a
18 cover-up of some sort to protect paedophiles or people who
19 had abused children. That's so contrary to what I believe
20 we stand for, as to be unimaginable, up until this
21 particular time, as it were.

22 It certainly affected me but to a much
23 lesser degree. There were some of our officers, some of
24 our investigators who were directly identified as being
25 part of the cover-up, either directly or through some sort

1 of innuendo where they were -- it could have been --
2 anybody could have found out who they were talking about.

3 That affected them very much. I know,
4 personally, from talking to them, that we know that --
5 first of all, we know that Heidi Sebalj was deeply affected
6 by this. Perry Dunlop was deeply affected by this and his
7 whole family, for that matter.

8 A lot of our investigators and a lot of
9 their families were affected, as well. They had to face
10 their families and face their extended families and their
11 friends in the community and not knowing what was being
12 thought of them. So I know that that was an issue with
13 some of them.

14 Eventually I came to, I guess, for self-
15 preservation reasons, came to the point where I said
16 "Listen, this is not -- this whole idea is not accepted by
17 the community at large where the Cornwall Police Service
18 members are of the community; we are from the community;
19 our families are in the community; our friends are in the
20 community. We would not stand idly by and watch some of
21 this stuff happen. Or what was alleged to have happened,
22 happen."

23 So I satisfied myself that the people I
24 know, my family, the people that I consider to be close
25 friends and a lot of times just casual acquaintances, I

1 didn't notice a change in the relationship that I had with
2 these people. Therefore, I assumed that maybe wrongly,
3 maybe rightly, I don't know -- that they didn't buy into
4 this.

5 And I think, by in large, if you multiply my
6 experience by the total number of police officers that are
7 in the Cornwall Police Service and the surrounding area --
8 because it's incredible to think that this could happen and
9 no one else -- this allegation could have substance and
10 nobody else within either the Cornwall Police Service or
11 the community or the policing community in general, nor the
12 -- all of the oversight that's in place to guard against
13 wrongdoing by police officers.

14 The inspections that we have on a regular
15 basis, they not only come in and talk to our own people
16 they reach out and talk to the community. Every -- we've
17 been subject to a number of inspections. You've led that
18 evidence, Mr. Engelmann, with regards to the -- some of the
19 audits and reviews that Policing Services has done of the
20 Cornwall Police Service, and in every case, we're thankful
21 that the community, when consulted, gave us glowing -- were
22 glowing evaluations. They spoke to Police Services Board,
23 who is really the first level of checks and balance in our
24 system. If you go outside of the sworn police officers,
25 the Police Services Boards are made up of members of our

1 community, distinguished members of our community.

2 So obviously, if this -- if there were
3 concerns in the community, they would know of it.
4 Certainly when policing services come down to do an
5 inspection they speak to the Crown attorneys, the judges,
6 members of the business community. So if there was any
7 concerns it would have been raised then.

8 So to get back to your answer, and to -- in
9 summary, I'd just like to say that I don't think the
10 community as a whole has lost any kind of respect or are
11 concerned about the integrity of the police service
12 members.

13 We're human; we're of the community as I
14 said; we're prone to making mistakes; we're prone to making
15 bad decisions, at times, but all in all we would not do
16 anything overtly to hurt anyone, especially hurt children.

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

18 We have heard some concerns expressed by
19 victims or alleged victims of child sexual abuse or sexual
20 abuse as young people just about some difficulties they
21 faced with various institutions, including ---

22 **MR. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** --- their dealings with the
24 police.

25 **MR. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** Whether it's the Cornwall
2 police or the OPP.

3 And as a result of that, I'm wondering, as a
4 police officer, as a senior police officer, and one who's
5 certainly been with this force for many years, if you have
6 some recommendations for this Inquiry.

7 As you know, Commissioner Glaude has to
8 prepare a report; has to -- will be making recommendations
9 with respect to institutional response, and if
10 institutional response is, in any way, lacking, how to
11 improve it ---

12 **MR. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** --- for the future.

14 So if you have some ideas of your own for us
15 we'd like to hear them.

16 **MR. DEROCHIE:** I -- I'm sorry.

17 I've certainly given that a lot of
18 consideration about what recommendations I could make, and
19 I concluded that really it's for the Commissioner to make
20 those recommendations he's going to hear everything that's
21 going on and he will be -- he will have knowledge of what
22 is in place now that wasn't in place in 1993.

23 And let me assure you and everyone else
24 there there's significant amount of change in -- not only
25 in the regulations but there's a lot more victim services

1 available now then there ever has been before.

2 We'd like to think in part that's a result
3 of what happened here in Cornwall, that there was a
4 spotlight at least turned on to this and people started
5 considering the victims.

6 In my experience, and my service goes back
7 to 1970, and I can remember back then victims were no more
8 than witnesses at a criminal prosecution, and that's, in my
9 respectful opinion, that's how the system dealt with them.
10 Certainly there was -- you know, there's always that human
11 compassion for one person -- that one person has for
12 another, but by in large the victim was a witness and not
13 given anything -- any more consideration then that.

14 We've come miles, and miles, and miles in
15 the 38 years that I've been around with regards to victim's
16 assistance. So whatever is there, whatever we have now,
17 can only be built upon. And I know this Commission is
18 building on that with the Phase 2 and we already have
19 counseling in place so we're progressing quite nicely.

20 There's always room for improvement. We'll
21 -- you know, we'll face new obstacles, we'll face new
22 challenges and we'll have to come up with a solution to
23 these things. We have to get our heads around this whole
24 idea of what our duty is, what's our duty to report and
25 what do we report; the whole idea of advising an employer

1 that when we suspect someone may have committed this type
2 of an offence and where there's an existing danger or there
3 was an existing danger. We deal with that.

4 We have an understanding of the legislation.
5 As you know, it's in the *Police Services Act* under a
6 regulation that was -- it was originated by Christopher's
7 Law, that give us very strict parameters as to when we can
8 inform the public and anyone else information we have on
9 suspects or when we're dealing with allegations of criminal
10 acts that have community safety issues.

11 We'd like to see -- I'd like to see
12 something there, something concrete, so that we don't have
13 to second guess ourselves.

14 **MR. ENGELMANN:** Thank you very much, sir,
15 for many days of evidence you've given already and I know
16 for answering the questions you will for my friends.

17 **MR. DEROCHIE:** I certainly will answer any
18 questions put to me.

19 **MR. ENGELMANN:** Thank you.

20 **MR. DEROCHIE:** Thank you.

21 **THE COMMISSIONER:** All right.

22 So it's 6:00, where are we going now?

23 **MS. DALEY:** Here's what had been proposed --
24 and of course it's subject to you and Commission staff and
25 the witness and everybody else, but what had been proposed

1 was that we would continue to 7:00 ---

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

3 **MS. DALEY:** --- and that will allow me to
4 hopefully complete, if not all, the majority of the CCRs
5 cross-examination. And I am scheduled on a 7:30 train so
6 if we could go to 7:00 that would be terrific from my point
7 of view.

8 **THE COMMISSIONER:** Anyone with any concerns,
9 insulin, anything like that?

10 Sir, are you prepared to go until 7:00?

11 **MR. DEROCHIE:** They brought me a donut at
12 the break.

13 **THE COMMISSIONER:** They brought you a donut?

14 **MR. DEROCHIE:** A donut. I think that's a
15 little bit stereotypical of them to have done that.

16 **THE COMMISSIONER:** I know. I'd speak to
17 your employer about that one.

18 **(LAUGHTER/RIRE)**

19 **---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

20 **DALEY:**

21 **MS. DALEY:** Staff Sgt. Derochie, I very much
22 appreciate you accommodating me by staying late today.

23 My name is Helen Daley and I am counsel for
24 the Citizens for Community Renewal, members of which are
25 here today, and I think you know them.

1 **MR. DEROCHIE:** I do.

2 **MS. DALEY:** Let me start by -- you spoke at
3 length today and also on your last attendance about the
4 Earl Landry investigation.

5 **MR. DEROCHIE:** Yes.

6 **MS. DALEY:** I have a few questions about
7 that for you.

8 I take it that -- and what I want to speak
9 about is the very initial complaint, which was the
10 complaint made by the mother and the eight year old child
11 who came into the police services on or about June 25th,
12 1985.

13 **MR. DEROCHIE:** Yes.

14 **MS. DALEY:** All right.

15 And I take it at that point, sir, Mr. Landry
16 Sr. had fairly recently ceased being your chief. Is that
17 correct?

18 **MR. DEROCHIE:** I believe April of '84,
19 somewhere in that area.

20 **MS. DALEY:** All right.

21 So a year or thereabouts ---

22 **MR. DEROCHIE:** Yes.

23 **MS. DALEY:** --- since he'd been the chief.

24 And if I also understood you, one of the
25 officers assigned to that -- and that's Officer Willis ---

1 **MR. DEROCHIE:** Yes.

2 **MS. DALEY:** --- was very close friends of
3 the Landry family; correct?

4 **MR. DEROCHIE:** It's my understanding he was
5 a friend of Brian, who was a brother of the accused and
6 would be of course another son of Earl Sr.

7 **MS. DALEY:** Right. Did -- as far as you
8 know, Willis socialized with Brian Landry?

9 **MR. DEROCHIE:** I don't know the extent of
10 the relationship but I know they played sports together,
11 football, hockey, that type of thing, and had a social --
12 you know, were friends.

13 **MS. DALEY:** And Officer Willis would have
14 been reporting to Chief Landry for what period of time?

15 **MR. DEROCHIE:** Well, he would have been
16 reporting -- well, for his entire career mind you -- but
17 during his tenure in CID, in the Criminal Investigations
18 Division?

19 **MS. DALEY:** Well, let me just -- I don't
20 have a lot of information about his background. When did
21 Willis join the force approximately?

22 **MR. DEROCHIE:** Oh, I think it was 1968. It
23 would have been somewhere around there.

24 **MS. DALEY:** And do you recall when Mr.
25 Landry Sr. became chief?

1 **MR. DEROCHIE:** It was 1974.

2 **MS. DALEY:** All right.

3 So Willis would have reported to Mr. Landry
4 Sr. as chief from that time forward?

5 **MR. DEROCHIE:** Yes.

6 **MS. DALEY:** But they worked together longer
7 than that period of time, did they?

8 **MR. DEROCHIE:** They wouldn't have worked
9 together but they would have been on the police service at
10 that -- from 1967-68, whenever that was exactly, until the
11 -- until Mr. Mr. Landry became chief. He was staff
12 inspector or a senior inspector prior to his promotion.

13 **MS. DALEY:** All right.

14 So when the complainant comes into the force
15 in June of 1985 -- and of course it's immediately evident
16 that the person about whom the complaint is made is the ex-
17 chief's son; correct?

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

19 **MS. DALEY:** We know that from moment one?

20 **MR. DEROCHIE:** Oh, yes, yes. And it was
21 dealt with differently in that the duty inspector was
22 called into the office.

23 **MS. DALEY:** Right. And that occurred
24 because we all recognized that the complainant was making
25 an allegation about Landry Sr.'s son; correct?

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

2 **MS. DALEY:** Did you -- in the course of your
3 administrative review; did you ever come across anything to
4 suggest that the force had considered perhaps having that
5 complaint investigated by another force as opposed to CPS?

6 **MR. DEROCHIE:** I never came across any
7 evidence that was considered at all.

8 **MS. DALEY:** I don't mean to illicit a lot of
9 detail about this but does the force presently have
10 policies about when they would refer investigations out on
11 a conflict basis? In other words, if an investigation came
12 in and the accused was a present or former member of the
13 police force today would your policy say that that should
14 be investigated by another service?

15 **MR. DEROCHIE:** I don't believe so.

16 **MS. DALEY:** All right.

17 Applying the wisdom that you gained from the
18 various reviews that you did do, and applying the benefits
19 that that gives you, can you say today that in hindsight it
20 would have been a smart idea to refer the initial 1985
21 Landry investigation to another force?

22 **MR. DEROCHIE:** In hindsight, yes.

23 **MS. DALEY:** One of the circumstances that
24 you testified about -- I just want to take you back to, and
25 that is when you became involved in your admin review, you

1 spoke to Office Lefebvre about his role in the initial
2 investigation and his conclusions, if I could take you to
3 that.

4 **MR. DEROCHIE:** Yes.

5 **MS. DALEY:** And I took it that you
6 considered fairly early on that Lefebvre's investigation of
7 this youngster's complaint was reasonable because he only
8 had the testimony of that child and there was some issue
9 about the child's mental capacity. Is that correct?

10 **MR. DEROCHIE:** That's all he had. He had
11 the statement of the child. And I don't know what that
12 statement contained because I couldn't find it. But I had
13 his evaluation that the child would be a poor witness, and
14 we had the law of course of the day which was un-sworn
15 evidence; you couldn't convict on un-sworn evidence, it had
16 to be corroboration.

17 **MS. DALEY:** All right.

18 The child who was the potentially poor
19 witness though, he nonetheless was able to give testimony
20 against the other abuser, was he not?

21 **MR. DEROCHIE:** I don't know that that ever
22 went to trial. I don't know that he ever did give
23 testimony.

24 **MS. DALEY:** You believe there may have been
25 a guilty plea?

1 **MR. DEROCHIE:** I believe there was.

2 **MS. DALEY:** When Mr. Landry Jr. was
3 eventually charged with matters, criminal matters in 1999.
4 That individual's complaint formed one of the charges,
5 correct?

6 **MR. DEROCHIE:** Yes, the investigating
7 officer, Sergeant Snyder, originally had just the one
8 victim that came forward and laid a charge but he had
9 recalled that this individual had made a complaint in '85
10 and went to him and eventually talked him into agreeing to
11 come forward as a victim.

12 **MS. DALEY:** And as best you understood it
13 from Sergeant Snyder that individual who was the eight-year
14 old boy in 1985 was able to participate as a witness in the
15 charges against Landry at a later time?

16 **MR. DEROCHIE:** Well, again, there was guilty
17 pleas. There was no trial.

18 **MS. DALEY:** He didn't have to go to trial?

19 **MR. DEROCHIE:** He didn't have to go to
20 trial.

21 **MS. DALEY:** But the Service -- certainly the
22 Service was prepared to bring forward charges based on his
23 evidence?

24 **MR. DEROCHIE:** We did and the Crown was
25 prepared to prosecute him.

1 **MS. DALEY:** Thank you.

2 I take it your primary criticism of the 1996
3 complaint that came forward was it just took too long to
4 get that investigation started?

5 **MR. DEROCHIE:** Those were my observations.

6 **MS. DALEY:** All right.

7 You don't connect that length of time, I
8 take it, to anything other than the fact that the matter
9 was assigned and reassigned several times?

10 **MR. DEROCHIE:** The unit -- the unit, again,
11 was very busy at that particular time in its history.
12 There was -- again, we are talking about the Rae days now
13 and there was a significant backlog of investigations
14 waiting to be done and it just -- this investigation just
15 took too long getting into gear. That was my observation.
16 That was my criticism; too many people had handled it.

17 **MS. DALEY:** And no one had really
18 investigated it or commenced an investigation?

19 **MR. DEROCHIE:** They had started but it
20 hadn't ---

21 **MS. DALEY:** It didn't progress?

22 **MR. DEROCHIE:** It didn't progress well for a
23 number of reasons.

24 **MS. DALEY:** And indeed, was the catalyst
25 that made it -- made that case be reassigned to Sergeant

1 Snyder so that it did progress, the catalyst for that was
2 that complainant's threat to go to the media?

3 **MR. DEROCHIE:** Not at that particular time.
4 It was assigned to Snyder prior to that event happening.
5 It was just in the interim before Snyder got up and running
6 with it then -- I don't know if he went to the media at
7 that time but I think he came in and complained and Snyder
8 spoke to him.

9 **MS. DALEY:** Yes.

10 **MR. DEROCHIE:** The media concern -- oh, I'm
11 sorry, yes, there was a threat. There was a threat made to
12 Sergeant Snyder or to that effect. I'm sorry. I was
13 confusing it with the other.

14 **MS. DALEY:** So for whatever reason rightly
15 or wrongly, that gentleman, that individual felt he had to
16 make that threat to get attention to his complaint?

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

18 **MS. DALEY:** And I take it you were
19 sympathetic. You felt that he shouldn't have waited the
20 amount of time he had?

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

22 **MS. DALEY:** You had a lot of discussion this
23 afternoon about conflicts of interest pertaining to your
24 role the second time around when you looked at the Landry
25 matter from a criminal perspective.

1 **MR. DEROCHIE:** Yes.

2 **MS. DALEY:** Do you recall that testimony?

3 **MR. DEROCHIE:** Yes.

4 **MS. DALEY:** I don't want to torture you or
5 lecture you about conflicts but I wonder if you would agree
6 with this concept, sir; that the premise of conducting an
7 investigation, I take it, is to approach the circumstance
8 with an open mind?

9 **MR. DEROCHIE:** Of course. You are a finder
10 of facts.

11 **MS. DALEY:** And to be a good investigator
12 you approach with an open mind, you look for evidence
13 that's relevant to your task, and you go where that leads
14 you in terms of your thought process; is that fair?

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

16 **MS. DALEY:** And I think you would
17 acknowledge that when you were involved in the aspects of
18 the civil suit, and you were taken to some notes and I
19 think one of the things that offended you was the thought
20 that your own insurance company had perhaps concluded that
21 Landry, Sr. did do something wrong. You recall talking
22 about that?

23 **MR. DEROCHIE:** Yes, I recall talking about
24 that and I recall thinking, you know, isn't this typical of
25 an insurance company; the first thing to do is to disclaim

1 or to disallow yourself from the claim. And that was --
2 that had me concerned, yes.

3 **MS. DALEY:** Right.

4 **MR. DEROCHIE:** Yeah.

5 **MS. DALEY:** But the factual premise that
6 took them there was the premise that perhaps Mr. Landry,
7 Sr. in fact did do something wrong.

8 **MR. DEROCHIE:** Based on their reading of the
9 Statement of Claim.

10 **MS. DALEY:** Right.

11 **MR. DEROCHIE:** That's what they were basing
12 that on. It's an excuse for them to say, well, we're not -
13 - we're going to save some money here. That was -- rightly
14 or wrongly that was my ---

15 **MS. DALEY:** Maybe this is unfair. I infer
16 from your comments and your evidence that you didn't think
17 that Landry, Sr. had done anything wrong.

18 **MR. DEROCHIE:** That was ultimately my
19 finding, yes.

20 **MS. DALEY:** Well, when did you arrive at
21 that finding?

22 **MR. DEROCHIE:** I would expect that after --
23 after the internal review certainly gave me the information
24 that I was looking for. Had there been anything there it
25 would have -- there was nothing there.

1 And part of the reason for getting Snyder
2 involved, aside from the fact that he's a skilled
3 investigator -- I could have done the same amount of
4 interviewing as he did and not involve him. It was to get
5 that second look at it. He had all of the information from
6 his previous criminal investigation. Certainly, if he
7 would have had the opportunity having now been exposed to
8 the complainant in the original '85 complaint to have gone
9 over that whole thing. So he would have had the advantage
10 of being very, very familiar with the investigation.

11 **MS. DALEY:** Let me take you back to the
12 communication that happens on the morning of June 27th
13 between Landry, Sr. and Officer Willis.

14 **MR. DEROCHIE:** Yes.

15 **MS. DALEY:** All right? You testified about
16 that earlier today. I will certainly locate his notes for
17 you but you recall that in addition to saying that his son
18 wouldn't come for the polygraph Landry, Sr. communicated a
19 few other points as well to Officer Willis. Correct?

20 **MR. DEROCHIE:** Yes.

21 **MS. DALEY:** And the points he communicated
22 were, number one, this is going way too fast. You recall
23 that note was taken?

24 **MR. DEROCHIE:** Yes.

25 **MS. DALEY:** And you recall he also

1 communicated that Earl, Jr. was very nervous?

2 **MR. DEROCHIE:** Yes.

3 **MS. DALEY:** And then, thirdly, he
4 communicated that Earl, Jr. would not attend for the
5 polygraph?

6 **MR. DEROCHIE:** Yes.

7 **MS. DALEY:** I want to focus your attention
8 on the first two; the comment that this is going too fast
9 and that Earl is very nervous, all right? And looking at
10 the chronology of this investigation the first comment was
11 correct. The investigation had proceeded very quickly from
12 the moment that that young boy was brought in by his
13 mother. Correct?

14 **MR. DEROCHIE:** I think the reference to
15 going too fast was the fact that he was interviewed and
16 then sent home and he was scheduled to have a polygraph the
17 next morning. I think that's what he was concerned about
18 going too fast.

19 **MS. DALEY:** How was it ---

20 **MR. DEROCHIE:** I don't think he knew the
21 extent of the investigation at that point.

22 **MS. DALEY:** How is it you're able to say
23 that that's what was intended?

24 **MR. DEROCHIE:** Because that's what he called
25 about, was the whole idea of the polygraph; he's not going

1 to come in the next morning to take the polygraph.

2 MS. DALEY: But is this information that
3 Willis gave you?

4 MR. DEROCHIE: Well no, it's ---

5 MS. DALEY: Willis is the gentleman on the
6 call, not you.

7 MR. DEROCHIE: No, no, exactly, but his
8 notes -- Willis' notes reflected he is talking about the
9 polygraph.

10 MS. DALEY: Did -- sorry, was there more?

11 MR. DEROCHIE: No, I was just going to say
12 that's my recollection of his notes. We can certainly pull
13 them up and have a look at them. But it was my
14 understanding whether it was from the notes or from the
15 discussion we had with them was that he said -- he called
16 up to say he is not coming in for the polygraph.

17 MS. DALEY: Well, did you talk to Officer
18 Willis about that conversation that he had with Landry,
19 Sr.?

20 MR. DEROCHIE: What we have just discussed
21 today with regards to the interview.

22 MS. DALEY: Okay.

23 We might, just for the sake of it, have a
24 look at Document 740551 which is Willis' -- it should be
25 three page notes of this occurrence.

1 (SHORT PAUSE/COURTE PAUSE)

2 THE COMMISSIONER: Thank you, Exhibit P-
3 1387, Officer Willis' notebook, April 17th, '82 to August
4 16th, 85.

5 --- EXHIBIT NO./PIÈCE NO. P-1387:

6 (740551) Notes of Staff Sergeant Willis
7 - 16 Aug 85

8 MS. DALEY: And, sir, the passage I'm
9 concerned with is Bates page 7181118.

10 MR. DEROCHIE: Yes.

11 MS. DALEY: And that's where we see the
12 notes that are taken at 6:55 a.m., June 27th, 1985?

13 MR. DEROCHIE: Yes.

14 MS. DALEY: And this is what Officer Willis
15 has recorded concerning that conversation?

16 MR. DEROCHIE: Yes.

17 MS. DALEY: And in terms of the chronology
18 of his investigation, I think you will agree that as you
19 looked at it, there was no documented activity following
20 that date?

21 MR. DEROCHIE: Yes, and we understand, of
22 course, that Willis did not consider himself to be the
23 investigator of this thing. He was not investigating this.

24 MS. DALEY: How do we know Willis considered
25 himself not to be the investigator?

1 **MR. DEROCHIE:** Because that's what he said.
2 He only went there at the request of Ron Lefebvre. He
3 wasn't assigned this thing from the Chief, for example. He
4 was just there to help out Lefebvre break the ice, as it
5 were, with Earl Landry Jr.

6 **MS. DALEY:** Then why would he receive a call
7 of this nature? Because the former Chief knew him well?

8 **MR. DEROCHIE:** Possibly. He had worked with
9 him for a number of years, as you have indicated, yes.

10 **MS. DALEY:** All right. Okay.

11 Did you ever ask Willis if the former Chief
12 said anything else in this conversation such as, "Listen,
13 you know my son wouldn't do a thing like that"?

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

16 **MS. DALEY:** Is it possible that that type of
17 comment was made?

18 **MR. DEROCHIE:** Anything is possible. I
19 don't know.

20 **MS. DALEY:** All right.

21 I want to turn now to another topic, and
22 that is the Silmsler matter that you also looked at from an
23 administrative review point of view.

24 **MR. DEROCHIE:** Yes.

25 **MS. DALEY:** And I don't want to re-plough

1 old ground. I take it that when you learned of the Ottawa
2 Police Service's report on the Silmsler investigation --
3 that's our Exhibit 1207 -- I think your evidence here was
4 you wholeheartedly agreed with the comments that were made?

5 MR. DEROCHIE: I don't believe I said that.

6 MS. DALEY: Remember Skinner's report?

7 MR. DEROCHIE: Yes.

8 MS. DALEY: Skinner wrote a report that made
9 some criticisms about the investigation?

10 MR. DEROCHIE: I shared -- I maybe shared
11 those opinions in 1993, at the end of 1993, before I had --
12 before I had done a complete review that I thought things
13 had gone on for too long.

14 But as I said, subsequent to that, that
15 wasn't my final -- once I found out exactly what had
16 occurred, that Brunet was meeting with Sebalj; that Sebalj
17 and Brunet at times were meeting with the Crown attorney.
18 I don't believe I -- unless you want to take me through the
19 transcript, I don't believe I said that anytime.

20 MS. DALEY: Well, I just want to review with
21 you some aspects. I don't think we're going to disagree.
22 I think you do agree that some lessons were learned about
23 your look at the Silmsler investigation, right?

24 MR. DEROCHIE: Yes, well I considered taking
25 too long to do a historical sexual assault investigation

1 became obvious to me that that was the norm as opposed to
2 the exception to the case.

3 **MS. DALEY:** All right.

4 Let's deal with some other topics and I'll
5 see if you agree with me or not. I want to deal with the
6 topic of taking a statement from a sexual abuse or a
7 historic sexual abuse ---

8 **MR. DEROCHIE:** I don't have experience ---

9 **MS. DALEY:** --- victim.

10 **MR. DEROCHIE:** --- but certainly I'll --
11 whatever I can do.

12 **MS. DALEY:** Well, would you agree generally
13 that it's important to the extent possible for the officer
14 to help the victim give a credible statement?

15 **MR. DEROCHIE:** It's a very delicate --
16 that's a very delicate balance.

17 **MS. DALEY:** I'm not suggesting that they
18 plant ideas, but they work with and they assist the victims
19 so he or she is able to give a statement that ---

20 **MR. DEROCHIE:** I think the best that the
21 investigator can do is make sure that he creates -- or she
22 creates an environment that's -- that the suspect or the
23 witness or the victim is comfortable with and gives them
24 the opportunity to make a -- what we're looking for is a
25 pure-version statement ---

1 **MS. DALEY:** And ---

2 **MR. DEROCHIE:** --- and not -- not as little
3 as possible to solicit or to lead the victim. Sometimes
4 you have to take a calculated gamble and go there, but you
5 want a pure-version statement.

6 **MS. DALEY:** And you appreciate that for that
7 to occur, a relationship has to be established between the
8 interviewer and the victim?

9 **MR. DEROCHIE:** Yes.

10 **MS. DALEY:** A relationship that involves
11 some aspects of trust. They need to trust one another?

12 **MR. DEROCHIE:** Yes.

13 **MS. DALEY:** And you'll agree that
14 particularly an investigation of this sort or a charge of
15 this sort, one of the elements that will impair the
16 credibility of a victim witness is if he or she has made
17 numerous statements at many different points in time? That
18 would be a problem; correct?

19 **MR. DEROCHIE:** That would be a problem.

20 **MS. DALEY:** Did you see any indication that
21 any of the officers involved with the Silmsen matter warned
22 him about the risks of making multiple disclosures?

23 **MR. DEROCHIE:** We're referring now to the
24 initial interview where notes were taken -- detailed notes
25 were taken of the interview, then subsequently having Mr.

1 Silmsen ---

2 MS. DALEY: You may recall even before that
3 stage, sir, I think Lortie was told that Silmsen had gone
4 and met with representatives of the Church. So he was ---

5 MR. DEROCHIE: Oh yes, on the telephone.

6 MS. DALEY: --- he was talking to other
7 people about his allegations?

8 MR. DEROCHIE: Yes, and I didn't explore
9 that with Lortie and I don't know what the extent of that
10 conversation was, but the point that you should restrict it
11 to one session and get it done at one session, that's
12 sound.

13 MS. DALEY: That's sound police practice.
14 Fair enough.

15 MR. DEROCHIE: Yes, sometimes -- sometimes
16 something else is required, but as a general rule of thumb,
17 that would be ---

18 MS. DALEY: And would you also agree it's
19 generally a good practice to caution a victim to be careful
20 about making disclosures to other people because that may
21 be held against them at a later time? You'd want to
22 caution about doing that?

23 MR. DEROCHIE: Yes. You wouldn't want your
24 victim talking to people about the disclosure.

25 MS. DALEY: All right.

1 And we know, and I think you will agree,
2 that when this investigation was embarked upon, of course,
3 by that time -- by the time Constable Sebalj was involved,
4 Silmsers made it clear he preferred speaking to a man.
5 We've spoken about that already.

6 **MR. DEROCHIE:** Yes. Yes.

7 **MS. DALEY:** And I think you'll agree, with
8 the benefit of hindsight that probably that's what should
9 have happened? In other words, should there have been a
10 reassignment to a male?

11 **MR. DEROCHIE:** In a perfect situation we
12 would have the -- we would have the resources available to
13 accommodate that.

14 **MS. DALEY:** Do you know of any reason why
15 Sergeant Lortie, when he returned from his elective
16 surgery, couldn't have been available to resume this
17 investigation?

18 **MR. DEROCHIE:** I don't know why.

19 **MS. DALEY:** In any event, by virtue of the -
20 - by virtue of Silmsers's wishes and by virtue of the
21 force's decision to keep Officer Sebalj involved, you had
22 two other male officers who were also present at the first
23 interview; correct?

24 **MR. DEROCHIE:** Yes.

25 **MS. DALEY:** And you understand that each one

1 of them took a statement, made notes of what they heard
2 Silmsers say. Do you understand that?

3 **MR. DEROCHIE:** My understanding is, yes,
4 that they took notes. One person would have been
5 designated to take notes during the interview.

6 **MS. DALEY:** But did they not create three
7 sets of notes about this interview?

8 **MR. DEROCHIE:** They may have. I don't know
9 what -- in what detail, but they may have.

10 **MS. DALEY:** I take it, assuming that
11 happened, there was the potential for a conflict amongst
12 their notes which was not desirable?

13 **MR. DEROCHIE:** Well, that's why you would
14 want just one doing detailed notes.

15 **MS. DALEY:** All right.

16 And ---

17 **MR. DEROCHIE:** The ideal situation, you want
18 to record it.

19 **MS. DALEY:** Did you ever develop any
20 understanding as to why that didn't happen here?

21 **MR. DEROCHIE:** No.

22 **MS. DALEY:** And ultimately after that
23 interview, Silmsers is told to depart and to write his own
24 statement? That's how it's left?

25 **MR. DEROCHIE:** That's how it's left.

1 **MS. DALEY:** And again, I know that you don't
2 profess to be a specialist here, but does that not create a
3 -- does that not make it likely that he might write a
4 statement that will ultimately not benefit him or be found
5 to be not credible if he's given no guidance about what
6 should be in it?

7 **MR. DEROCHIE:** Well, if he was -- yes. The
8 short answer is yes, but when you want a pure-version
9 statement, you don't tell people what to put in their
10 statement. You just tell them, "Just tell your story.
11 Tell me what happened" and leave it at that, and then
12 subsequently you might want to have an interview with them
13 to expand on the information or to, you know, to develop
14 the statement somewhat.

15 **MS. DALEY:** So I guess from what you're
16 saying, if they had viewed Silmsner a little bit
17 differently, they might have treated the statement taken
18 differently?

19 **MR. DEROCHIE:** I don't know. I'm sorry; I
20 don't understand that question.

21 **MS. DALEY:** All right.

22 **MR. DEROCHIE:** Try that again, please?

23 **MS. DALEY:** Well, I took it from your last
24 answer that there are many ways in which one can choose to
25 obtain a statement from a victim?

1 **MR. DEROCHIE:** Well, different investigators
2 have different philosophies and different styles with
3 regards to taking statements. So there are differences,
4 but the core function or the core value of the statement is
5 basically the same in all cases. It's voluntary and it's a
6 pure-version statement. You don't lead the witness.

7 **MS. DALEY:** I guess my question is, is it
8 your -- was it the practice at CPS to send victims in
9 assault cases to write their own statements? Was that the
10 general practice?

11 **MR. DEROCHIE:** No, it's not now, certainly.
12 Was it back then? I don't know, but it is not now.

13 **MS. DALEY:** All right.

14 **MR. DEROCHIE:** I never subscribed to that.

15 **MS. DALEY:** Do you agree that one of the
16 important things to know when you're investigating an
17 historic sexual assault is why the victim has chosen that
18 time for the first time to come forward and to talk about
19 it? In other words ---

20 **MR. DEROCHIE:** Yes, it's ---

21 **MS. DALEY:** --- why now?

22 **MR. DEROCHIE:** Yes, it's certainly going to
23 be an issue that people are going to ask the victim about,
24 so you better have a good understanding of what that's
25 happening now.

1 **MS. DALEY:** Precisely. Because defence
2 counsel or others might suggest that they have a self-
3 interested motive for coming forward at the present time or
4 whatever they might suggest. It raises an area that can
5 impair the credibility of the victim; fair?

6 **MR. DEROCHIE:** Yes, it goes back many, many
7 years when complaint evidence of a sexual assault had to be
8 spontaneous and given without -- right at the very start,
9 you'd have to come out of the bush and say, "My God! This
10 has happened to me." It's that kind of thinking. So
11 there's the residue of that.

12 Now, that hasn't been the case for a long
13 time now. It used to be the complaint evidence of a sexual
14 assault was examined with a magnifying glass before you
15 could get it admitted, and some of the wisdom of the day
16 was that it had to be made at the soonest opportunity and
17 without any kind of solicitation. So there's residue to
18 that.

19 **MS. DALEY:** I understand.

20 But you would appreciate that in the Silmser
21 situation or in any situation where someone is alleging a
22 20-year old occurrence, the question "Why are you telling
23 me now?" is an important question for the investigator to
24 understand?

25 **MR. DEROCHIE:** Yes. Yes, it is. It's going

1 to be asked, so we'd better know it right off the top.

2 MS. DALEY: And I believe one of the
3 documents that you might have had at the very outset when
4 you were given this assignment on October 7th, 1993 was
5 Exhibit 311, and that was a letter from a Monsignor to a
6 fellow Monsignor related to something that Silmser had told
7 him back in December of 1992.

8 Just to help you with what it said, the
9 letter said:

10 "He ..."

11 That being Silmser.

12 "... told me he was raising the matter at
13 this time because he wanted to lose the
14 label of being a bad person. He said,
15 'For starters, I would like a letter
16 from Father MacDonald acknowledging
17 what he did so I could show this to my
18 mother.'"

19 And the letter, just before that point, says
20 that:

21 "Silmser had had a very difficult life,
22 had been in and out of jail for 10
23 years but had turned his life around,
24 was married and now had two kids."

25 And so when he's asked "Why are you telling

1 us now?" he says, "Well, I want to lose the label I've
2 carried with me in the past." In other words, there's some
3 events in his life that explain what he's done.

4 **MR. DEROCHIE:** He's trying to put things
5 into focus, yes.

6 **MS. DALEY:** Right.

7 **MR. DEROCHIE:** Yeah.

8 **MS. DALEY:** And would you acknowledge that
9 that was a -- certainly an honourable motive for coming
10 forward now on his part?

11 **MR. DEROCHIE:** Oh yes.

12 **MS. DALEY:** It certainly wasn't a suspect
13 motive or a motive that would have counted against him on
14 the credibility front; was it?

15 **MR. DEROCHIE:** I wouldn't think that anybody
16 would have thought that at that time, no.

17 **MS. DALEY:** All right.

18 Did you form the impression though that
19 nonetheless from your discussions with Constable Sebalj
20 that she felt that his motivation was self-interest, was
21 something different?

22 **MR. DEROCHIE:** There was something maybe in
23 addition to it. Certainly, I got that impression. But he
24 had more than one motive.

25 **MS. DALEY:** Was it your impression from your

1 discussions with her, learning what she thought about the
2 investigation, that she felt that he was using the criminal
3 charges to gain another end?

4 **MR. DEROCHIE:** I don't know -- I don't know
5 if we had that conversation. We may well have. I'm sorry;
6 I can't recall specifically.

7 **MS. DALEY:** Do you recall that being a theme
8 in the conversations you had with her, her concern that
9 perhaps Silmsler was just using the Police Service?

10 **MR. DEROCHIE:** I don't know if you would
11 call it the theme or whether -- certainly, that crossed my
12 mind. I don't know where the seed was planted. I don't
13 know. I can't say that Constable Sebalj said, "This is
14 what I believe." But certainly that was one thing that I
15 considered when I heard the whole story.

16 **MS. DALEY:** All right.

17 And I take it -- would you agree that what
18 seemed to happen here is that the pace of the investigation
19 was, to a certain extent, set by Mr. Silmsler because he
20 wouldn't always show up for appointments?

21 **MR. DEROCHIE:** Yes, there was -- there was -
22 - there were those issues; there's no question.

23 **MS. DALEY:** And did he also set the focus of
24 the investigation? What I mean by that is the focus on
25 Charles and not Ken Seguin?

1 **MR. DEROCHIE:** Yes, I think he did.

2 **MS. DALEY:** And was that a concern to you?

3 **MR. DEROCHIE:** Originally, it was, yes.

4 **MS. DALEY:** I take it that it's not
5 unlikely, or at least we've seen the experience here that
6 in some instances, the people who are abused have been
7 abused by multiple others, and in fact Jeannette Antoine
8 would be an example of that, so is Mr. Silmsen.

9 **MR. DEROCHIE:** Yes.

10 **MS. DALEY:** You spoke about Mr. Ouellette.
11 They're all examples of that.

12 Is there any internal protocol or guideline
13 at the Service around how to deal with the circumstance
14 when a complainant says, "Yes, I was abused by A and B, but
15 I want you to focus on A right now and not B." Is there
16 any internal guideline about that?

17 **MR. DEROCHIE:** No, there is not. We have
18 the thought in our mind that we'll abide by the victim's
19 wishes as much as we possibly can. And it's -- you're
20 quite right; people are motivated to come forward years
21 after the offence or the allegation has occurred for a
22 number of reasons, and sometimes they just call up and say,
23 "This is step one, and step one is here's what happened to
24 me, but I don't want to go beyond step one." And our pat
25 answer is, "Fine, we'll keep the case -- we'll record the

1 information. When you think you're ready for step two,
2 whatever that might be, come back. We'll always have that
3 here."

4 But no, there's no protocol or procedure to
5 deal with that.

6 I've learned recently that we are sending
7 people to a training session that's put on by the OPP to
8 deal with those very issues. They are hosting some seminar
9 or course with regards to investigators understanding adult
10 victims of child sexual assault who come forward and we,
11 you know, in the early '90s, didn't have a real good handle
12 on that, the psychology of all of that.

13 **MS. DALEY:** Apart from the psychology, which
14 I appreciate is a matter to which you want to be sensitive,
15 what happened here was that you had an allegation which I'm
16 sure you will agree was a very serious one about a person
17 in the community who was still in the community and
18 essentially was never investigated?

19 **THE COMMISSIONER:** That's Mr. Seguin?

20 **MS. DALEY:** Mr. Seguin.

21 **MR. DEROCHIE:** Yes.

22 **MS. DALEY:** And perhaps protocol or
23 guidelines is the wrong word, but surely that outcome was
24 not acceptable?

25 **MR. DEROCHIE:** Would we have rather been

1 able to go forward on an investigation? Yes.

2 MS. DALEY: Yes.

3 MR. DEROCHIE: But what do you do when --
4 I'm sorry; I shouldn't be asking questions.

5 MS. DALEY: No, no, no, what I might suggest
6 to you -- I appreciate that Heidi had a very difficult
7 relationship with David Silmsers.

8 MR. DEROCHIE: Only at the very start.
9 Subsequent to that, she had a very -- I thought a very
10 solid relationship with him.

11 MS. DALEY: Well, do you know if she tried
12 to persuade him to come forward and give them some sort of
13 information about Seguin so that she could investigate?

14 MR. DEROCHIE: Well, she -- I'm sorry, I
15 didn't mean to cut you off.

16 MS. DALEY: Did she use her relationship to
17 try and draw him out on Ken Seguin so that an investigation
18 could happen?

19 MR. DEROCHIE: I'm not aware of all of the -
20 - all of the conversations they had with regards to these
21 issues. I know what she says in her notebook. I don't
22 recall -- when I did question her about Seguin, she gave me
23 an answer that I accepted why he did not want to -- why Mr.
24 Silmsers did not want to proceed with Mr. Seguin, and I
25 accepted that at face value as being the wishes of Mr.

1 Silmser.

2 MS. DALEY: Did you know Seguin personally?

3 MR. DEROCHIE: No.

4 MS. DALEY: You are aware that your Officer
5 Lortie's wife worked with him?

6 MR. DEROCHIE: Yes.

7 MS. DALEY: Did he have a reputation in the
8 community that was known to you as a probation officer?

9 MR. DEROCHIE: I knew him as a probation
10 officer. That's all I knew him as.

11 MS. DALEY: Some of his former coworkers
12 have remarked that he appeared to be a very superior
13 probation officer with great experience and much integrity
14 and they called him "Mr. Probation". Was that reputation
15 known to the police service generally, sir, do you know?

16 MR. DEROCHIE: I didn't -- I have never
17 heard anything bad about Mr. Seguin prior to this. Our
18 officers had, from what I understand, a good relationship
19 with him. He would have been probably working with our CID
20 officers more than he would have uniform patrol therefore a
21 good reason why I wouldn't know him all that much -- all
22 that well rather. But I had never heard anything negative
23 about Mr. Seguin.

24 MS. DALEY: Apart from what Silmser had to
25 say about Seguin -- in other words, he wasn't ready to deal

1 with it yet -- did you ever, in speaking with Heidi or any
2 of the others on this particular topic, develop the
3 impression that they just thought it was so unlikely that
4 Mr. Seguin would have done such a thing that they were
5 prepared to let it sit?

6 **MR. DEROCHIE:** No, I never got that
7 impression.

8 **MS. DALEY:** I want to talk to you briefly
9 about the reassignment of the investigation from the
10 initial investigator -- that's Claude Lortie to Constable
11 Sebalj if you recall that.

12 **MR. DEROCHIE:** Yes.

13 **MS. DALEY:** And it appears to me that -- and
14 I think you'll agree -- when the complaint was first
15 brought forward there was a general recognition, including
16 at the level of your deputy chief that this was an
17 extremely serious occurrence and it had the potential to be
18 a large and complicated investigation.

19 **MR. DEROCHIE:** Yes.

20 **MS. DALEY:** Do you agree with that?

21 **MR. DEROCHIE:** Yes.

22 **MS. DALEY:** And I just want you to comment
23 on something, sir. This is in Exhibit 1298. But to save
24 time I'll just read it for you; 1298 was the note of
25 January 8th, '93 in which the deputy chief reassigned.

1 **MR. DEROCHIE:** Yes.

2 **MS. DALEY:** And he says:

3 "I realize the heavy workload in CIB
4 but this could possibly turn into an
5 Alfred-type situation therefore please
6 assign ASAP ..."

7 And just stopping there; "an Alfred-type
8 situation"; what did that mean?

9 **MR. DEROCHIE:** A high profile investigation
10 that garners a lot of media attention and also involves
11 institutions for example.

12 **MS. DALEY:** All right.

13 So what he might have had in mind there was
14 multiple victims over a lengthy period of time in an
15 institutional context?

16 **MR. DEROCHIE:** Yes.

17 **MS. DALEY:** And that obviously would be a
18 high profile matter?

19 **MR. DEROCHIE:** It would.

20 **MS. DALEY:** And in terms of how the
21 investigation then is allocated I gather initially when it
22 was allocated to Lortie he was just -- he reported directly
23 to the chief; correct?

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

25 **MS. DALEY:** So unlike other criminal

1 investigations, that investigation wouldn't have been
2 reported through the deputy chief?

3 MR. DEROCHIE: Yes, opened ---

4 MS. DALEY: Is that correct?

5 MR. DEROCHIE: It's correct. The chief
6 certainly has the discretion to assign another case manager
7 to it.

8 MS. DALEY: Okay. And it's the district --
9 or sorry, the deputy chief then who does the intervention
10 and who directs that it be reassigned; correct?

11 MR. DEROCHIE: Yes.

12 MS. DALEY: And at a much later point in
13 time you ask him why he did that and he just can't recall -
14 --

15 MR. DEROCHIE: That's right.

16 MS. DALEY: --- any reason?

17 MR. DEROCHIE: That's right.

18 MS. DALEY: And in effect what he did
19 unfortunately caused a delay in terms of the first meeting
20 with Silmsner?

21 MR. DEROCHIE: No, it didn't. I guess that
22 was the point I made that it didn't cause any additional --
23 -

24 MS. DALEY: Sorry, there had been a planned
25 meeting with Lortie that didn't occur.

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

2 **MS. DALEY:** That's right.

3 I think your point was that the reallocation
4 to Heidi didn't appear to be something that would save much
5 time because Lortie would be available?

6 **MR. DEROCHIE:** That was the point I was
7 making, yes.

8 **MS. DALEY:** All right.

9 And of course we know that the victim has a
10 preference to speak to a man; correct?

11 **MR. DEROCHIE:** Yes.

12 **MS. DALEY:** And we know at this point Lortie
13 has 16 years experience, I would think, as an investigator?

14 **MR. DEROCHIE:** Yes.

15 **MS. DALEY:** And Heidi has seven?

16 **MR. DEROCHIE:** Yes.

17 **MS. DALEY:** I think that's right.

18 And I think she has only really been a first
19 class constable for a couple of years?

20 **MR. DEROCHIE:** Yes, I think that would be
21 true.

22 **MS. DALEY:** All right.

23 Did it ever occur to you -- you spoke to us
24 in your evidence about tensions between the chief on the
25 one hand and some of his senior staff on the other, and I

1 think you also spoke or we've seen in the materials
2 tensions between the chief and the deputy chief from time
3 to time. Do you think that played a factor in the
4 reassignment of this case away from Claude Lortie?

5 **MR. DEROCHIE:** Oh, no. No, I didn't see any
6 evidence of that at all.

7 **MS. DALEY:** All right.

8 Did you see evidence that the chief and the
9 deputy chief didn't communicate very well from time to
10 time?

11 **MR. DEROCHIE:** I didn't see evidence of it.
12 I heard that but I never saw any evidence of it.

13 **MS. DALEY:** Was your experience that that
14 was in fact the case, that they did have their
15 difficulties?

16 **MR. DEROCHIE:** I can't say it was my
17 experience. It was certainly something I was aware of.
18 How I became aware of it I don't know but there was
19 certainly -- I was aware that there was some tension there.
20 But not in relation to the jurisdiction with regards to
21 criminal investigations or anything like that, it was on a
22 personality level from what I recall.

23 **MS. DALEY:** All right.

24 Let me come to another topic that you spoke
25 about that I thought was actually very interesting. You

1 spoke about there was a certain point in time where -- if I
2 could paraphrase -- the investigators, or at least
3 Constable Sebalj, perhaps others, thought there very likely
4 was reason to believe that some sexual offences had been
5 committed by Father Charles, however, Constable Sebalj
6 never quite was able to develop reasonable and probable
7 grounds on Mr. Silmsers' allegations. Do you recall that?

8 **MR. DEROCHIE:** I recall that being the only
9 reasonable and probable grounds she was trying to establish
10 with regards to that.

11 **MS. DALEY:** Were for Silmsers.

12 And even though she had investigated and she
13 had found some other individuals who could -- who would say
14 that there had been sexual impropriety between Father
15 Charles and them, those people weren't prepared to come
16 forward; correct?

17 **MR. DEROCHIE:** They weren't prepared to come
18 forward. One would come forward as a witness. If
19 subpoenaed; he would testify.

20 **MS. DALEY:** Okay.

21 **MR. DEROCHIE:** But she was looking for --
22 I'll just leave it at that, if you want.

23 **MS. DALEY:** Well, was she not looking for
24 other people who would say that they also had suffered some
25 sort of sexual abuse by Father Charles?

1 **MR. DEROCHIE:** She was looking for similar
2 fact evidence ---

3 **MS. DALEY:** Correct.

4 **MR. DEROCHIE:** --- to the allegation. The
5 allegation that she was dealing with was a sexual assault
6 of a young boy, a 10, 11, 12-year old boy, and a violent
7 rape which had occurred at some other point in time, and
8 she was looking for corroboration of those two -- that type
9 of an abuse. She didn't find that type of an allegation.

10 **MS. DALEY:** She found allegations of
11 different type of sexual impropriety by Father Charles?

12 **MR. DEROCHIE:** Yes.

13 **MS. DALEY:** All right.

14 And if I understood you earlier, you would
15 have liked -- not you personally, but the police service
16 might have liked to go forward with that and hope that
17 additional people would come forward to provide the
18 corroborating or similar fact evidence, but you felt that
19 it wasn't right to do that by laying a charge.

20 Do you recall ---

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

22 **MS. DALEY:** --- speaking about that?

23 **MR. DEROCHIE:** --- whole issue, yes.

24 **MS. DALEY:** And your -- I think your concept
25 was, if you can just get it out into the public, then other

1 people who are legitimate victims ---

2 MR. DEROCHIE: Yes.

3 MS. DALEY: --- will be able to come forward
4 and tell you about it, because someone has broken the ice
5 and taken the initiative, and it's become public, right?

6 MR. DEROCHIE: Yes.

7 MS. DALEY: All right.

8 So the problem that you had with the Silmsen
9 matter was it didn't appear appropriate to lay a charge, so
10 it couldn't be put in front of the public that way; fair?

11 MR. DEROCHIE: That's correct.

12 MS. DALEY: But nonetheless, I guess you had
13 wished that if it could be put in front of the public, you
14 thought there was some chance that others would come
15 forward, and that if they did, charges could be founded
16 against Father Charles?

17 MR. DEROCHIE: Well, again, yes, based on my
18 understanding of these -- this was a typical type pedophile
19 predator, that that -- there was a possibility for that,
20 yes.

21 MS. DALEY: And we know in the real world
22 that that is what happened, what Project Truth occurred.

23 There were multiple victims. There were
24 many charges laid.

25 MR. DEROCHIE: Yes.

1 **MS. DALEY:** Correct?

2 All right. So I wanted to sort of address
3 that conundrum that you had, which is, "How do I get it in
4 the public eye if I'm not able to lay a charge?"

5 And I want to offer you a few suggestions,
6 and just tell me if you think these are at all viable
7 suggestions.

8 Would one suggestion be this, that if the
9 officer herself does not have RPG, therefore cannot swear
10 an information, is an alternative to have Mr. Silmser go
11 before a justice of the peace and swear an information,
12 which he can do because he has knowledge of reality, as he
13 knows it, and allow the charge to be brought forward in
14 that way?

15 **MR. DEROCHIE:** That's an option.

16 **MS. DALEY:** Do you know if that option was
17 considered in this instance?

18 **MR. DEROCHIE:** Subsequent to his --
19 subsequent to the settlement?

20 **MS. DALEY:** I guess at any time before the
21 settlement.

22 **MR. DEROCHIE:** No, I -- no, because I don't
23 think Constable Sebalj -- my understanding of what
24 constable Sebalj was doing at the time of the settlement
25 was making arrangements to go to a Crown attorney to see if

1 he could encourage her to -- that she had sufficient
2 grounds, which -- you know, that type of thing.

3 So she was still in that process of doing
4 that.

5 **MS. DALEY:** Was it not your impression --
6 and I guess we rely on you for -- to understand what Heidi
7 was thinking, because she can't give evidence here. But
8 from your discussions with her, I thought your impression
9 was she never got to a place of feeling, in her own mind,
10 reasonable and probable grounds ---

11 **MR. DEROCHIE:** No.

12 **MS. DALEY:** --- in what Silmsner was telling
13 her was correct.

14 **MR. DEROCHIE:** That's right. That's quite
15 trite -- that's quite true. But she did have evidence.

16 You know, if she had no evidence and
17 couldn't form reasonable grounds, but she had evidence --
18 she just didn't know -- our system is based on the
19 philosophy that, you know, that any benefit of the doubt
20 goes to the accused person. That's what our law is built
21 on; the danger of convicting an innocent person.

22 Therefore, if you don't have corroboration,
23 it's going to be, you know, one person's word against the
24 word of another and the court is inclined to give the
25 benefit of the doubt to the accused.

1 **MS. DALEY:** But in any event, although it
2 wasn't adopted, if Silmsers had laid his own private
3 information, at least that way it could have -- the fact of
4 the charge could have been put in the public domain.
5 Others might have come forward.

6 **MR. DEROCHIE:** I don't know. I think what
7 happens is the justice of the peace would have to make a
8 determination, and then I don't think the Crown would
9 prosecute it. There would have to be a special Crown. My
10 understanding of private informations is that's how it
11 goes.

12 But what I'm trying to explain is that that
13 would be a last-ditch attempt. "Listen, Mr. Silmsers, I've
14 exhausted my investigation. I've gone to the Crown. I
15 can't get any information so, you know, if you want to go
16 lay -- try to lay your own private information, good luck,"
17 type thing.

18 But she hadn't abandoned that at that point.

19 **MS. DALEY:** All right.

20 Well, let me try another suggestion. You
21 tell me if this seems like something that could work if you
22 were faced with the difficulty of uncorroborated
23 allegations but a belief that there may well be other
24 evidence out there.

25 What about a press release that would say

1 something simply along these lines, "Police are
2 investigating allegations of abuse at a certain parish for
3 a certain period of time. If you know anything or if you
4 know anyone who does, please come and talk to us."

5 Is that something that could have been
6 considered? Is there a reason why that's ---

7 **MR. DEROCHIE:** Well, if you specify it, if
8 you give enough detail as to make it a meaningful press
9 release, you're going to identify the people involved.

10 We -- she had done that by virtue of the
11 fact -- to a lesser degree, by virtue of the fact that she
12 had gone and spoke to other youth that would have been
13 involved in the church at that time. And through that, she
14 got information from a number of people that, "Well, also,
15 so and so was involved."

16 So that information was percolating into --
17 in the area or amongst the people that we would have been
18 appealing to through the media. Now, it wouldn't have
19 reached everyone, granted, but certainly there was enough
20 information being exchanged between that group of people
21 who were in a position to be abused at the relevant time
22 for other people to have come forward to us, in my opinion.

23 **MS. DALEY:** But they didn't?

24 **MR. DEROCHIE:** They did not.

25 **MS. DALEY:** No one ever initiated contact

1 with Officer Sebalj or anyone else on your force in
2 relation to allegations concerning Father Charles?

3 MR. DEROCHIE: No.

4 MS. DALEY: And -- all right.

5 MR. DEROCHIE: Well, not at that time.

6 MS. DALEY: All right.

7 MR. DEROCHIE: You're aware, for example,
8 sir, that -- and I'm skipping ahead a little bit, but let
9 me put it in context.

10 Obviously, shortly after that time, the
11 matter does come forward into the media and into the press;
12 correct?

13 MR. DEROCHIE: Yes.

14 MS. DALEY: And one of the names that's
15 attached to it, of course, is Constable Dunlop, right?

16 MR. DEROCHIE: The whole issue? Yes.

17 MS. DALEY: Yes.

18 MR. DEROCHIE: Yes.

19 MS. DALEY: And he is represented in the
20 media, of course, as a person who is keen to prevent the
21 abuse of children and keen to detect historic abuse.
22 That's how he gets depicted in the press?

23 MR. DEROCHIE: Yes.

24 MS. DALEY: Is that not fair?

25 MR. DEROCHIE: Yes.

1 **MS. DALEY:** And what tends to -- what, I
2 think, happens as a result of that is people who allege to
3 be victims of Father Charles and others start coming to
4 Officer Dunlop when he's off duty, in his private capacity?

5 **MR. DEROCHIE:** Perhaps.

6 **MS. DALEY:** So -- and that, of course, as we
7 know, and as you've discussed here, ultimately generates
8 many, many problems for charges that are eventually laid;
9 correct?

10 **MR. DEROCHIE:** Ultimately, that does, yes.

11 **MS. DALEY:** But it occurred to me, of
12 course, that the people went to Mr. Dunlop in the first
13 instance because in the media he had been identified as the
14 place to go.

15 **MR. DEROCHIE:** Yes.

16 **MS. DALEY:** Was that -- that was your
17 observation of the press stories?

18 **MR. DEROCHIE:** Yes, that may well have
19 happened, yes

20 **MS. DALEY:** And unfortunately then, what
21 ends up happening is that while Dunlop is off on leave, he
22 creates almost an alternate police force for the -- at
23 least for the purpose of receiving these allegations
24 because that's where people, many people, do go?

25 **MR. DEROCHIE:** But not for the purpose of

1 reporting it to the police.

2 MS. DALEY: Good point. But people who say
3 they are victims -- they go and they talk to Dunlop first
4 before they do anything else, right?

5 MR. DEROCHIE: Yes.

6 MS. DALEY: And if they then go and talk to
7 the police as well, then unfortunately they've generated
8 the problem you and I just spoke about, which is the
9 multiple statement problem; correct?

10 MR. DEROCHIE: Yes.

11 MS. DALEY: All right.

12 So I guess I'm just wondering whether,
13 applying the hindsight in intelligence that you have, do
14 you think that when you came to a dead end with the Silmsen
15 investigation there was anything the Service could have
16 done to put the information in the public eye such that you
17 could either get other victims to come forward and
18 successfully prosecute charges, or at least be known to be
19 open for business in a sense of, "We're looking to
20 investigate these allegations."

21 MR. DEROCHIE: Well, I think we're open for
22 business 24/7. We had done a high-profile investigation
23 long before Mr. Silmsen came along, so -- and we had dealt
24 with all of these same issues and we had conducted a
25 successful investigation.

1 I don't know that there were barriers that
2 the Cornwall Police Service, at that time -- we're talking
3 now in 1993, before this thing blows up in the media --
4 that there was -- there were any barriers.

5 Certainly, some people don't think kindly of
6 the -- of police departments. They don't see them --
7 especially if they've had a lot of negative experience with
8 the police. But maybe that isn't the first place they
9 would think to go to when they are trying to make a
10 disclosure about something that happened 20 or 25 years
11 ago, but that's difficult as we have talked to first of all
12 will I be believed based by them on what they know of me
13 type thing.

14 **MS. DALEY:** Right.

15 **MR. DEROCHIE:** So definitely that. There's
16 that barrier there.

17 **MS. DALEY:** Sir, I wonder, after the media
18 had weighed-in, by the time we're in early 1994, I think
19 you would agree that reporting had created a bit of a
20 barrier to people coming to you as opposed to someone else?

21 **MR. DEROCHIE:** Well, I don't know. I was
22 very busy investigating allegations of cover-up over sexual
23 abuse.

24 **MS. DALEY:** I understand that.

25 **MR. DEROCHIE:** Yes.

1 **MS. DALEY:** But we also know that many
2 victims who ultimately became witnesses in Project Truth
3 were speaking to Dunlop as opposed to, in the first
4 instance, coming to Cornwall.

5 **MR. DEROCHIE:** Yes, yes, and I can't
6 understand that and I can't explain that.

7 **MS. DALEY:** And I know you are not the media
8 officer. I know this isn't your role or job, but do you
9 think that perhaps your Service could have done something
10 to get a different message out? One that competed with
11 Dunlop's or at least could be weighed with Dunlop's
12 message?

13 **MR. DEROCHIE:** I'm just trying to think of
14 what we did put out at that time.

15 Possibly that would have been something we
16 should have considered. Should we have developed a media
17 strategy to deal with all of this negative media that we
18 were getting, if that's what you're talking about,
19 something like that. Sitting here today it may have been a
20 good idea.

21 **MS. DALEY:** Has the force ever considered
22 town hall meetings or public meetings when there are issues
23 that are somewhat concerning in a community relative to
24 policing?

25 **MR. DEROCHIE:** Well, we've had -- we have

1 had or we've done -- we did town hall meetings. I'm just
2 trying to think what the themes would have been prior to
3 that, but certainly that's always been part of our approach
4 to the community. You know, we are in there. We're
5 walking the streets. We're talking to people on a regular
6 basis.

7 **MS. DALEY:** Is that a strategy that also
8 might have, with the benefit of hindsight, been helpful?

9 **MR. DEROCHIE:** Having town hall meetings
10 with regards to these particular issues?

11 **MS. DALEY:** Yeah, the issues that were
12 surfacing in the media.

13 **MR. DEROCHIE:** I think it would have been
14 difficult to have anything meaningful simply because the
15 OPP were doing an investigation and we wouldn't want to do
16 anything that would insert ourselves into that whole issue.

17 We were being accused of participating in a
18 cover-up. You know, people may not have attended those
19 meetings with an open mind. They might have thought they
20 were self-serving and we were trying to -- a strong defence
21 is -- you know, I just never thought of it.

22 We certainly -- our initial decision was to
23 say nothing, just to let the OPP, let the courts deal with
24 these issues, don't say anything.

25 By saying that, that was the institutional

1 response to that particular issue. There were several
2 people within the organization that were chomping at the
3 bit to say something to put the record straight as it were,
4 and they didn't appreciate the course of action that we
5 took.

6 You know it's easy for me to sit and say,
7 well, I thought we did the right thing. I wasn't the one
8 that was being accused of anything, but there were others
9 that were being accused and wanted to say something, but we
10 took that position that someday we'll get our day in court.
11 We'll be able to stand up and tell people what our side of
12 this story is and here we are.

13 **MS. DALEY:** Okay. I am not going to keep
14 you further tonight. Thank you very much.

15 **THE COMMISSIONER:** Thank you.

16 So what will we do with you?

17 **(LAUGHTER/RIRES)**

18 **THE COMMISSIONER:** No, well, I know we have
19 Mr. Manson but is your cross-examination completed then?

20 **MS. DALEY:** I think we have a little -- a
21 bit more to cover tomorrow that Mr. Manson can complete.

22 **THE COMMISSIONER:** All right.

23 **MS. DALEY:** Not a great deal.

24 **THE COMMISSIONER:** Okay, that's fine.

25 **MS. DALEY:** Okay.

1 **THE COMMISSIONER:** Thank you.

2 Come back at 9:30.

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

5 This hearing is adjourned until tomorrow
6 morning at 9:30 a.m.

7 --- Upon adjourning at 7:06 p.m. /

8 L'audience est ajournée à 19h06

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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